Financial Ombudsman Service

complaint

Mr S has complained about two instalment loans given to him by Valour Finance Limited (trading as "Savvy"). Mr S says he had a debt problem and it was irresponsible for Savvy to lend to him.

background

Mr S took out two instalment loans with Savvy between August 2015 and March 2016. The first loan was for £1,750 which Mr S was scheduled to repay over 12 monthly instalments of around £292. Mr S fully repaid this loan in March 2016.

Two days later, Mr S asked Savvy for another and was given a loan of £1,750 – this loan was due to be repaid in 24 monthly instalments of around £138. As I understand it, Mr S hasn't fully repaid this loan and there's an outstanding balance. Mr S says he went into a debt management plan in August 2016.

Mr S complained to Savvy about both these loans, and said he had debt and "severe gambling problems". Mr S said that had Savvy carried out proportionate checks before agreeing to lend then it would have found that he was unable to afford the repayments.

Savvy didn't agree that its checks were not proportionate. It said it carried out sufficient checks and it didn't find anything to suggest that Mr S was unable to afford the loan repayments.

Unhappy with Savvy's response, Mr S brought his complaint to this service where one of adjudicators looked at his complaint. Our adjudicator thought that Savvy's checks went far enough before it agreed to lend to Mr S and they didn't recommend that the complaint should be upheld.

Mr S didn't accept the adjudicator's opinion and so the complaint has come to an ombudsman for a decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

At the time of the loans, this type of borrowing was regulated by the Financial Conduct Authority (FCA). The rules in CONC 5.2 at the time of the loans stated that lenders must consider *"the potential for the commitments under the regulated credit agreement to adversely impact the customer's financial situation, taking into account the information of which the firm is aware at the time the regulated credit agreement is to be made; and the ability of the customer to make repayments as they fall due over the life of the regulated credit agreement, or for such an agreement which is an open-end agreement, to make repayments within a reasonable period".*

In short, Savvy should carry out a customer focused check to determine whether Mr S could sustainably afford to make each repayment when it fell due before agreeing to lend him any of the loans.

what checks did Savvy carry out?

Savvy has provided information to show that it carried out a search of Mr S' credit file before lending both loans to Mr S. From the information I've seen, at the time of both loans Mr S didn't have any defaults or county court judgements (CCJs) recorded on his file.

Savvy also says it checked Mr S' income by requesting his payslips and spoke to him over the phone about his regular living expenses. The records show that Mr S earned around £1,650 and his monthly regular expenses were around £737. Savvy said from the information available on Mr S' credit file, he was repaying around £501 in debts monthly.

Savvy carried out similar checks for the second loan, but by this time Mr S' income had increased to £1,751 and his expenses had reduced to around £720. Savvy says that the credit file showed that Mr S was repaying around £646 in debts.

were the checks sufficient/proportionate?

Mr S' first loan was for £1,750 and he was tied in to repay this for about a year in 12 instalments of around £292 per month. I'm conscious of the fact that this was Mr S' first loan with Savvy and the maximum repayment amount was a relatively low amount compared to his income. On the other hand, Mr S had to repay this loan over 12 months and so Savvy should have carried out checks to satisfy itself that Mr S could sustainably afford to meet each loan repayment over the entire term.

Before Savvy approved this loan, it checked Mr S' employment and income – which it confirmed through requesting payslips, his normal living costs and the outstanding debts he had at the time.

Savvy called Mr S to discuss his circumstances. I've listened to the call and could hear that the adviser went through Mr S' regular expenses in some detail - including his rent, utilities, transport, food and any socialising costs he would have had. Mr S told Savvy that he wanted the loan to consolidate his debts and at the time he lived with his parents – making a contribution towards rent and utilities, he also said his partner paid his insurance premiums. The adviser also went through the loans that were active on Mr S' credit file and Mr S seemed to agree with the outstanding loans at the time.

A lender of high cost credit is expected to carry out proportionate checks, these are not prescribed checks but could take into account things like the loan amount, the repayments, term of the loan and information about the borrower the lender was aware of at the time. Given the checks Savvy carried out and the information it knew about Mr S at the time, I can't see anything that should have prompted it to carry out further checks or be concerned about Mr S' ability to repay the loan over the term. And so I think its checks for this loan were proportionate.

Savvy carried out similar checks before lending the second loan. Again an adviser from Savvy spoke to Mr S before approving the loan. The adviser specifically asked Mr S the purpose of this loan and Mr S can be heard saying he wanted to consolidate his debts. During the call, the adviser probed further asking Mr S which debts in particular he was looking to consolidate as she could see some smaller loans and other credit on his file. Mr S suggested that it was those loans and he also wanted to repay family members monies he owed.

The adviser asked Mr S about some payday loans on his credit file and wanted to know why he needed those loans. Mr S said he had repaid those loans and he took them out because he had cash flow problems. The adviser also confirmed his income and regular expenses.

Given that this loan was Mr S' second loan with Savvy for a similar amount to the first, the monthly repayments were lower than the first loan which meant it was an even lower portion of his stated monthly income - over a longer term and Mr S repaid the first loan early, I think the checks Savvy carried out went far enough.

Mr S has said to this Service that he was gambling and had Savvy looked at his bank statements, it would have seen this. But that wasn't something he told Savvy when he applied for the loans. And I don't think it was something that Savvy should have discovered from what I consider to be proportionate checks. While I understand Mr S' strength of feeling on this, there is no requirement for a lender to request bank statements before lending this type of loan. It was entitled here to use the information provided by Mr S at the time and it seems it independently verified some of this.

So I can't say that Savvy did something wrong because it didn't request bank statements. It has done what I would have expected a responsible lender in these circumstances to do. It checked relevant information and reacted to the information it saw on Mr S' credit file by asking Mr S direct questions about its concerns.

Given that Mr S is now in a debt management plan and there's an outstanding balance, I'd remind Savvy to treat Mr S positively and sympathetically - having regards to its obligation to customers in financial difficulties.

my final decision

For the reasons given above, I don't uphold the complaint or make any award against Valour Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 1 March 2019.

Oyetola Oduola
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