

The complaint

Mr M complains Valour Finance Limited trading as Savvy.co.uk ("Valour") provided him with a loan without carrying out appropriate affordability checks.

Mr M also says he is unhappy a default has been recorded with the credit reference agencies.

What happened

Mr M took one loan from Valour for £600 on 18 February 2022. Mr M was due to make eight monthly repayments of £150 but he had some problems repaying his loan and none of the contractual payments were made on time. But the loan was successfully repaid in November 2022.

In response to Mr M's complaint, two final response letters were issued, one in relation to the unaffordable lending and one to do with the default. Firstly, Valour said it hadn't made an error when it approved the loan because proportionate checks had been carried out. In relation to the defaulting of the loan account, Valour said no error had been made.

Unhappy with this response, Mr M referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator. In the first assessment, he concluded Valour made proportionate checks which showed the loan repayments to be affordable. He also didn't think Valour needed to have verified the information Mr M had provided.

Mr M disagreed with the outcome and sent several emails with his reasoning, all of which I have read and considered. I've outlined below a summary of his points.

- Valour confirmed the account had been placed on hold but then defaulted the account -without any prior notice a number of days later.
- Mr M says he didn't apply directly to Valour – rather he applied through a third party.
- Mr M had problems dealing with Valour including their phone lines not working and it refused to call him back.
- Mr M says, though he has repaid the loan it is still showing as having an outstanding balance. Later, Mr M in July 2023, confirmed the loan balance was now showing as settled.
- Mr M provided a screen shot of a message he received from Valour in June 2022 – which showed it agreed to place the account on hold for 30 days.
- Mr M provided evidence that the account is being recorded as being in default on his credit file from May 2022, even though the default notice is dated 31 May 2022.

Another adjudicator then made enquires with Valour about the default date and the date from which a default ought to show. She then proceeded to issue a second assessment dealing with the defaulting of Mr M's account. She explained that Valour did place a hold on the account, but this was only a communication hold – and this wouldn't have prevented the default notice from being issued.

And while, the alert from Mr M's credit file showed a default from 15 May 2022, the adjudicator was satisfied the account was correctly defaulted and the information Valour is reporting to the credit reference agencies shows the account as being defaulted from 15 June 2022.

In addition, to the points Mr M previously made, he said:

- Valour didn't consider his circumstances before granting the loan.
- The main issue, Mr M has is that the default is showing as the wrong date on his credit file. The default was recorded before the notice was sent to Mr M.
- Mr M says that Valour didn't make it clear to him that the hold it was placing on his account was for communication purposes only.
- The default notice was sent and then applied during a period when Valour says there was a hold on the account.
- Mr M settled the full balance but doesn't think it is fair a default has been recorded.
- Valour has "*acted in a way that was misleading and dishonest in their communication...*"
- Mr M wanted to settle the balance but was advised to wait to see the outcome of the complaint about the default complaint.

Mr M asked for an ombudsman's decision and so 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.

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

I've split this decision into two parts, the first part will deal with what happened when the loan was granted and the second part with what happened when Mr M approached Valour for help and then the defaulting of the account.

Unaffordable lending

Valour had to assess the lending to check if Mr M could afford to pay back the amount he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Valour's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr M's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Valour should have done more to establish that any lending was sustainable for Mr M.

These factors include:

- Mr M having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr M having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);
- Mr M coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr M. As there was only one loan, the adjudicator didn't think this applied in Mr M's case.

Valour was required to establish whether Mr M could *sustainably* repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr M was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

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

Before this loan was approved, Valour received details from Mr M about his income, which he declared to be £3,100 per month. Valour says it carried out an electronic verification check of this amount – and the results confirmed that Mr M had received at least this amount, each month for the last 12 months. However, no evidence has been provided to support this check. In any event because this was the first loan, I think it was reasonable for Valour to have accepted what Mr M had said.

As part of his application, Mr M provided Valour with details of his living costs, this was then discussed with Mr M on a telephone call (and a copy of the recorded call has been provided which I have listened to) in which he confirmed details of his application such as his employer and payment date, his living situation and details of his income and expenditure. As a result of these checks, Valour believed Mr M's monthly expenditure came to £1,117.

As part of the expenditure, Mr M declared that he didn't have any rent or mortgage costs. Ordinarily, this ought not to have been accepted, especially if there was information to suggest that Mr M had for example council tax payments. But in this case, Mr M declared he lived at home with parents and only contributed towards the bills, as outlined in the expenditure table in the final response letter. It was therefore reasonable to conclude that the housing were accurate.

Valour therefore reasonably believed Mr M had £1,986 per month of disposable income to be able to afford the monthly repayment of around £150. The loan looked affordable.

The agent did ask about Mr M's large disposable income, and Mr M says that he had to cover the cost of an unexpected training session he needs for a qualification he was completing. It was reasonable for Valour to have relied on this because part of any affordability assessment is a consumer should be able make payments out of income and / or savings. So, I don't think Valour considering any savings deposits was unreasonable or outside of the regulations.

Before this loan was approved Valour also carried out a credit search and it has provided the results it received from the credit reference agency. It is worth saying here that although Valour carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Valour couldn't do is carry out a credit search and then not react to the to the information it received – if necessary. Valour was also entitled to rely on the results it was given as it didn't have anything to suggest the results were in anyway inaccurate.

The credit check results gave an overview of all the active credit accounts that Mr M had. From the information it received, Valour knew Mr M had a recently opened a personal loan costing him £317 per month and he also had three credit cards with a total balance of £12,032. However, there wasn't any adverse information such as missed payment markers and these accounts including a current account appeared to have been managed well.

Valour calculated from Mr M's credit file that he had around £630 per month of existing credit commitments – which does appear to have been about right – based on the information it received from the credit reference agency.

Taking everything into account, there wasn't in my view, anything solely from the credit file which would've led to Valour declining Mr M's application or to have prompted it to carry out further checks.

And as this was the first loan in a new lending relationship, it was reasonable for Valour to have relied on the information Mr M provided about his income and expenditure which showed sufficient disposable income to afford the repayments he was committed to making.

I'm therefore not upholding Mr M's complaint about the affordability of the loan.

Placing the account on hold and the defaulting of the account

I've been provided with a copy of communications between Mr M and Valour so I can see what both parties were told at various points.

Initially, after the complaint was raised Mr M asked for the account to be placed on hold until an answer to his complaint was received. However, Valour made it clear, in an email to him a couple of days later that it wouldn't agree to that. I accept Mr M may have been disappointed by this, but there is no requirement to put a loan account on hold solely because a complaint has been raised.

Mr M says that Valour placed the account on 'hold' and then defaulted it. And the evidence from a screen shot of an email sent to Mr M from Valour, on 24 May 2022 does say, "*In the meantime, we will place your account on hold for 30 days*". This was after Mr M had raised his unaffordable lending complaint and received the final response letter on 20 May 2022.

Given what Valour said in the second final response (30 August 2022), either the hold detailed in the email mentioned above wasn't applied or it didn't supersede a hold that was placed on the account on 17 May 2022.

And I can therefore understand why Mr M may have had concerns about a default notice which was issued on 31 May 2022. But, as I explain below, no payment was then made to the account.

Valour has explained the holds placed on the account were communication holds only, so it wouldn't contact him about the debt. However, it didn't and that wouldn't prevent the account from defaulting. Valour says that this was explained to Mr M on 17 May 2022.

A system note has not been provided to show what was discussed on the call on the 17 May 2022. The note explains a settlement figure was generated for Mr M as he was looking to settle the loan and it explained a hold would be placed on the account. Although, as I comment on below, Mr M didn't at this time use the settlement figure he was provided with.

The system note provided is silent about what Mr M was or was not told about the hold only applying to communications. Notwithstanding that the note is silent on this issue, in an email to Mr M from Valour on 29 March 2022, he was made aware that placing a hold on the account was for communication purposes only and not for example preventing the account balance increasing with daily interest.

In addition, there is a call note from 29 April 2022, where Mr M had contacted Valour as he had started to receive collection notifications again, and the note suggests this has happened because of the communication hold expiring.

So even if there was some confusion about the hold(s) and what they meant in May 2022. I am satisfied given the content of other emails and phone notes that Mr M ought to have reasonably understood that a hold was only for communication purposes only.

Valour also said that when the hold on the account expired on 31 May 2022, it then proceeded to issue a default notice. And a copy of that default notice dated 31 May 2022 has been provided and it was dispatched to the address Valour held for Mr M at the time. I accept, Mr M around a week later tried to update his address with Valour but at the time the notice was sent, it was sent to the address Valour had for him.

The notice explained that Mr M had to take some action (paying £450) by 14 June 2022. If no further action was taken, then Valour made it clear that Mr M's credit file would be updated to show the account was in default.

Thinking about the relevant Information Commissioner's Office guidance, by the end of May 2022 Mr M hadn't made any payments and the account was three months in arrears, which is the minimum amount an account can be for a lender to issue a default notice. So, the fact a default notice was issued isn't an error as the account arrears were such that one could be sent.

Mr M didn't do what the default notice asked of him, and Valour defaulted the account. And it has provided two different screen shots, which is the information it is reporting to the credit reference agencies (CRA). I'm satisfied, based on these screen shots that Valour updated the CRAs to show that the account default date should be 15 June 2022.

Although Mr M hasn't provided a full screen shot of his credit file, the update he received from one CRA provider does say the date of default is 15 May 2022. The adjudicator suggested that Mr M contact the CRA which provided the screen shot for it to request an amendment. I don't think that is unreasonable considering the screen shots provided by Valour show the correct default date.

Mr M says his screen shot shows the default was recorded before the notice was sent, and so even if he had made a payment, it would've been too late as the default had already been applied to his credit file.

But, had Mr M made payment to Valour before the deadline in the notice, and still had a default recorded on his credit file than that would likely be an error by Valour. But as no payment was made, I can't say that Mr M has been disadvantaged by what may have happened.

Overall, I'm satisfied that the account was sufficiently in arrears for Valour to start the default process and as Mr M didn't pay the amount required by the notice in order to remedy the account than Valour was correct in placing a default on Mr M's credit file.

Finally, I can see from the information provided to Mr M that he did have some problems sending information to Valour around the 8 June 2022. And again, in response to these issues Valour said that a hold would be placed on the account for 30 days. But, as far as I can see, that didn't invalidate the default notice.

I do not uphold Mr M's complaint.

My final decision

So, for the reasons I've explained above, I'm not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 29 September 2023.

Robert Walker
Ombudsman