

complaint

Mr F complains that Vanquis Bank Limited declined his claim for compensation under section 75 of the Consumer Credit Act 1974 in respect of his hire of a wedding venue. He is represented in this complaint by his wife.

background

Mr F hired a venue for his wedding, and paid part of the cost with his Vanquis credit card. After the wedding, his wife complained about various problems, but the supplier did not agree that it had done anything wrong. It offered her £500 as a gesture of good will, but Mrs F declined that offer and asked Vanquis for compensation under section 75, whereupon she says the supplier withdrew its offer. Vanquis did not uphold the claim, saying there was no documentary evidence of the service which was agreed or the service actually received, and that the gesture of good will had been a reasonable offer. So Mr F brought this complaint to our Service.

Our investigator did not uphold this complaint. She said there was no clear evidence that the supplier had provided an inadequate level of service. Mrs F asked for an ombudsman's decision.

I wrote a provisional decision as follows.

my provisional findings

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

Section 75 is a law which, where it applies, makes the provider of credit (in this case, Vanquis) jointly and severally liable for any breach of contract by a supplier where the supplier's services are paid for (in whole or in part) with the credit provided. My role is to decide whether Vanquis erred when it decided to reject Mr F's claim. It is not in dispute that section 75 applied to his claim, so the only issue is whether there was enough evidence to prove a breach of contract by the supplier, such that Vanquis should have upheld the claim.

Four days after the wedding, Mrs F complained about numerous problems, which included:

- The event manager had also been supposed to act as toastmaster, but was replaced by another person who did not like public speaking and so would not act as toastmaster. The replacement was also absent for much of the wedding.
- There were not enough staff present during the day, which caused various issues. This meant the magician spent a great deal of time looking after the guests, which was not his role, and so he did not have time to perform the magic he'd been booked to do. Guests were not told to go to the reception, so they spent most of their time in the hotel bar. There was a general lack of organisation.
- The vegetarian buffet food was mixed with the meat items.
- Mr F's son (a toddler) was given a cream cheese dip even though the staff had been warned that he is allergic to dairy products. He fell ill and had to leave early (at 8pm).
- The desserts were burnt and were inedible.
- Bottles of wine and beer were taken away when the tables were cleared, and half measures of prosecco were poured.

- When Mrs F asked the staff to put the wedding cake in boxes for the guests to take home, she was told to do it herself. Instead, cake slices were left out all evening and went stale.
- The air conditioning didn't work and the venue was too hot.
- Their belongings were left out unsecured the following morning, so Mr and Mrs F had to collect them immediately instead of leaving for their honeymoon.

In response, the general manager of the venue told her:

- Mr and Mrs F had not complained on the day, or a couple of days later when they collected some more items from the venue. The event manager recalled that they had both told her they had had "a nice day."
- It had been agreed with the replacement event manager that she would be absent during the meal, and would return in the evening after speeches. It had also been agreed that the magician would act as toastmaster and make the announcements. (However he did not suggest that the magician was supposed to run the whole wedding, or admit that he did, and so I think this allegation is in dispute.)
- He admitted that a dairy product had been wrongly supplied to their son by mistake, and apologised. Further training would be given to the catering staff. But the kitchen manager and the chef had both assured him that the dairy food had been untouched. (Mrs F disputes this, and says that her son ate some.) He did not accept responsibility for their son being ill.
- He apologised if any desserts were inedible. He had asked the kitchen staff about the desserts, and would come back to Mrs F later with his answer about that issue (but I have not seen any follow-up message about that).
- The supervisor had assured him that no unopened bottles had been removed.
- The venue's usual procedure is to serve wedding cake alongside the evening buffet. Cake boxes had been left out next to the cake for guests to use if they wished.
- It is the venue's normal procedure to leave customers' items out to be collected.

Mrs F has described the events of that day in considerable detail. But most of her account is disputed by members of staff at the venue. Vanquis had no way of knowing the truth of what really happened, except by looking at such evidence as was provided to it. It didn't have to take Mr and Mrs F, or the manager, at their word. So I have considered what evidence Vanquis was shown to prove the allegations. My role is not to decide for myself whether I believe the allegations or not, but rather to decide whether Vanquis made an unreasonable assessment of the evidence and unjustifiably rejected Mr F's section 75 claim.

In support of this complaint, Mrs F has supplied some photographs taken during the meal. They show some prosecco glasses which I agree are not as full as I would expect them to be. But it's not possible to tell from the photos whether people have already started to drink them or not. Mr F has already begun his speech, so people may have already begun drinking toasts, or just begun drinking. There are photos which show unopened bottles on the table during the meal, but that does not prove that the bottles were still unopened at the end of the meal, or what was done with those bottles when the staff cleared the tables. So I don't think these photos prove the allegations made about the drinks.

There is also a staged photo of Mrs F posing with a spoon in her dessert in such a way as to suggest that it is difficult to eat, which leads me to think that what she has told us about the desserts is probably true. I think Vanquis would still have been entitled to reach a different view about that, and to decide that the photo was not convincing, if the general manager had denied that allegation. But I have seen no evidence that this issue has been disputed by the venue. The manager simply said that he would look into it further and report back, but

I haven't seen a subsequent message from him about the desserts. So the only evidence about this subject goes one way. There is an uncontested allegation that the desserts were not of satisfactory quality. I therefore think that this was a breach of contract by the venue, and that Vanquis ought to have reached the same conclusion since there was no reason to find otherwise. I think that the venue's offer of £500 was fair compensation for that issue. However, Mr F did not accept that offer and so it has not been paid to him. I will come back to that.

There isn't really any other documentary or independent evidence to support the rest of this claim. What Mr and Mrs F have told us is itself evidence, but so is what the manager and his staff told them. I don't think I can say that Vanquis made an error in its overall approach to this claim. It considered what was said by both sides, but then decided that there was no proof of any wrongdoing worth more than £500. I cannot find fault with that decision. I regret that this will come as a grave disappointment to Mr and Mrs F, as it is very clear in all of their correspondence, then and now, that they feel very strongly about their experience.

I haven't seen any evidence that the supplier's offer of £500 was conditional on Mr F not complaining to Vanquis, or that it was withdrawn when he did. But I accept that he did not accept the offer at the time, and so the £500 has not been paid to him. That was in September 2018, so I presume that offer is no longer on the table. So I am currently minded to say that Vanquis should pay it, since Vanquis is jointly liable for the venue's breach of contract.

So my provisional decision is that I intend to uphold this complaint. Subject to any further representations I receive from the parties ... I intend to order Vanquis Bank Limited to pay Mr F £500.

responses to my provisional findings

Vanquis accepted my provisional decision. Mrs F had nothing to add. So there is no reason for me to depart from my provisional findings, and I confirm them here.

my final decision

My final decision is that I uphold this complaint in part. I order Vanquis Bank Limited to pay Mr F £500.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 21 May 2020. But Mrs F may reply on his behalf.

Richard Wood
ombudsman