

complaint

Mr G complains that he was mis-sold a repayment option plan (ROP) by Vanquis Bank Limited. He would like the bank to refund the payments he made along with any other charges that accrued as a result of having to pay for the ROP.

background

Mr G brings this complaint through his brother, who I shall call "Mr H".

Mr G took out a credit card with Vanquis in 2003. He experienced financial difficulties which led to the account being closed and the outstanding debt sold to a debt collection agency in 2007. He complained to Vanquis about the ROP in September 2013. Vanquis relied on the script its telephone sales team uses as evidence that the ROP had been properly explained to him before he had agreed to it.

The adjudicator didn't uphold the complaint. She accepted that when Mr G applied for the credit card, Vanquis probably had used the script it had provided a copy of, which she thought included sufficient information about the plan. She said the terms and conditions which would have been sent to Mr G also described how the ROP worked and what to do if he wanted to cancel it. So she concluded that Mr G had been given enough information to decide whether or not the plan was suitable for him.

Mr H doesn't agree. He queried whether the adjudicator had followed the approach to debt freeze products outlined in issue 108 of the newsletter this service publishes on-line. He still thinks that Mr G wasn't given clear information about the ROP as he should have been.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive or contradictory (as some of it is here) I reach my decision on the balance of probabilities – that is what I think is likely to have happened, taking into account the evidence that is available and the wider circumstances.

It is now eleven years since Mr G took out the credit card with Vanquis. Inevitably this means that the evidence available as to what Mr G was told before he signed the credit card agreement is limited. There is no record of the discussion that he had with the bank at this time. The earliest statement for the account available is for November 2006. Mr G doesn't remember receiving the terms and conditions, but does accept that he may have done so.

As noted above, Vanquis has produced a script used by its telephone sales team which sets out the information about the ROP. Mr H calls into question whether this was the one in use at the time. But I am satisfied that even if there have been minor changes to the script over the years, the substance is the same as was being used in 2003, in the same way that the ROP hasn't really changed over that time.

On the basis of the information available, I have concluded on the balance of probabilities that: the monthly statements sent to Mr G between 2003 and November 2006 each recorded a payment for the ROP. In the absence of any evidence that the plan was agreed at a later

stage, it is difficult to see why payments would suddenly have been added in 2006. I am satisfied that the ROP was charged for from the outset.

Having made that finding, the issue then arises as to why, if Mr G had never agreed to the ROP, he continued to accept that he was liable to make payments for it, without querying this with Vanquis. It seems to me that the most likely reason he took no action to challenge the monthly charge for the ROP, is because he had agreed to it. It may be that he now has no memory of this. It is now nearly seven years since the card was cancelled. This was a particularly stressful and difficult time in Mr G's life. It would not be surprising if he couldn't remember all the features of an agreement he signed up to in 2003. Likewise I am satisfied that he probably did receive the terms and conditions. Mr H says they should have contained clearer information about the ROP, but I agree with the adjudicator that they contained sufficient information about the plan to enable Mr G to cancel it immediately if, on reflection, he decided it wasn't suitable for his needs.

Having been provided with the information contained in the terms and conditions for the credit card, I consider that Mr G must take responsibility for deciding to maintain the payments for the ROP. If at any point Mr G had any doubts about the suitability of the product for him, it was open to him to cancel it. But the evidence shows that three years after taking out the credit card he was continuing to make payments for it.

When Mr G did tell Vanquis about his financial problems in July 2007, the bank agreed to accept reduced payments of £100 a month for the next few months. Unfortunately Mr G wasn't able to make any further payments to the account. This inevitably led to the account being defaulted, but I am satisfied that by agreeing reduced payments, Vanquis acted positively and sympathetically to the difficulties he was experiencing.

Many of the case studies contained in issue 108 of our newsletter highlight situations where investigation has revealed that the consumer was subjected to inappropriate pressure or had never been asked to agree to a debt freeze plan. These are cases where there is clear evidence of either inappropriate conduct or an error on the part of the business concerned. Like all the complaints that this service deals with, each case turns very much on its own unique facts. Mr G experienced significant financial difficulties which I accept must have been extremely stressful and disruptive. Mr H is to be commended for the support and help he has given his brother during this time. But I can find no evidence of inappropriate conduct or error on the part of Vanquis. The evidence that does exist suggests that Mr G accepted a continuing liability to pay for the ROP. This is consistent with an understanding of and agreement to the plan. It may be that the passage of time has eroded the memory of this particular aspect of the credit card agreement. And possibly with hindsight Mr G feels that he didn't get value for money. But those are not reasons to uphold the complaint. Like the adjudicator, I find that Mr G was given enough information to make an informed decision about whether he wanted to subscribe to the ROP.

my final decision

My decision is that I do not uphold Mr G's complaint.

Melanie McDonald
ombudsman