DRN-5931241

Complaint

Mrs G has complained about a credit card Vanquis Bank Limited ("Vanquis") provided to her. She's said that the credit card and limit increase were irresponsibly provided and this led to ongoing difficulty going forward.

Background

Vanquis initially provided Mrs G with a credit card, which had a credit limit of £1,000.00, in August 2005. In July 2007, Vanquis increased the credit limit on the card to £1,500.00. Mrs G entered into a debt management plan in December 2015 and was making reduced payments to the outstanding balance until it was cleared in full in September 2021.

In February 2024, Mrs G complained to Vanquis saying that the credit card and limit increase were irresponsibly provided to her and this led to ongoing difficulty going forward.

Vanquis didn't uphold Mrs G's complaint. As far as it was concerned, Mrs G had complained too late. Mrs G remained dissatisfied at Vanquis' response and referred her complaint to our service. When Mrs G's complaint was referred to our service, Vanquis reiterated its view that we couldn't consider it as it was made too late.

One of our investigators reviewed what Mrs G and Vanquis had told us. She reached the conclusion that we could look at the entire period Mrs G had credit card for but thought that as Vanquis hadn't charged any interest on the account in the six years prior to Mrs G making her complaint, it wouldn't be fair and reasonable to require it to compensate her. Mrs G disagreed with the investigator and asked for an ombudsman's decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The time limits for making a complaint to our service

There are time limits for referring a complaint to the Financial Ombudsman Service. Vanquis has argued that Mrs G's complaint was made too late because she complained more than six years after the decisions to provide the card and increase her credit limit, as well as more than three years after she ought reasonably to have been aware of her cause to make this complaint.

The rules I must apply say that, where a business doesn't agree, I can't look at a complaint made more than six years after what's been complained about, or if later, more than three years after the complainant (in this case, Mrs G) knew, or should really have known they had reason to complain. Dispute Resolution rule 2.8.2R can be found online.

Mrs G has effectively said that Vanquis shouldn't have provided her with a credit card or increased her credit limit because it ought to have realised this was unaffordable for her. This means that Mrs G had, at least, six years from the date the decisions to lend were

made August 2005 and July 2007 – so August 2011 and July 2013 - in order to complain. Mrs G didn't make this complaint until February 2024. So it's clear the complaint was made more than six years after the respective events Mrs G is now complaining about took place.

However, DISP 2.8.2R (2)(b) can potentially provide a consumer with longer than six years to complain, as long as they complained within three years of when they were aware, or they ought reasonably to have been aware, they had cause to. So I've considered whether DISP 2.8.2R (2)(b) provides Mrs G with longer to complain here.

I want to start by saying that I think that in order for it to be the case that Mrs G was aware, or she ought reasonably to have been aware of her cause for complaint, it would have to be the case that she was aware or ought reasonably to have been aware that:

- there was a problem – in this case her credit card and limit increase were unaffordable;
- this unaffordable credit caused her loss;
- another party's actions (or its failure to act) may have caused the loss; and
- the other party was Vanquis.

I think that Mrs G ought to have been aware of any difficulty she was having making her credit card payments at the time she was required to make them. And given Mrs G ended up in a debt management plan in December 2015, I think that she ought to have realised the impact that this credit card had had on her finances and that it had caused her loss at this stage too.

I've therefore considered whether the particular circumstances in this case mean that Mrs G ought reasonably to have realised that some responsibility for her problem, earlier than when she saw the information that she did in 2024.

In considering this matter I'm particularly mindful that Vanquis didn't simply continue increasing Mrs G's credit limit. Indeed, it is my understanding that Vanquis reduced the limit on Mrs G's credit card in February 2013, May 2013 and August 2013. I think that Vanquis' actions, in reducing her credit limit, ought reasonably to have led Mrs G to realise that Vanquis didn't simply just continue providing credit to a customer – irrespective of the circumstances. In these circumstances, I think that this ought reasonably to have led Mrs G to have started questioning why Vanquis had reduced her credit card limit and also why it had previously provided higher amounts of credit, which she found difficult to repay.

Three years from when Vanquis reduced Mrs G's credit limit does provide her with longer (than six years from were applied) to complain. However, Mrs G would have needed to complain by February 2016 at the latest under this part of the time limit. As Mrs G complained in February 2024, even though DISP 2.8.2 R(2)(b) applies to her complaint, I'm satisfied that she complained too late.

I can look at a complaint made outside of the time limit if I'm persuaded that this was because of exceptional circumstances. However, Mrs G hasn't told us about anything that would have stopped her from complaining in time. As this is the case, I don't think that exceptional circumstances do apply in this case.

Section 140A of the Consumer Credit Act 1974 and its relevance to this complaint

Our investigator also explained why it was reasonable to interpret Mrs G's complaint as being one alleging that the lending relationship between Mrs G and Vanquis was unfair to Mrs G as described in s140A of the Consumer Credit Act 1974 ("CCA"). She also explained why this complaint about an allegedly unfair lending relationship had been made in time.

For the sake of completeness, I wish to confirm that I'm in agreement with the investigator that Mrs G's complaint should be considered more broadly than just the lending decisions. I consider this to be the case as Mrs G has not only complained about the circumstances behind the lending decisions, but also the fact Vanquis' failure to act during the entire period she had this credit card caused ongoing hardship.

In deciding what is fair and reasonable in all the circumstances of Mrs G's case, I am required to take relevant law into account. As I'm satisfied that Mrs G's complaint can be reasonably interpreted as being about that her lending relationship with Vanquis was unfair to her, relevant law in this case includes s140A, s140B and s140C of the CCA.

S140A says that a court may make an order under s140B if it determines that the relationship between the creditor (Vanquis) and the debtor (Mrs G), arising out of a credit agreement is unfair to the debtor because of one or more of the following, having regard to all matters it thinks relevant:

- any of the terms of the agreement;
- the way in which the creditor has exercised or enforced any of his rights under the agreement;
- any other thing done or not done by or on behalf of the creditor.

Case law shows that a court assesses whether a relationship is unfair at the date of the hearing, or if the credit relationship ended before then, at the date it ended. That assessment has to be performed having regard to the whole history of the relationship. S140B sets out the types of orders a court can make where a credit relationship is found to be unfair – these are wide powers, including reducing the amount owed or requiring a refund, or to do or not do any particular thing.

I've considered whether Vanquis acted fairly and reasonably towards Mrs G in this context.

Why I'm not requiring Vanquis to pay Mrs G any compensation

Vanquis has provided information to show that it didn't apply any interest or charges to this account after Mrs G went into a debt management plan in December 2015. Furthermore, I understand that Vanquis is no longer reporting any information regarding this credit card to credit reference agencies. This effectively means that there is no unfairness to remedy on this account from December 2015.

Even though there was no unfairness in Mrs G's lending relationship with Vanquis from December 2015 onwards, it is possible that such unfairness may have existed earlier. For example, Vanquis may have lent irresponsibly and applied interest, fees and charges in circumstances where it shouldn't have done so in the period between August 2005 and November 2015.

However, just because there may have been unfairness in a debtor's relationship with a creditor doesn't automatically mean it would be fair to refund all of the interest and charges on the account from when that unfairness began.

In *Smith v Royal Bank of Scotland Plc*[1], the Supreme Court pointed out that remedies for unfair relationships are at the court's discretion and the court may deny a remedy where the claimant had knowledge of the facts relevant to their claim, but substantially delayed making that claim.

[1] *Smith and another v Royal Bank of Scotland plc* [2023] UKSC 34.

There is no fixed period of delay that brings this principle into play, but the Supreme Court approved the District Judge's comment in the case that a court would be slow to remedy unfairness in a situation where the claimant delayed more than six years after knowing the facts. Therefore, in determining a fair and reasonable outcome to Mrs G's complaint and what is fair compensation, it's important for me to take this into account as relevant law.

In the section of this decision relating to time limits, I've already explained why I think that Mrs G ought reasonably to have been aware of her cause for complaint by February 2013 at the latest. For these same reasons, I'm satisfied that Mrs G also had knowledge of the relevant facts in relation to this complaint by February 2013 at the latest.

However, Mrs G didn't do anything about this until she complained in February 2024. So if there were to be a refund of interest and charges in this case, I'm satisfied that any such refund should be limited to the six-year period prior to Mrs G making her complaint. However, as I've explained, by not charging any interest from December 2015 onwards, I'm satisfied that Vanquis didn't unfairly add any interest, fees and charges to Mrs G's account in the six years prior to her making her complaint.

This means that even if I were to have found that any unfairness began earlier than February 2018 (which is six years prior to Mrs G making her complaint), which may or may not be the case, I still wouldn't have required Vanquis to have compensated Mrs G. As this is the case, I don't think that it would be fair and reasonable to require Vanquis to do anything in this instance.

Overall and having considered everything, while I can understand Mrs G's sentiments and appreciate why she is unhappy, I'm satisfied that it wouldn't be fair and reasonable in all the circumstances of this complaint for me to require Vanquis to pay Mrs G compensation. Therefore, I'm not upholding this complaint. I appreciate this will be very disappointing for Mrs G. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

For the reasons I've explained, I'm not upholding Mrs G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 8 December 2025.

Jeshen Narayanan
Ombudsman