

complaint

Mr G complains that Vanquis Bank Limited (Vanquis) hasn't agreed to his request for it to delete all of the data it holds about him.

background

Mr G held a credit card with Vanquis. Vanquis agreed to accept a partial settlement of the balance of Mr G's card, and the account was closed.

After the closure of the account, Mr G contacted Vanquis and asked it to delete all of the data it holds about him. He said this was his right in line with Article 17 of the General Data Protection Regulation (GDPR) – right to be erased – otherwise known as the right to be forgotten. Vanquis said it was unable to delete the data straightaway, so Mr G complained.

Vanquis agreed that Mr G had the right to ask it to delete his data. However, Vanquis said it still needed to keep Mr G's data for a period of time. Vanquis said there were legal obligations which prevented it from deleting all of Mr G's information straightaway, such as anti-money laundering regulations. It also said it had a legal basis for continuing to process his information – a legitimate interest resulting from the original credit agreement between Mr G and Vanquis.

Vanquis said it wouldn't hold onto Mr G's data for any longer than needed, but it would continue to keep his personal data in line with legislation and regulations it must comply with. It said that once an account is closed with a zero balance, it would usually keep the data for no more than seven years.

Vanquis also told Mr G that it provides updates of accounts to credit reference agencies. It said the partial settlement of the account which it had accepted from Mr G would appear on his credit file. And that this would show for six years from the date of the settlement.

Mr G said Vanquis are no longer processing his data in line with its original purpose. He said he's no longer a customer and has withdrawn his consent to data processing. He maintains that he has the right to be forgotten and has said that Vanquis' continued processing of his data is a criminal offence.

Unhappy with Vanquis' response to his complaint, Mr G contacted this service. An investigator looked into the complaint and was of the opinion that Vanquis hadn't done anything wrong. Mr G was dissatisfied with the outcome, and asked for an Ombudsman to review the case.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Firstly, the role of our service isn't to decide whether or not a business has breached data protection laws – that's the role of the Information Commissioner's Office (ICO). But, I can look at whether a business has treated the consumer fairly and reasonably when applying those regulations in their course of business. If Mr G has concerns over whether or not Vanquis has fully complied with GDPR, he can raise these directly with the ICO. I can see that the investigator has already provided Mr G with the ICO's contact details.

Mr G told Vanquis that he'd withdrawn his consent for it to continue to process his data. He's said that he's no longer a customer of Vanquis, and believes that his data is now not being used for its original purpose.

Vanquis says it needs to keep information about Mr G due to its legal obligations. It says it's aware that Mr G has withdrawn his consent, but says it still has a legitimate interest resulting from the original credit agreement between it and Mr G.

Vanquis originally recorded Mr G's data for the purpose of providing him with credit. There are multiple activities related to providing credit which Vanquis needs to carry out. For example: providing statements, sharing data with credit reference agencies, conducting anti-money laundering checks and reporting to relevant tax authorities and regulators. These activities are all related to the original credit agreement, and some still apply after an account has closed.

As Mr G has pointed out, the GDPR sets out the right to be forgotten. But, the regulations also specify that this is not an absolute right, and only applies in certain circumstances. The regulations say the right to be forgotten doesn't apply if processing by a business is necessary for several specific reasons, and these include legal obligations.

In other words, Vanquis would be entitled to continue processing Mr G's data if it needs to do so in order to comply with its legal obligations. I can see that Vanquis has considered this, and came to the conclusion that it needs to continue to process Mr G's data. I don't think I can say that Vanquis acted unreasonably or unfairly in coming to that conclusion. I can also see that it followed its usual procedures handling data on a closed account. For those reasons, I don't think it would be right to uphold this complaint.

my final decision

For the reasons I've given, it's my final decision that I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 19 August 2019.

Gemma Warner
ombudsman