

complaint

Mrs B complains that Vanquis Bank Limited has refused her a refund.

Mrs B's relative represents her in this complaint. But for the sake of keeping things simple, I've mentioned only Mrs B in this decision.

our initial conclusions

Our adjudicator recommended upholding Mrs B's complaint. Both Mrs B and Vanquis agree she used her credit card to buy a used car. Our adjudicator thought because of this it was fair and reasonable for him to ask Vanquis to pay her back if she didn't get what she'd paid for.

Looking at the information he had, he thought, it was clear she been sold a faulty car and that the faults had been there from the time she bought the car. So he said Vanquis should compensate her for this, which Vanquis agreed to as it had offered her £2,445 that is the price of the car minus what she got when she scrapped the car.

However, our adjudicator didn't think this offer went far enough. He said this because he thought Mrs B had run up some costs , which she'd only had to pay because the car was faulty. And he thought this was reasonably foreseeable to Vanquis. He also pointed out that Vanquis said initially it would pay these costs, and he thought it reasonable that Mrs B had relied on what it had said.

For all these reasons, in addition to the £2,445, our adjudicator thought Vanquis should pay for the car rental costs, the service cost, the car tax , the car insurance and the new key.

Our adjudicator said it wasn't acceptable that Vanquis had asked Mrs B to act as a go-between in its dealings with the supplier.

Mrs B accepted this although she wanted to know about interest on her account.

Vanquis didn't. In summary, it suggested it couldn't be sure Mrs B had even run up the costs she's claiming. It wanted further information to support this. And it suggested she needn't have run up car insurance and road tax costs for a car she couldn't drive.

It told us it was acceptable for it to check that Mrs B had "*been unable to resolve [her] complaint with the supplier*". And it thought it wasn't appropriate to comment on the question of whether it had agreed to pay Mrs B's consequential costs, as the member of staff who had made this comment was off sick.

I was asked to take a fresh look at Mrs B's complaint.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've finished my review of Mrs B's complaint. I think it's fair and reasonable to uphold it. I explain, below, why I've reached this conclusion.

it seems likely that the car was faulty so it's fair and reasonable that Vanquis refund Mrs B for this

Mrs B used a credit card to buy her car. Because of this I might in some circumstances, taking into account relevant law, ask Vanquis to give her a refund. Relevant law includes Section 75 of the Consumer Credit Act 1974. It says if a customer didn't get what they are entitled to when they buy something using their credit card, then that customer has a like claim against the credit card company. So that means if something was wrong with the car from the beginning Vanquis has to sort this out.

I think I need to clear something up here. Vanquis quoted an irrelevant provision to tell us why it was correct to send Mrs B off to deal with the supplier, rather than sorting the issue out itself. That's not what the relevant law says. Please might I ask it to look again at its response on this point?

That said, I can see that the person who dealt with Mrs B at first, although she was mistaken about what Vanquis's responsibilities are, did try very hard to help Mrs B. What she said is clear from the correspondence on file. I'm puzzled to see that Vanquis now is not standing by what she said in relation to sorting out the costs Mrs B ran up.

It seems both Mrs B and Vanquis agree the car was faulty. Vanquis is entitled to take off from the refund, the money she got for the car when she sold it for scrap, leaving £2,445 to be refunded.

why it's fair and reasonable to award the costs

The only question now is what about all the rest of the costs?

Is it correct to ask Vanquis to pay for these? I think the answer is yes, for a number of reasons.

The costs flow directly from the fact that she had a faulty car.

Further, I think if when she bought the car, Vanquis had asked itself what costs would she likely run up if the car had faults, it would've foreseen the costs she's asking for.

Also I don't agree Mrs B didn't do enough to minimise these costs. Rather I think she ran up the insurance and the road tax costs because she was going back and forth with Vanquis and the supplier and it wasn't clear what the ultimate outcome was going to be. Further I agree she reasonably thought that Vanquis would cover these costs, because it told her this.

Mrs B has sent in information showing, she made the payments she tells us about. I don't see why on balance this information is likely to be inaccurate. She has also provided information from her insurer saying she made the payments to it she said she did. I've seen nothing to show that any of the costs have been refunded by any third party.

For all of these reasons I don't think the offer from Vanquis only to pay back to cost of the car is fair and reasonable. I think it should also cover her costs and pay interest.

Mrs B asks about an entry on her account which she thought was interest on the credit that she used to pay for the car. Vanquis says it is not interest but in fact an optional product that she agreed to buy that allows interest to be frozen in certain circumstances.

my final decision

My final decision is that Vanquis Bank Limited should:

- If Mrs B has not paid off the balance of her credit card account which relates to this purchase, rework her account as if she'd never bought the car.
- If Mrs B has paid off the balance of her credit card account which relates to this purchase, refund Mrs B with the £2,445 plus interest at the rate of 8% simple per year from the date Mrs B paid for the car to the date of settlement.
- Refund the cost of the car rental, the service costs, the new key, the road tax and the car insurance. It must add interest at the rate of 8% simple per year to each of these payments. The interest to run from the date of payment to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 13 March 2017.

Joyce Gordon
ombudsman