

complaint

Mrs C complains that Vanquis Bank Limited (Vanquis) won't compensate her for what she says were fraudulent withdrawals of money made using her credit card. She says that as she hadn't received a statement for a couple of months she wasn't aware of the fraud until her card was later declined.

background

Mrs C holds a credit card with Vanquis. On 3 February 2018 she contacted Vanquis as she said her card had been declined and she'd been made aware that she'd gone over her credit limit on the card. She wasn't sure how that could have happened but hadn't received a statement for two months. She said she wanted a new card sent to her as she was concerned someone else was using her card.

The card was stopped and a new one ordered and Mrs C spoke with Vanquis's security department to raise an issue about disputed transactions to the value of £790. The transactions in dispute were all cash machine withdrawals and had all been made over a period of about a week shortly before Mrs C contacted Vanquis.

Mrs C had confirmed she still had the card in her possession and said she hadn't disclosed her PIN to anybody or written it down anywhere. There were payments that Mrs C didn't dispute – at retailers – during the time when the cash machine withdrawals were made.

Vanquis noted that the transactions had been made using the chip in the card and that the PIN used was inserted correctly each time, so it thought the card used was the genuine one (not a copy or clone). Vanquis also said that a number of purchase transactions – which Mrs C hadn't disputed – were made within a few minutes of the disputed cash withdrawals, so it couldn't agree that somebody else used the card for the withdrawals and returned it to Mrs C straight away.

Mrs C remained unhappy so she brought her complaint to us. She also said that because of the interest that had accrued on the card she was having difficulties repaying it. She said she'd contacted Vanquis and asked it accept a lower monthly repayment and to freeze the interest on the account. Our investigator thought however that it was likely that Mrs C made the withdrawals herself.

Mrs C disagreed. She said she hadn't withdrawn the money and if Vanquis had alerted her to what was happening she could have confirmed that. She said it was as though "*there were two cards*". As no resolution could be found the case has been passed to me for a final 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. Having done so, however, I've reached the same overall conclusions as the investigator did, and for similar reasons.

Mrs C has confirmed that the card has been in her possession at all times, that there wasn't an additional card holder and that she hadn't made anyone else aware of her PIN or written it down. So I don't think we're looking at theft or loss of the card here. And Mrs C has confirmed she hadn't previously requested a new PIN number to be sent to her – until after

the transactions had been discovered. Vanquis's records show that the genuine chip from the card was recorded as being used in the transactions and that the PIN was entered correctly – first time – on each occasion.

Whilst it's relatively simple to produce a copy of the magnetic stripe on a card, copying the chip embedded in the card is a different matter entirely. I'm satisfied therefore that the chip was read when the cash machine withdrawals were made. It follows that the genuine card was used to make them. Mrs C has said it was as if there were two cards being used, but in fact the pattern of use is equally consistent with there being only one.

It follows too that either Mrs C made the cash machine withdrawals herself or that someone else managed to take her card, use it and then return it to her without her noticing – on several occasions. That is, I think, unlikely. And Mrs C is clear that nobody else knew her PIN or had access to her card.

I would add that the PIN isn't kept in unencrypted form on the card, so it's unlikely that someone using Mrs C's card without her authority could have guessed it. I believe the most likely explanation for what happened here is that Mrs C made the withdrawals herself.

Mrs C has said that the withdrawals were out of character, and I agree. It doesn't follow however that Vanquis should have alerted her to them. Since I've found – on balance – that she made them, I don't believe I can fairly say that Vanquis ought to have taken steps to stop or further verify them. Nor would it be fair to require Vanquis to refund them.

my final decision

For the reasons that I've given I don't require Vanquis Bank Limited to do anything further to resolve Mrs C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 8 November 2019.

Michael Ingram
ombudsman