

The complaint

Mr C complained about several aspects relating to the lending by Valour Finance Limited trading as Savvy.co.uk. He complains that it lent to him irresponsibly. Mr C also complains that Savvy wrongly accused him of credit fraud. And Mr C complains that Savvy mis-managed his account in that it failed to keep to an agreed breathing space period. A default was registered in December 2021 which Mr C says should not have happened.

What happened

Mr C complained to Savvy on the 30 December 2021 and referred his complaint to the Financial Ombudsman Service on 23 January 2022 before the final response letter (FRL) had been issued on 22 February 2022.

Using the information from that FRL, then I can summarise the sequence of events here.

Mr C was approved for one loan on 2 October 2021 which was for £500, repayable over six months of around £160 each month. The first repayment was due 27 October 2021 and the last due 25 March 2022. Savvy has informed us that the account has been settled.

Mr C informed Savvy of a significant change of circumstances which was an increase in travel costs having to return to the office more regularly than before and Mr C said that now he was responsible for all the rent on his accommodation. Mr C informed Savvy he had obtained advice from a well-known debt advice charity. This was before the first scheduled repayment in October 2021. And it had led him to having to enter a debt management plan (DMP).

The agreed breathing space arrangement was for two months from 27 October 2021 to 26 December 2021.

A debt repayment proposal was received by Savvy from the debt advice charity representing Mr C and that was received by it late December 2021.

Savvy issued a default notice on 5 December 2021.

Savvy accepted the DMP on 4 February 2022. Mr C was told that his account would remain on hold so long as the payments agreed upon were made on time.

Savvy issued its final response letter (from which most of the above facts have been obtained) dated 22 February 2022. It answered each of Mr C's four complaint points – three it did not uphold and one was upheld. The final response letter (FRL) outcomes are summarised here:

- On the irresponsible lending point, Savvy said that it had gathered information on Mr C's income, outgoings and obtained a credit search – a copy of which has been sent to the Financial Ombudsman Service. It considered that the loan was approved responsibly as Mr C had a good amount of income left over each month after his expenditure had been deducted from his income.

- It acknowledged that Mr C had been warned during a telephone call between Mr C and one of its representatives that giving false information might be investigated later. A copy of that recorded call has been sent to the Financial Ombudsman. Savvy had noted that as Mr C had sought advice from the debt advice charity before the first instalment of the loan was due it might have led to it launching an internal investigation.

But Mr C had explained to Savvy that he had fallen '*...into difficulty due to a personal crisis which occurred after your application with us...*' then no fraud investigation as commenced.

Savvy acknowledged that maybe Mr C had felt uncomfortable with the way that this had been communicated to him and it said this had been noted for future reference.

- As for communicating with him during the agreed breathing space period Savvy explained that informing him of arrears and keeping him up-to-date with the account was not a 'breach' of the breathing space. So, it did not accept this.
- The default had been issued in December 2021 and Savvy explained that this had been a system error and it did accept it had got that wrong. It apologised and offered to reduce his account by £50. Savvy said in February 2022 that the default had been removed from his credit file and so it considered that resolved.

In May 2022 Savvy informed us that the account had been settled but we are unclear of the date when this took place.

As well as raising a complaint with Savvy, Mr C had raised a complaint with the Information Commissioners Office (ICO) and Mr C sent to us a copy of that ICO outcome which was an 'uphold' in relation to the default entry on his credit file.

One of our adjudicators looked at the complaint points and his view was:

- That he did not consider the evidence suggested that in early October 2021 Mr C was not able to afford the loan and so he did not think that part about Savvy having lent irresponsibly should be upheld
- That one of the communications was sent to Mr C before the breathing space period had commenced. And as no communications to him related to collection activities then he did not think Savvy had done anything wrong on this part
- Our adjudicator acknowledged the ICO outcome and that Savvy had upheld the part of his complaint relating to the default. Our adjudicator thought that the £50 balance reduction and the removal of the default from Mr C's credit file in February 2022 was a satisfactory outcome and so did not think he needed to recommend that Savvy do more.

In August 2022 Mr C responded to say he was not content.

He explained:

'£50 is not a fair reflection of compensation for the mishandling of my information. I have been declined mortgages based on this at the time and lost a house purchase. I ended up in a DEBT MANAGEMENT PLAN after this and I had one before. They should not have offered me a loan and I stand by this.'

The unresolved complaint was passed to me to decide. I have dealt with each part individually.

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.

Irresponsible lending

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all the relevant rules, guidance and good industry practice - on our website.

Taking into account the relevant rules, guidance and good industry practice, what I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are whether Savvy completed reasonable and proportionate checks to satisfy itself that Mr C would be able to repay in a sustainable way? And, if not, would those checks have shown that Mr C would've been able to do so?

If I determine that Savvy did not act fairly and reasonably in its dealings with Mr C and that he has lost out as a result, I will go on to consider what is fair compensation.

The rules and regulations in place required Savvy to carry out a reasonable and proportionate assessment of Mr C's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Savvy had to think about whether repaying the loan would be sustainable and/or cause significant adverse consequences for Mr C. In practice this meant that Savvy had to ensure that making the payments to the loan wouldn't cause Mr C undue difficulty or significant adverse consequences.

In other words, it wasn't enough for Savvy to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Mr C. Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount/type/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

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

- the *lower* a consumer'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).

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Mr C's complaint.

Savvy carried out proportionate checks in my view. It knew Mr C's income and his outgoings and it obtained a copy of his credit search all of which I have reviewed. Mr C's stated salary was £2,445 a month, with outgoings of £945 a month which included other credit payments he was making, this gave a disposable income of roughly £1,500 a month.

Mr C was a new customer to Savvy and it was a relatively modest loan application of £500 over a relatively short term of six months. The £160 a month looked affordable.

The credit search that Savvy carried out did show that it looked to have been a bad financial time for Mr C in or around December 2018 as there were several defaults registered against several accounts in that month. That would have been almost three years before Mr C approached Savvy and so although it would have known of the defaults Savvy would have factored that into the creditworthiness assessment. He had not had any recent defaults. Some of the credit cards Mr C had were at zero balance and so he had not utilised all the credit available to him. This likely would have been a positive element.

Recently Mr C has said he was in a DMP before he took the loan but I have seen no evidence of that. And it does not look to me as though Savvy knew of that at the time. So, I don't think I can attach much weight to that submission. And the DMP Mr C did enter was after Savvy had approved the loan for him.

I do not uphold Mr C's complaint about the irresponsible lending.

The breathing space period

The Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020 mean that customers have legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts. These meant that Savvy must not:

- take any enforcement action against the debtor or anyone who is jointly liable with them for a breathing space debt
- contact the debtor to request repayment of that debt
- take any step to recover that debt

I have not been given any copies of those letters or emails and so I have proceeded on what I have been informed. From what I have been informed by Savvy and Mr C, it seems that the communications Mr C did receive during that period were more likely updating information emails and/or letters and not any of the embargoed communications. (The exception to this was the default notice which I deal with in the next section.) So, I do not uphold this part of the complaint.

The fraud investigation

This did not commence and Savvy has explained the background to this and why it moved from indicating that there was a risk an investigation might be launched to deciding not to do it. So, this did not appear to materialise and so I do not need to consider this further.

The default

Both the ICO and Savvy have agreed that this ought not to have happened and that Savvy got this wrong. The ICO has explained it does not award compensation. It noted that the default was removed from Mr C's file and Savvy has said this was done in February 2022. So the default was in place – I have been informed (but I've no copy of Mr C's file) – for a short time from December 2021 to February 2022.

This was about the time that Mr C was also complaining to Savvy that the DMP he was being helped with by the debt advice charity had not been confirmed or accepted by Savvy and the FRL from Savvy said that it did accept this in early February 2022.

So, in relation to the default I need not investigate this as it has been accepted by Savvy that it did wrong. The outstanding issue appears to be one of the amounts of recompense.

Mr C says £50 was not enough and he has lost out through some consequences which have arisen because of the default. Mr C says *'I have been declined mortgages based on this at the time and lost a house purchase.'*

Mr C has sent us no information or evidence about these mortgage applications or any decline or that he was on the verge of purchasing a house. The mortgage issue has not been explained fully – usually we would expect to see a mortgage broker's confirmation of details and of such an outcome. Mr C has had time to submit all evidence since the complaint commenced.

And what I have already gathered from the information I have from both parties leads me to think that if a mortgage application was refused or rescinded then I think that there may have been a number of reasons that a mortgage company may have chosen not to proceed and I would find it difficult, without clear proof, to attribute such a loss to Savvy's wrong action alone.

The first thing I have decided is that I think £50 is a satisfactory sum for the short time that Mr C had a default (incorrectly entered) against his name.

But without evidence of any kind about the other issues which Mr C says has caused him financial loss then I can make no finding on that other part.

I do observe that I doubt any mortgage would have been approved for Mr C in November 2021 if the crisis he explained to Savvy in October 2021 was so bad that he had had to take debt advice during that month. And November 2021 would have pre-dated the December 2021 default in any event.

Further, if a mortgage had been approved for him around December 2021, then the default was already in place around that time. Plus, Mr C's own explanations to us and to Savvy have included the fact that he was keen to enter a DMP in or around January 2022 or February 2022. Which first of all leads me to think it was unlikely a mortgage would have been approved when Mr C was arranging to enter a DMP. And secondly, if a mortgage had been approved around that time, then that mortgage may have been approved despite these adverse elements which he said appeared on his credit file.

And if that was the case then I would not be able to find that the default had caused the mortgage application to fail or the mortgage to be rescinded in some way.

In the circumstances I do not uphold this part of Mr C's complaint.

My final decision

My final decision is that I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 October 2022.

Rachael Williams
Ombudsman