

complaint

Mr E complains about Vanquis Bank Limited's treatment of his family and his account since he's been in prison.

background

Mr E has a credit card with Vanquis. In July 2016, he was remanded in custody. His sister – who I'll call "Miss E" – phoned Vanquis soon afterwards to let it know what had happened and to find out what would happen to his account.

Vanquis noted its records but said it couldn't discuss the account with Miss E until it had received confirmation from Mr E that it could do so. It says it then wrote to Mr E and the prison he was in, in order to verify what had happened and to get Mr E's consent for it to discuss his account with his sister.

Vanquis received a letter from Mr E in August 2016. Some time later, it got the information it wanted in order to talk to Miss E about the account. But it says it never received anything to confirm that Mr E was in prison. It continued adding interest and charges to his account until February 2017, when it passed the account to a debt collector.

Mr E and Miss E were unhappy with how Vanquis had handled the matter, so they got in touch with us in December 2016. Our investigator found that Mr E had written to Vanquis in August 2016, explaining his situation and asking for help because he had no way of making payments to his account. The investigator thought Vanquis should have stopped adding charges to the account at that point. But he felt it didn't need to get the account back from the debt collector, and he said we couldn't require it to pay Miss E compensation because she's not the bank's customer.

Miss E accepted that conclusion, but Vanquis did not. It said it had seen no evidence that Mr E was in prison, so it was right not to have defaulted his account and stopped adding charges sooner. It also said it was right not to talk to Miss E about the account until it had received confirmation from Mr E that he agreed to this.

my findings

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

Vanquis has told us that it would have defaulted Mr E's account and stopped adding charges sooner if it were satisfied that he was in prison. I can see that it did write to Mr E at the prison and, separately, to the prison as well. But the copies I've seen of those letters didn't include Mr E's prison number or the wing he was being held in in the addressee section.

Vanquis accepts that it did receive the letter Mr E sent to it in August 2016. That letter very clearly said his prison number, name, and wing should be written on the envelope of any letters sent to him. That's the information we included on the envelope when we wrote to Mr E at the prison, asking him to sign our complaint form – and which he then returned to us. And the letters Vanquis sent to the prison simply asked for Mr E's planned release date – which Mr E had already explained he didn't know when he wrote in August.

In the circumstances, I'm not surprised that Vanquis didn't hear back from either Mr E or the prison. It didn't follow Mr E's instructions about how to contact him, and it asked the prison a question it couldn't answer. And I find its enquiry to the Prisoner Location Service didn't include all the information required – which is set out on the government services website – to get a reply. I'm satisfied on the information I've seen that Mr E is in prison.

The letter Vanquis received from Mr E in August explained his situation and asked for help. It said he'd lost his income and had no assets. It also asked Vanquis to consider either writing off the debt or freezing interest and charges. I think it was clear from what Mr E and his family had told Vanquis that he was unlikely to be in prison only for the short term. He hadn't been sentenced so didn't have a release date. And he was clear that he couldn't pay Vanquis what he owed.

Lenders should treat customers in financial difficulty positively and sympathetically. That doesn't necessarily mean Vanquis had to stop adding interest and charges. But that is something Vanquis has told us it would have considered, but for its decision not to accept that Mr E was indeed in prison.

In these particular circumstances, I share the investigator's view that the fair outcome here is for Vanquis to refund all the interest and charges it has added to the account since 11 August 2016 – when it received Mr E's letter explaining his situation. I don't think its view that that letter wasn't authentic was a reasonable one to take and, as I've already said, I don't think its enquiries about the situation were appropriate.

However, I think Vanquis was right not to discuss the account with Miss E until it was satisfied that Mr E agreed to that. I also think it was entitled to sell the account to a debt collector and, in the circumstances, it wouldn't be appropriate for me now to require the bank to buy the account back.

my final decision

My final decision is that I uphold this complaint. In settlement, I order Vanquis Bank Limited to refund all the interest and other charges it has added to Mr E's credit card account since 11 August 2016.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 18 April 2017.

Janet Millington
ombudsman