

The complaint

Miss M has complained about the way Vanquis Bank Limited dealt with her claim for money back in relation to a purchase she'd made using her credit card.

What happened

The circumstances of the complaint are well known to the parties, so I won't go over everything again in detail. But to summarise, based on what I've seen, Miss M paid around £400 in March 2023 to a company I'll call L for a three-night package holiday in April 2023. I can see she also paid around £60 to L in February 2023, although it's not clear if that was part of the cost of the holiday. I understand Miss M was unhappy with elements of the holiday accommodation. She's shown us she complained the room was very basic with no coffee or kettle; there were marks on the hall; and TV channels didn't work. I understand she also complained to L to say she was unhappy the hotel wasn't as described. She supplied some photos to L as part of her claim. I understand the hotel offered her a refund of around £15 but Miss M wasn't happy with this so put in a claim with Vanquis.

From what I've seen, Miss M put in a claim for £199.94. Vanquis ultimately declined the claim because the service had been utilised for the full duration. Miss M decided to refer her complaint to the Financial Ombudsman.

One of our investigators looked into things. She asked for a copy of the original booking; terms and conditions; more information on the aspects of the hotel that weren't as described; and evidence of raising issues with the hotel during the stay. Miss M wasn't able to provide everything our investigator asked for, but she supplied some photos of the accommodation. She also explained the air conditioning wasn't working, and the pool wasn't open.

Our investigator didn't uphold the complaint. She didn't think the chargeback would have had a reasonable prospect of success. She also didn't think she'd seen enough to demonstrate a breach of contract or misrepresentation that Vanquis could have been held liable for under section 75 of the Consumer Credit Act 1974.

Miss M didn't agree. She said she wasn't supplied a contract. She said she'd sent photos of the hotel and a screenshot through of the booking. She said she had no evidence to support the pool was closed or that the air conditioning wasn't working but she said she did visit the reception to complain. As things weren't resolved, the complaint has been passed to me to decide.

What I've decided – and why

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

I want to acknowledge I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Miss M and Vanquis that I've reviewed everything on file. And if I don't comment on something, it's not because I

haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

I also want to say I'm very sorry to hear that Miss M was unhappy with the holiday.

What I need to consider is whether Vanquis – as a provider of financial services – has acted fairly and reasonably in the way it handled Miss M's request for getting money back. It's important to note Vanquis isn't the supplier. I've gone on to think about the specific card protections that are available. In situations like this, Vanquis can consider assessing a claim under section 75 or raising a chargeback.

The chargeback process provides a way for a card issuer to ask for a payment to be refunded in certain circumstances. The chargeback process is subject to rules made by the relevant card scheme. It's not a guaranteed way of getting money back.

While it's good practice for a card issuer to attempt to chargeback where certain conditions are met and there's some prospect of success, there are grounds or dispute conditions set by the relevant card scheme that need to be considered. If these are not met, a chargeback is unlikely to succeed. And something going wrong with a merchant won't always lead to a successful claim. Vanquis didn't think a chargeback would've had a reasonable prospect of success. I agree and will explain why.

The most relevant chargeback condition would likely have been for services not as described or defective. But I've not seen enough evidence the hotel didn't provide what was advertised. While I appreciate some of those things may have been difficult for Miss M to evidence, she'd need to have supplied sufficient evidence for there to have been a reasonable prospect of success for a chargeback.

Our investigator asked for the sort of evidence that would be helpful, but Miss M was only able to supply limited information. I've reviewed the photos Miss M has sent in, and the booking confirmation, along with the correspondence and contact notes from Vanquis. I don't consider the photos or booking confirmation she's given us show a service wasn't as described. Miss M utilised the service, and so I don't consider there'd have been a reasonable prospect of success for Vanquis raising the chargeback for around £200 which is what she asked for, even if there were elements of it she was unhappy about. The hotel offered a small refund, but there's not sufficient evidence to support or quantify a further claim that Vanquis could have raised. I think the merchant would have had a valid defence. So I don't think Vanquis' ultimate answer to the chargeback claim was unfair.

I've also thought about Vanquis' liability under section 75. Section 75 is a statutory protection that enables Miss M to make a like claim against Vanquis for breach of contract or misrepresentation by a supplier paid by credit card in respect of an agreement it had with her for the provision of goods or services. But there are certain conditions that need to be met for section 75 to apply. I think the value of the transaction falls within the financial limits. There also needs to be a debtor-creditor-supplier (DCS) agreement in place. Having multiple parties involved can impact the arrangement. But seeing as though it looks like Miss M bought a package holiday from L I think the necessary conditions likely do exist. This is because with package holidays, the agent is responsible for the performance of the package.

However, for similar reasons to what I've said above, while I appreciate there were elements of the holiday Miss M was unhappy with, I've not seen enough to determine there's been a misrepresentation by L. And I've also not seen enough to show that the overall service wasn't carried out with reasonable care and skill, so I don't think there was a breach of contract that Vanquis would be liable for either.

Therefore, while I know it'll disappoint Miss M, I'm not going to direct Vanquis to take any further action.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 29 March 2024.

Simon Wingfield
Ombudsman