

The complaint

Mr B complains that Vanquis Bank Limited irresponsibly provided him with credit.

What happened

Vanquis opened a credit card account for Mr B in January 2021 with a £1,000 credit limit. It increased the limit to £2,000 in June 2021.

Mr B complained to Vanquis in May 2023 that it should not have opened the account for him or increased his limit. He said that the credit was unaffordable for him and explained that he'd entered an Individual Voluntary Agreement (IVA) with his creditors not long before the account was opened and entering into this new credit agreement could have caused his IVA to fail. Mr B also said that he was having difficulty with his mental health at the time and continues to do so and the stress of dealing with the account makes things worse for him.

Vanquis upheld Mr B's complaint and explained this in a final response to him in August 2023. It said it would refund the interest and charges he paid on the account to date along with 8% interest on these amounts, which it calculated at £902.70. It applied this refund to Mr B's account, leaving a balance of over £1,000. Vanquis also said it would arrange to remove any adverse information from Mr B's credit file up to that point and set up a repayment plan with him.

Mr B was unhappy with this response. He said the outstanding balance on the account should be waived because Vanquis should not have opened the account for him. He referred his complaint to us. Our investigator looked into things and found that Vanquis had put things right for him in a way that we would usually recommend in these sorts of cases. They didn't recommend that Vanquis took any further steps to compensate Mr B. Mr B remained unhappy with this resolution and his complaint was passed to me to decide.

I issued a provisional decision on 22 May 2024 explaining why I thought Mr B's complaint should be upheld. I proposed that a fair resolution in this case would be for Vanquis to write off Mr B's outstanding balance. I shared the information I'd relied on with both parties and allowed time for them to respond with comments or new information. Mr B said he agreed with my provisional decision and I haven't had a response from Vanquis.

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.

Having reviewed the matter again and having no new information to consider, I see no reason to depart from my provisional conclusions. I'll explain again in this final decision why I've concluded that Mr B's complaint should succeed.

I began my provisional decision by saying that both parties had accepted that the credit was irresponsibly given. I didn't revisit that conclusion as it seemed it was no longer in dispute

but focused instead on what remained in dispute, in other words what should happen to put things right for Mr B.

As I'd said in my provisional decision, the customer contact records Vanquis provided showed that it charged Mr B interest on the outstanding balance until a repayment plan was agreed in November 2023. Vanquis then refunded the interest it had charged in September and October as a good will gesture and stopped charging interest to the account, which Mr B has confirmed.

According to the customer contact records Vanquis provided, it carried out an affordability assessment with Mr B in November 2023 and found that he had a negative disposable income. It agreed a repayment plan of £5 a month, and Mr B paid this amount in December. Mr B began paying more than this, for example £23.17 in February and £22.59 in March, which I've assumed are around the amount of the minimum payments shown on the account statements. Vanquis confirmed to us on 17 April 2024 that the outstanding balance on the account was £881.

When Mr B referred his complaint to us he said that he wished to have the outstanding balance on the account waived. Mr B shared with us that in 2020 he was dealing with difficult personal circumstances and was under the care of mental health professionals. He provided a letter from his therapist dated May 2021 which supports what he's told us about his circumstances and his health. Mr B said that he continues to have difficulties with his mental health and has been diagnosed with two conditions. He is taking medication for his conditions and is receiving help from an organisation that supports people with his conditions to stay in work. Mr B told us that he finds it very difficult to interact and having to do so in order to deal with his finances, specifically this account, impacts on him to the extent he feels suicidal.

Mr B also told us about his current financial situation. He said that his mother paid off his IVA last year because he couldn't meet the payments. He also said that she is helping him out with money for food, and that he is a single parent with three dependents.

We told Vanquis what Mr B said about putting things right for him. Vanquis said in response that it wouldn't usually write off a customer's debt when it upheld a complaint because Mr B had the use of the money he borrowed and should repay the debt. I agree that this is also our usual approach in these sorts of cases. However, sometimes we decide that reaching a fair and reasonable resolution in the particular circumstances of a case requires more than the usual response. I've concluded that it would be fair and reasonable for Vanquis to waive the outstanding balance on Mr B's account for two reasons.

Firstly, while I haven't seen anything to suggest Vanquis knew or ought to have known about Mr B's mental health difficulties when it opened the account for him, it is aware of these now. It is also aware that the interactions Mr B is required to have in order to deal with his finances going forward, for example speaking with someone over the phone, are having a very serious impact on him.

CONC 7.10.1R states that a lender must suspend the pursuit of recovery of a debt from a customer when it's been notified (or understands or ought reasonably to be aware) that a customer might not have the mental capacity to make relevant financial decisions about the management of their debt and/or to engage in the debt recovery process at the time. It may be that Mr B will have periods in the future where he is able to deal with his finances without it having a serious impact on him, after all he did manage to bring a complaint to Vanquis and to us. However, all I can reasonably consider is what is happening at the present moment and it seems to me that Mr B is struggling to engage with the debt recovery process and pursuing this debt is exacerbating his conditions.

Secondly, from the information I've seen it seems that Vanquis's affordability assessment in November 2023 concluded that Mr B had a negative disposable income. Vanquis then set up a plan for him to pay £5 a month to clear his outstanding balance of £1,039.08. This would take around 17 years to fully repay.

CONC 7.3.5G states that an example of forbearance when a customer is in arrears might be accepting token payments for a *reasonable period of time* from a customer who would not be otherwise able to meet their priority debts or other essential living expenses. The regulations don't specify what a reasonable period of time is but 17 years is clearly not reasonable. I understand that Mr B has been making the minimum payment since this January, which is around £20. If Mr B continues to make these repayments it would take him a little over four years to fully repay the balance. However, Vanquis's assessment found that Mr B would not be able to make more than token payments without experiencing financial hardship and so I can't consider that this is a fair and reasonable solution.

Putting things right

Bearing the above regulations in mind and taking everything into account, in the context of this case, I've concluded that the fairest thing to do to resolve Mr B's complaint is to write-off the full balance of the outstanding debt.

Vanquis should remove any adverse information about the account from Mr B's credit file, if it hasn't already done so.

My final decision

For the reasons I've explained above I am upholding Mr B's complaint and require Vanquis Bank Limited to put things right for him as I've set out.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 29 July 2024.

Michelle Boundy
Ombudsman