DRN-3179038

The complaint

Ms D says Valour Finance Limited trading as Savvy.co.uk (Savvy) lent to her irresponsibly. She says that she struggled to repay the lending due to her financial situation being poor at the time. She thinks that Savvy should have spotted this and not lent to her.

What happened

This complaint is about three instalment loans Savvy provided to Ms D between February 2018 and August 2020. Some of the information I have been provided about the lending is in the table below.

loan	date taken	amount	instalments	date repaid
1	15/02/2018	£2,000	18	03/12/2018
2	03/12/2018	£2,850	24	10/08/2020
3	10/08/2020	£2,000	15	01/12/2020

Our adjudicator partially upheld the complaint. He didn't think that Savvy had lent irresponsibly for loans 1 and 2. But he thought that it should have been clear that Ms D would struggle to repay loan 3 due to the pattern of her borrowing. And so, he thought that Savvy shouldn't have approved this loan.

Ms D, through her representative, didn't want to add anything to what the adjudicator said.

Savvy didn't agree with what the adjudicator said. It said that he checks it had made showed that the lending was likely to be affordable. It also said that Ms S had enough disposable income to repay the loans sustainably. Her credit file showed that she was repaying her other lending on time, and she was within her credit limits.

As no agreement has been reached the complaint has been passed to me.

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 general approach to complaints about irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

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 Ms D could repay the loans in a sustainable manner.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Savvy should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines 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 their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've decided to uphold Ms D's complaint in part and have explained why below.

Ms D didn't disagree with our adjudicator's opinion about loans 1 and 2. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't comment on this lending in detail.

But these two loans were part of the borrowing relationship Ms D had with Savvy. And I've looked at the information Savvy gathered about these loans. I do have some concerns about what I've seen and I think this impacts on Savvy's decision to approve loan 3. I won't go into all of the detail here as both sides are aware of it, but some of the things that Savvy knew about Ms D are as follows:

- Ms D had a lot of credit card (or similar) borrowing. And she was at her limit for a significant amount of this. There was also some indication that she was having problems repaying this.
- Ms D also had a significant amount of other unsecured loans. For example, she took an unsecured loan with a value of £13,500 around 13 months before she took loan 3. She had taken larger loans before each of the other Savvy loans.
- So, servicing this debt would've led to significant total monthly repayments.

So, whilst Ms D did have a reasonable income, and the Savvy loans may have looked affordable, I think it's also reasonable to say that this significant other debt may have impacted her ability to repay the Savvy loans. And Savvy should have looked at loan three with this in mind as I've done.

Given Ms D's circumstances, I think that by loan 3 Savvy should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Savvy should have realised that it shouldn't have provided this loan. I say this because:

- Ms D had been indebted to Savvy for over two and a half years. And she was making a commitment for another year. I realise these are longer term agreements, but this is still a long time to be using high cost credit.
- Ms D's first loan was for £2,000, loan 2 was for £2,850 and loan 3 was for £2,000. At this point Savvy ought to have known that Ms D was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need.
- Overall, I don't think this lending pattern paints a picture of decreasing or well managed debt. This is particularly when it is considered alongside the other lending that Savvy knew that Ms D had.
- So, Savvy ought to have realised it was more likely than not Ms D was having to borrow further, either to repay her other loans or to make ends meet. Despite her income, she had, in my view too much debt for this not to be the case. And that Ms D's indebtedness was unsustainable.

I think that Ms D lost out because Savvy provided loan 3 because:

- this loan had the effect of unfairly prolonging Ms D's indebtedness by allowing her to take expensive credit over an extended period of time.
- the length of time over which Ms D borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, I'm upholding the complaint about loan 3 and Savvy should put things right.

Putting things right

In deciding what redress Savvy should fairly pay in this case I've thought about what might have happened had it not provided loan 3, as I'm satisfied it shouldn't have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Ms D may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which she may not have had with others. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if she had done that, the information that would have been available to such a lender and how she would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Ms D in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Ms D would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Savvy's liability in this case for what I'm satisfied it has done wrong and should put right.

Savvy shouldn't have given Ms D loan 3.

A) Savvy should add together the total of the repayments made by Ms D towards interest, fees and charges on this loan, including payments made to a third party where applicable, but not including anything it has already refunded.

B) Savvy should calculate 8% simple interest* on the individual payments made by Ms D which were considered as part of “A”, calculated from the date Ms D originally made the payments, to the date the complaint is settled.

C) Savvy should pay Ms D the total of “A” plus “B”.

D) The overall pattern of Ms D’s borrowing for loan 3 means any information recorded about them is adverse, so it should remove this loan entirely from Ms D’s credit file.

*HM Revenue & Customs requires Savvy to deduct tax from this interest. Savvy should give Ms D a certificate showing how much tax Savvy has deducted, if she asks for one.

My final decision

For the reasons I’ve explained, I partly uphold Ms D’s complaint.

Valour Finance Limited should put things right by doing what I’ve said above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms D to accept or reject my decision before 7 January 2022.

Andy Burlinson
Ombudsman