

## **complaint**

Mr M complains that Vanquis Bank Limited failed to prevent ten or twelve fraudulent transactions which were made on his credit card, and is refusing to refund them.

## **background**

In early 2015 Mr M and some friends went on holiday for a weekend in Riga, Latvia. After he returned home, he checked his Vanquis credit card statement and saw that it listed twelve transactions totalling nearly £1,600, which he says he did not recognise. Three of them appeared to be purchases from a company that sells lawnmowers and other gardening equipment. He reported all twelve of them to Vanquis as being fraudulent.

Mr M asked Vanquis for a refund. But Vanquis refused, because it believed that Mr M had made the transactions himself. They had all been made using his genuine card – which he still had – and his personal identification number (“PIN”) had been entered correctly each time, and on the first go. There was no explanation for how someone else could have known his PIN, which he had not told to anyone and which was not written down anywhere (except at home). Vanquis said that the card had been in Mr M’s possession “at all times.” So it concluded that it was unable to see how anyone else but Mr M could have used it. Vanquis closed his account.

Mr M promptly complained to our Service. He said that Vanquis had not properly understood his account of events, in particular in its assertion that he’d had his card with him all the time. He pointed out that he had been without his card when he went through airport security, and also when he was detained by the Riga police and held in a police van for an unknown period of time. And he insisted that the pattern of spending on his account was very atypical for him. He told us he’d only spent about £300 to £400 himself during the holiday.

Our adjudicator did not uphold this complaint. She couldn’t see how a third party could have obtained Mr M’s card, learned his PIN, made the transactions, and returned the card without him noticing.

Mr M did not accept that decision. He said that Riga is a place which is well known for this kind of fraud, and that there were many ways in which professional fraudsters could have stolen his money. He said that by rejecting his complaint the adjudicator was effectively accusing him of lying and of trying to defraud Vanquis. He asked for an ombudsman’s decision.

## **my findings**

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I do not uphold it. I will explain why.

Mr M flew to Riga on a Friday and returned home on the following Sunday. Of the twelve transactions made on his Vanquis card while he was there, two were made on the Friday night. These add up to less than £80. Seven were payments made in three bars early on the Saturday morning, between 3:40 and 6:20 am. These add up to over £1,060. The other three were cash withdrawals on the same night, but of uncertain time. (They are all timed at 7:20 am, but this is just when they were authorised on the system, which may be some time after they were actually made.) Those add up to about £440. Altogether, they add up to about £1,580. Mr M told Vanquis that he didn’t make any of these transactions, but in his complaint

to our Service he has only ever disputed the ten Sunday transactions. In case that's just an oversight, I will still consider all of them.

A simple online search revealed that the lawnmower shop has an automated teller machine ("ATM") on its premises. The three cash withdrawals were made from this ATM. No purchases were made from the shop itself.

Mr M says he had two other bank cards with him as well. He maintains that he spent no more than around £300 to £400 while on holiday.

Mr M told our adjudicator that on the night in question he had gone with his friends to a bar at around 8pm. The group then split up and he and one of his friends took two girls back to their apartment. They later went back out again and took the girls to more bars. At some point Mr M became separated from the group, and he asked the police for assistance in getting back to the apartment. The police detained him in the back of their van and confiscated his belongings. He didn't know how long he was in the van for, but eventually the police let him go and returned his belongings to him. Apart from that occasion (and when passing through airport security), he had his credit card with him at all times. He didn't notice anything was wrong until a few days after he returned home. He then reported the transactions straight away.

Mr M also said that no one with him knew his PIN, and although there was a written record of it in his bedroom at home, it was not recorded anywhere else. He said the transactions made on his credit card during the holiday were not typical of his usual spending habits, and so Vanquis should have detected this and warned him or blocked his account. That not having happened, Vanquis should refund what he lost.

I agree that the transactions on the day in question are not typical of Mr M's normal spending, but then I wouldn't expect them to be. He was on holiday abroad for the weekend, so a significant increase in expenditure is normal and to be expected. I've looked at various websites about Riga, and it seems that there are several bars there where tourists are charged exorbitant prices for drinks and bar bills can quickly run into hundreds of pounds. I have some sympathy for Mr M if this happened to him, but I can only hold Vanquis liable if he neither made the payments himself nor allowed someone else to.

All of the transactions made in Riga were "chip and PIN" transactions, meaning that the original card was used (not a cloned card) and the PIN was entered correctly. Vanquis says that the PIN was always entered correctly the first time, but I haven't seen evidence of that, and the evidence I have seen shows that some other credit card transactions were attempted but were not authorised. I don't know why not, but this *might* indicate that sometimes the PIN was entered incorrectly. Alternatively it could perhaps be because the credit limit had been exceeded, or for some other reason. So I make no findings about whether the PIN was entered correctly every time the card was used. I do however accept that the PIN was correctly entered for every transaction that went through.

This presents a significant difficulty for Mr M. He insists, and I accept, that he told no one his PIN and that it was not written down where someone in Riga could find it. But whoever made these transactions must have known it. If that was not Mr M, then a third party must have somehow learned the PIN, used the card and then returned it to him. So I have considered some scenarios in which this could perhaps have happened.

The most obvious way would be if, when Mr M paid for his drinks, the bar staff had also processed an extra payment when he wasn't looking, by observing his PIN when he entered it. But the timings of the payments do not suggest this. Each of the payments was made either at least half an hour after the last one, or in a different bar. Also, this would only have been possible if the first payment in each bar was made by Mr M, but he does not accept that. All of the bar payments made on Sunday were for around £150, and he says he would not have paid that much. (The only bar purchase made on Friday, for £4, was at another bar which was not one of the Sunday bars.)

Disregarding the airport because there were no transactions there, the only occasion on which Mr M accepts that the card was out of his possession was when the police confiscated it. A paper published by the US State Department observes that the Latvian police have a poor record of mistreating detainees. So I have considered whether it is likely that the Riga police used Mr M's card while he was in their custody.

Mr M doesn't know how long he was kept in the police van for, but if it was for as long as two hours and 40 minutes then that could cover the period during which the last ten transactions were made. (The first two transactions were made far too early to have been when Mr M was in the van, but he may have been mistaken when he told Vanquis he didn't make those purchases.) However, I can think of no explanation for how the police could have found out his PIN, and there is in fact no evidence that the police ever used his card. I don't think it would be reasonable to conclude that the police must have somehow done so in the absence of such an explanation, and I don't think it would be safe to infer this based solely on the reputation of the force. So on balance, I can't say that this is likely to have happened.

Perhaps Mr M might not necessarily have noticed if someone else had taken his card in a bar and then returned it later. It's not very likely that a complete stranger would have bothered to return it, so I think it would probably have had to be one of his friends. Mr M has never suggested that this happened, or that anyone he travelled with would act like this, but that need not preclude me from considering the possibility.

However, there is again no evidence that this happened, other than Mr M's emphatic denial that he made the transactions himself. I've listened to the recording of the call he made to Vanquis when he reported the transactions, and he does sound sincere. On balance, I accept that he honestly believes that he didn't make these transactions, but that does not mean that I must therefore uphold this complaint. He may still have made them and simply does not recall doing so, or he does not recall that the prices he paid were so high, or did not notice how much he was paying at the time. In the circumstances of the night out he has described, that would be quite understandable.

I recognise that Mr M is unlikely to accept that. But I'm afraid that I don't think there is enough evidence for me to fairly order Vanquis to refund the payments.

### **my final decision**

So my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 19 February 2018.

Richard Wood  
**ombudsman**