

The complaint

Mr M complained that Valour Finance Limited, when it was trading as Savvy.co.uk ('Savvy') lent to him irresponsibly.

What happened

Mr M took out a loan with Savvy as follows:

loan	start date	paid or not paid	monthly instalments	loan amount	instalment amount
1	27 June 2016	The loan is fully repaid	18	£750	£68.76

When Mr M first complained to Savvy he was mainly concerned about the cost of the loan and the way that Savvy had pursued collection. Savvy didn't uphold either of those complaint points and so Mr M brought his complaint to this service.

Mr M told us that he had three main complaint points. In brief summary he said:

1. the interest charged was unfair
2. he was clearly struggling with major financial difficulties throughout and doesn't believe Savvy really understood or gave him proper help and time to sort out this difficult period
3. loans were unaffordable and shouldn't have been provided. Mr M told us his credit file highlighted a lot of issues at the time of application including missed payments, late payments and repayment plans. He told us that he made so many credit applications prior to being accepted by Savvy that this should have shown a clear financial strain and desperation. As well as this, Mr M said the number of loans, credit cards and overdrafts he had at the time and in the past should have been very alarming.

When we contacted Savvy about this complaint, it took the opportunity to address the additional complaint Mr M had mentioned to us - that Savvy had provided him with an unaffordable loan. Savvy sent a final response letter explaining the checks it carried out before lending and said it still didn't uphold Mr M's complaint.

Mr M didn't feel this response adequately answered his complaint. He said:

- he had more than one loan with Savvy and this hasn't been addressed
- due to Savvy lending to him irresponsibly he was put into severe financial hardship for a long period of time

- his credit history of missed and late payments and declined applications should all have been warning signs.

One of our adjudicators investigated this loan. In brief summary, he thought:

- given the loan amount, what was apparent about Mr M's circumstances at the time and his history with the lender, it wouldn't have been proportionate to ask Mr M for the amount of information needed to show the lending was unsustainable
- there wasn't anything in the information Mr M provided, or the information Savvy should've been aware of, which meant that Savvy should've taken steps to verify the information Mr M had declared
- Mr M didn't have any loan history with Savvy that should've alerted Savvy to any underlying financial difficulty.

Our adjudicator felt the loan had been fairly provided and didn't uphold Mr M's complaint.

Mr M disagreed with our adjudicator's view. Mainly he said that he has provided proof that the loan was unaffordable for him and he felt it was inconsistent and unfair not to uphold his complaint when another similar complaint was found in his favour.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"I'd like to reassure Mr M that I've looked at the complaint afresh – and I've independently reached the same conclusions as our adjudicator. I'll explain why I say this.

Savvy needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice, this means that it should have carried out proportionate checks to make sure Mr M could repay the loan in a sustainable manner.

Savvy was required to establish whether Mr M could sustainably repay the loan – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments, as well as without having to borrow to meet the repayments.

And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make the repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

There's no set list of checks that are 'proportionate'. In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and Mr M's income and expenditure.

And, for a first loan, less thorough checks might be reasonable and proportionate.

I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income)
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the *longer* the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

I've kept all of this in mind when thinking about whether Savvy did what it needed to before agreeing to lend to Mr M and thought carefully about the following key questions:

☐ Did Savvy complete reasonable and proportionate checks to satisfy itself that Mr M would be able to repay the loan in a sustainable way? If so, did it make a fair lending decision? If not, what would reasonable and proportionate checks have shown at the time?

☐ Did Savvy act unfairly or unreasonably in some other way?

Savvy has confirmed that it provided only this loan to Mr M. As far as I can see, from looking at all the information that's available to me, including having sight of some of Mr M's bank statements, I can't see anything to show that Savvy provided any other loans to him. If Mr M can send more information about this showing that it did, then that's something we can follow up. Otherwise, as things stand at the moment, I'm going to proceed on the basis that this loan was his one and only loan with Savvy.

I haven't been provided with the call recording that Mr M had with Savvy when he applied for this loan. That's not a reason for me to uphold the complaint. It's not surprising if the call recording is no longer available after all this time. But, if it can be provided, Savvy should confirm this and send me the call recording so that I can take this into account before making a final decision.

Before lending to Mr M, it appears that Savvy asked Mr M for information about his financial situation. Using this information, Savvy was able to see what his monthly budget typically looked like. And it worked out what he could afford to borrow.

Savvy told us it checked Mr M's employment and the amount of his monthly pay by looking at the pay slip he provided. Savvy said this evidenced a net pay of £1575.00 and a year-to-date figure of £1623.82. Savvy said it relied on the lower figure when assessing whether this loan would be affordable for Mr M.

Savvy said it asked Mr M about his outgoings, including what he was spending on other loans. It worked out he would have a total monthly expenditure of £1026.50, which included the amount Mr M had told Savvy about his existing debt repayments.

Savvy also did a credit check and told us that it questioned Mr M about a missed payment on his credit card. It seems that Mr M explained there had been a delay in the payroll and he'd missed that payment - but had now remedied this. Savvy also said it asked Mr M about two recent payday loans it saw and that Mr M advised he took a £95.00 payday loan when his wages were delayed and that he had cleared a £667.00 loan. It seems that Savvy

requested evidence that he had paid that payday loan off and also evidence regarding monthly instalments for an £800.00 loan as Mr M's credit file didn't reflect this. Savvy said it received the requested confirmation via email, confirming that Mr M was paying £169.87 per month towards his £800.00 loan.

Savvy calculated that Mr M's monthly surplus was £479.74. So it was satisfied that the loan repayments of £68.76 per month for this loan should've been comfortably affordable for Mr M. And based on his responses to the information it had gathered on its credit checks, Savvy felt the loan was fairly provided.

Mr M feels strongly that his credit history clearly showed that he wasn't in a position to be given any further lending as he had a record of payment problems which showed he was already having problems managing his debt.

But I think it's fair to say that all the information Savvy had gathered tended to suggest that Mr M seemed to be managing his credit without any obvious signs that he had a serious debt problem. Savvy has sent me its credit checks so I can see the same information that it relied on when assessing if this loan was likely to be sustainably affordable for him.

The credit checks showed Mr M had a total of nine active credit accounts – he had settled twenty three accounts and he had no delinquent accounts showing on his record during the previous 12 months.

The credit checks didn't show that Mr M was involved in any sort of arrangement with creditors and bankruptcy wasn't flagged up. He had no active county court judgements registered and no recent defaults on his record going back 3 years.

These credit checks show the accounts that Savvy told us it questioned Mr M about – I can see he had two credit cards both around their credit limit. And also the three loans Savvy said it discussed with Mr M. Apart from these entries, I don't think there was anything else I can see that should've caused a reasonable lender to be concerned. It wouldn't be unusual for someone applying for this type of lending to have other debt – and sometimes even an impaired credit history. And these wouldn't necessarily be fair reasons not to lend. I don't think the amount of debt shown on Mr M's credit checks was excessive or that his payment history was concerning having regard to his income.

I'd expect Savvy to decide Mr M's lending application based on the information it was reasonably entitled to rely on at the time. When a lender carries out a credit search, the information it sees doesn't usually provide the same level of detail that a person's own credit search will. And it isn't necessarily up to date – that can depend on when other creditors have reported information and when it's been recorded by the credit reference agency. A lender might only see a small portion of a borrower's credit file, or some information might be missing or anonymised. I'm also aware that not all payday and short term lenders report to the same credit reference agencies. This is why information that Mr M feels Savvy should have found out, and that he might see on his own credit check, may not have been identified by a credit check done by Savvy when he applied for this loan.

I don't think it was unreasonable for Savvy to lend here – especially as there wasn't anything obvious, in the information it had, to suggest Mr M wouldn't be able to repay the loan in a sustainable way.

Having thought about what it seems Mr M told Savvy about the outstanding loans, I don't think it was unreasonable for Savvy to accept what he said at face value and without doing further checks to verify what Mr M had said.

Taking everything into account, I don't think proportionate checks would've required Savvy to probe any more deeply into Mr M's finances or ask Mr M to prove what he was declaring (by requiring him to send in his bank statements for instance) or check other information sources to verify what he had told them (or omitted to say) about his financial circumstances. I think its checks were proportionate and Savvy's lending decision wasn't irresponsible.

I think there was a large amount of interest payable on this loan and I can appreciate that Mr M might now feel this has unfairly added to his debt problems. But Mr M applied for this loan and he had to actively engage in the loan application process. The loan documents set out the terms and the amount of interest payable. The annual percentage rate of charge (APR) on Mr M's loan was 99%. The total charge for credit would be £487.68 (if the loan ran to term). The total amount he would have to repay, including interest, was £1,237.68. The agreement showed he would need to make 18 consecutive payments of £68.76.

Taking everything into account, I think Mr M was aware he was taking a high cost loan on terms he seemed happy to agree to at the time. I don't think Savvy had any reason to think that Mr M wouldn't be able to sustainably repay the loan and it went ahead only when it had provided information explaining the main loan costs and Mr M said he wanted to proceed. So I can't fairly say that the high cost of this credit is a reason for me to uphold Mr M's complaint.

I'm sorry that Mr M had a problem with debt and that repaying this loan has proved difficult for him. I accept that in reality Mr M's actual circumstances possibly weren't fully reflected either in the information he provided, or the other information Savvy obtained. But in order to uphold this complaint I have to be able to say a lender did something wrong. And, in this case, I don't think that Savvy did anything wrong in deciding to lend this loan to Mr M.

I haven't seen enough to make me think that Savvy acted towards Mr M in any other way that wasn't fair and reasonable. Looking at what I've seen and been told so far, I can't fairly say that Savvy failed to respond in the way I would expect it to when Mr M contacted it to discuss payment issues. Savvy said that Mr M made contact on two occasions when he made it aware that he was in financial difficulty – although he'd also said the issues were short term. Savvy said in February 2017 it asked Mr M to complete an 'Income and Expenditure assessment' – I understand he wasn't able to do this due to going to work. And in August 2017 Savvy asked him for bank statements which were never provided. In the event, Savvy said Mr M committed to reducing spending and contacting other creditors to maintain his repayments on this loan.

Savvy told us that all its correspondence also contained information and contact details about where Mr M could get additional advice and support to help him manage his situation.

Savvy said there were eight examples of it providing Mr M with a suitable resolution to his situation and treating him with understanding, including a refund of charges as a gesture of goodwill.

And it had done what he'd asked and put in place measures to ensure it didn't lend to him again.

I think it was reasonable for Savvy to have requested additional information, such as a completed income and expenditure form or bank statements, in order to be able to properly assess what help Mr M might need and how it could assist. If Mr M didn't respond to those

requests and the information wasn't provided then I don't think I can fairly and reasonably say that Savvy should have done more than it did.

Each case is decided on its own merits and so what happened on a different case when Mr M complained about the lender doesn't affect the outcome here.

Looked at overall, I don't think I can fairly say that Savvy has acted in a way that isn't fair and reasonable. So I haven't seen anything to make me think this is a case where it would be fair and reasonable for me to award any redress.

I appreciate that my provisional decision will likely come as a disappointment to Mr M and I'm sorry. But I hope my explanations help him understand why, as things stand at the moment, I've reached these conclusions.

If Mr M is still in a position where he would like help to manage his finances there's more information about how to get free debt advice on our website – or we can provide contact details if he gives us a call."

What the parties said in response to my provisional decision

Mr M has sent me detailed comments explaining why he still thinks Savvy acted irresponsibly when lending to him. In brief summary, he has mainly reiterated his concern that Savvy should've done more and better checks before providing the loan, for instance with other credit reference agencies - but he also feels that it saw enough information in any event to decline his application. And Mr M feels strongly that the high interest on the loan wasn't clearly highlighted and that Savvy's advertising should be more customer friendly – he said if the rates had been made more plain and obvious he would not have taken out the loan with Savvy.

Savvy hasn't made any further comments and the deadline for responses has now passed.

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.

We've set out our approach to unaffordable/irresponsible lending complaints on our website and I've kept this in mind while deciding this complaint.

Having done so, after taking carefully into account everything that's been said in response to my provisional decision, I don't find that Mr M has told me anything new that changes what I think about this case.

I am very sorry that Mr M has struggled with debt. But I think it's fair to say that when he applied for this loan with Savvy, in my view the credit information it gathered wasn't enough overall to show that he was having serious money problems to the extent that Savvy should reasonably have foreseen that this loan wasn't going to be sustainably affordable for him – and so it shouldn't have lent it.

I completely accept that there were evident signs that he was financially stretched. But this wasn't untypical of borrowers applying for high cost loans of this type.

And for all the reasons I've explained more fully in my provisional decision, I don't think that a proportionate check required Savvy to do more than it did in terms of checking – the level of checks Mr M has suggested it should have done exceed what I think was proportionate for

a first loan of this amount in the context of the credit information Savvy had collected. The loan looked like it should be affordable – and I think Savvy was reasonably entitled to make its lending decision on the basis of the information it had at the time.

Mr M had to engage fully in the loan application process and I think the high interest he would pay was reasonably clearly set out in the loan documents – so I don't feel I can uphold his complaint that the high interest wasn't clearly stipulated.

And I can't comment on any other case – I've made my decision based on the facts in this case and I still think it's fair not to uphold this complaint for the reasons I explained in my provisional decision.

My final decision

For these reasons, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 22 July 2021.

Susan Webb
Ombudsman