

complaint

Mr K complains that Valour Finance Limited, trading as Savvy.co.uk, provided him with a loan that was unaffordable.

background

Mr K took out an instalment loan from Savvy on 26 April 2016. The loan was for £1,000 repayable by 18 monthly instalments of £91.68. The loan hasn't been repaid. Mr K said that the loan repayments took so much of his wages that he had to borrow from other lenders. He also said that his regular expenditure was greater than his normal income when the loan was issued. Mr K said that Savvy should have realised from its credit check that he had other unpaid loans, late payments and defaults.

Savvy said that it carried out bank validation checks and income verification checks. It considered what Mr K told it about his daily living costs (rent, housekeeping, household bills, travel and socialising). Savvy also said that it had received Mr K's payslip to confirm his monthly income was £1,857 and that his declared living costs were £670. It had also confirmed the living costs in a call with Mr K. It had also examined Mr K's credit file. Savvy said that there were no missed or late payment markers or recent defaults. It noted that Mr K was spending £791 per month on his debts. This didn't concern Savvy as long as Mr K's accounts were well maintained. Savvy noted that Mr K's disposable income was £396 and concluded that the monthly repayments of £91.68 were affordable and sustainable.

our adjudicator's view

The adjudicator recommended that the complaint should be upheld. She had considered all the information Savvy had gathered. She was satisfied that Savvy took reasonable steps to verify the information Mr K provided about his monthly income and expenditure. But she said that Savvy should've asked Mr K more questions following receipt of his bank statements about his circumstances. And had Savvy done this, she said that it would've seen the loan was unaffordable.

The adjudicator noted that Mr K's normal monthly living costs totalled around £1,247. This included a large payment of £600. She thought it was likely Savvy would've known this was his rent. She also said that Mr K's regular financial commitments totalled around £479, and his short term lending totalled £760. The adjudicator noted that Mr K said he would use the loan to consolidate four loans. So instead of four repayments totalling £407, he would've only had one repayment of £91.68. But from what she'd seen about Mr K's circumstances, she still didn't think he had enough disposable income to meet and sustain his repayments – even with a consolidation loan. So she recommended that Savvy should:-

- Refund all interest and charges on Mr K's loan
- Remove any adverse information about the loan from his credit file
- Close the loan as settled.

Savvy asked the adjudicator to send her income and expenditure calculations to it.

Savvy disagreed with the adjudicator's view. It noted from the adjudicator's calculations that she'd referred to Mr K's rent as £600. But it said that Mr K had told it in a call that his rent was £200. It also said that Mr K's bank statement didn't identify the £600 payment as rent. It also noted that the adjudicator had included a credit reference agency payment and an

entertainment app payment as essential living costs. These totalled £22. Savvy also noted that Mr K's credit card payments included overpayments whilst it normally included a small proportion of credit card balances in its assessments. Savvy also said that Mr K had told it that the purpose of the loan was for loan consolidation and that the loans to be repaid shouldn't be included in the calculation of Mr K's expenditure.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr K and to Savvy on 1 March 2019. I summarise my findings:

I'd noted that Savvy was required to lend responsibly. It needed to make checks to make sure Mr K could afford to repay the loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr K was borrowing, the length of the agreement and his lending history. But there was no set list of checks Savvy had to do.

I explained that the Financial Conduct Authority was the regulator at the time Mr K borrowed from Savvy. Its regulations require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*"

The regulations define 'sustainable' as being able to make repayments without undue difficulty, and that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that the amount borrowed and the interest paid might have been low in comparison with Mr K's income, didn't necessarily mean the loan was affordable for him.

Savvy had told us about the checks it did before lending to Mr K. It had carried out a credit check. It also asked Mr K for details of his income and his regular expenditure and then spoke to him to verify the information he'd given them and what it had seen in his credit check. It had also received Mr K's bank statement from around two months before his application.

I'd noted that Savvy's credit check showed that Mr K had loan balances of £3,124 and credit card balances of £4,655. It said that he had 19 active accounts with ten accounts opened in the previous six months. But he had no delinquent accounts and no defaults in the previous three years. The check showed that Mr K had eight loan accounts. But as four of these were to be repaid from its loan, this would have suggested that Mr K would have needed to make a total monthly payment of around £239 on the remaining four loans.

The check also showed that Mr K had around seven credit card accounts on which he was making a total monthly payment of around £340.

I'd also seen Mr K's credit report. I could see that three of Mr K's loans were repaid before Savvy's loan was taken out. He'd also taken out a large loan of around £3,628 four days before Savvy's loan.

But I said I was also aware that when a lender carried out a credit check, the information it saw didn't usually provide the same level of detail that a consumer's credit report would and it wasn't necessarily up to date. A lender might only see a small portion of a borrower's credit

file, or some data might be missing or anonymised. I was also aware that not all payday and short term lenders reported to the same credit reference agencies. So, Mr K's other loan might not have been identified by Savvy's credit check. So, I said that this might explain any differences between the information seen by Savvy in its credit check and Mr K's actual situation.

Overall, I could see that the number of credit accounts held by Mr K might have suggested to Savvy that Mr K's finances were under pressure.

I'd noted that Savvy phoned Mr K about its credit check and the information he'd provided to it about his income and expenditure. I'd listened to a recording of that call. I noted that Savvy's agent had asked Mr K about some of his loans and their purpose. I noted that Mr K told Savvy that he'd got into "*a bit of financial difficulty*" and he was trying to get out of it by taking out loans. He'd said that this wasn't the best way but he was trying to sort it out. So whilst Savvy might not have been over concerned about the number of credit accounts held by Mr K and that they appeared to be well maintained, I'd thought it should have been concerned about Mr K's admission of his financial difficulties and sought more information about the affordability of its lending. This was especially the case as the loan was to be repaid over an 18 month period.

I said that it could've done this in a number of ways. It could've asked for evidence of Mr K's income and expenditure such as payslips and bills, or it could've looked at things like his bank statements.

I'd noted that Savvy obtained a bank statement from Mr K for the period 27 January 2016 to 27 February 2016. This was around two months before the loan application. So I didn't think it would have necessarily provided an up to date picture of Mr K's financial situation. But I'd considered what that statement showed. Savvy had told us that Mr K had declared regular living costs to it of around £670. This included £200 for rent. I could see from the bank statement that there was no payment expressly designated as rent, nor was there a payment for £200. There was a large payment for £600. I thought in the circumstances of this case that it would have been reasonable for Savvy to have questioned Mr K about the £600 payment. I couldn't see that it did this. I thought it likely that Mr K would have told Savvy that the £600 shown on the statement was for rent if specifically asked.

I'd also noted from the statement that Savvy would have seen that Mr K's normal income was around £1,857. There were some other payments to Mr K for additional work but it seemed that Mr K didn't consider, or declare these as his income. I also noted that Mr K's normal living costs were somewhat higher than he'd declared – around £1,447 including £600 for rent.

I didn't agree with Savvy that the payments for the credit reference agency and the entertainment app shouldn't be included within Mr K's outgoings. These were payments that Mr K was making regularly and so I thought they should be included within his regular normal expenditure.

I also noted that Savvy used an amount for credit card repayments in its affordability assessment to reflect minimum repayment amounts. This seemed reasonable to me.

So if Savvy had taken into account Mr K's actual living costs, the minimum credit card repayment amounts on his credit cards and the outstanding loan repayments of £239 it was aware of from its credit check (not including the loans to be repaid from the consolidation

loan), I thought these would have suggested that the loan wasn't sustainable.

I said that I would normally review a borrower's bank statements for the month before a loan to independently check the information a borrower had provided. So I'd tried to do this here by looking at Mr K's bank statements at the time of this loan, to see what better and more up to date checks would have shown Savvy. These again showed that his normal living costs, regular financial commitments and short term lending were higher than Mr K's normal income. So, if Savvy had reviewed a more recent bank statement, I thought it was likely that it would have also concluded that the loan wasn't sustainable.

In summary I thought better checks would have suggested to Savvy that it shouldn't have given Mr K the loan and I thought it needed to pay Mr K some compensation relating to this loan.

I'd also noted that the adjudicator said that the outstanding principal balance should be written off. But since the adjudicator's view, I understood that Mr K had repaid the outstanding principal balance. I thought it was reasonable for Mr K to have repaid the principal balance as he had had use of this money. But I didn't know if Mr K had paid any interest and charges on the loan. If he had done so, I said that these should be refunded with 8% statutory interest paid on any refunds from the date of payment to the date of settlement. I also understood that Savvy was saying that it was willing to write off the remaining balance and update the credit file agencies to say the loan had been satisfied. But it wasn't willing to remove the adverse information from Mr K's credit file. As I thought that Savvy shouldn't have given Mr K the loan, I thought Savvy should remove any adverse information about the loan from Mr K's credit file.

Subject to any further representations by Mr K or Savvy my provisional decision was that I intended to uphold this complaint. I intended to order Valour Finance Limited, trading as Savvy.co.uk, to:

1. Refund all interest and charges that Mr K paid on the loan;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. Write off any unpaid interest and charges from the loan;
4. Apply the refunds referred to above to reduce any capital outstanding on the loan and pay any balance to Mr K; and
5. Remove any adverse information about the loan from Mr K's credit file.

*HM Revenue & Customs requires Savvy to take off tax from this interest. Savvy must give Mr K a certificate showing how much tax it had taken off if he asks for one. If Savvy intends to apply the refunds to reduce any outstanding capital balance, it must do so after deducting the tax.

Both Mr K and Savvy responded to say that they accepted my decision. Savvy also said that Mr K should send it his bank details and ensure no further payments were sent to it by Mr K's debt managers.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Given that both Mr K and Savvy have accepted my provisional decision, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I uphold the complaint and require Savvy to pay Mr K some compensation as set out below.

my final decision

My decision is that I uphold this complaint. In full and final settlement of this complaint, I order Valour Finance Limited, trading as Savvy.co.uk, to:

1. Refund all interest and charges that Mr K paid on the loan;
2. Pay interest of 8% simple* a year on all refunds from the date of payment to the date of settlement;
3. Write off any unpaid interest and charges from the loan;
4. Apply the refunds referred to above to reduce any capital outstanding on the loan and pay any balance to Mr K; and
5. Remove any adverse information about the loan from Mr K's credit file.

*HM Revenue & Customs requires Savvy to take off tax from this interest. Savvy must give Mr K a certificate showing how much tax it had taken off if he asks for one. If Savvy intends to apply the refunds to reduce any outstanding capital balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 11 April 2019.

Roslyn Rawson
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