

The complaint

Mr W complains that Valour Finance Limited trading as Savvy.co.uk (“Valour”) should’ve carried out further checks before it granted unaffordable loans to him.

What happened

A summary of Mr W’s borrowing can be found in the table below.

loan number	loan amount	agreement date	loan status	number of monthly instalments	highest repayment per loan
1	£300.00	19/02/2022	settled	6	£100.00
2	£400.00	24/08/2022	settled	6	£132.80
3	£400.00	01/03/2023	outstanding	6	£126.03

In response to the complaint, Valour said it hadn’t made an error when it approved these loans because proportionate checks had been carried out. Unhappy with this response, Mr W referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, she concluded Valour shouldn’t have provided any of the loans. She said the credit check results Valour received ought to have led it to carry out further checks. Had it done so, perhaps by looking at his bank statements, Valour would’ve likely discovered that he was using a significant portion of his income each month towards gambling transactions and so these loans weren’t affordable for him.

Valour didn’t agree with the investigator. As no agreement could be reached the complaint was passed to an ombudsman and I proceeded to issue a provisional decision outlining why I was intending to uphold Mr W’s complaint in part.

Both parties were asked for further submissions as soon as possible, but in any event no later than 5 March 2024. Valour didn’t respond to the provisional decision. Mr W sent a number of emails in response to the provisional decision, and I’ve summarised his response below.

- Mr W had a loan with a sister company connected to Valour.
- A copy payslip from January 2023 has been provided – showing an income of just over £1,800 per month.
- Copy bank statements have also been provided from the start of 2023.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

What I said in my provisional decision:

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.

The obligation is and was on Valour to assess the lending to check to see if Mr W could afford to pay back the amounts 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 W'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 W. These factors include:

- Mr W 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 W 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 W 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 W. As there was only three loans, I agree with the investigator that this wouldn't apply in this complaint.

Valour was required to establish whether Mr W could sustainably repay the loans – 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 W was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.

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

Loan 1

Before the loan was approved, Valour took details of Mr W's income and expenditure as well as carrying out a credit search. Valour received details from Mr W about his income, which he declared to be £1,475 per month. Valour verified this income using what it calls the "account score" and having done so it was satisfied the income Mr W declared was likely correct.

As part of his applications, Mr W provided Valour with details of his living costs and as part of the affordability assessment it used a figure of £920 per month – this left disposable income of £555 per month.

These costs were then discussed with Mr W in a telephone call 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 W had sufficient disposable income to afford his repayments for both loans.

Before the 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. But what Valour couldn't do is carry out a credit search and then not react to the information it received.

Valour recorded that Mr W was spending around £150 per month on his existing credit commitments and given the results of the credit search, that amount appears to be broadly

accurate given the credit cards and mail order account I can see.

The investigator thought that the credit checks results ought to have prompted Valour to carry out further checks into Mr W's financial situation, but I disagree, and I've explained why below.

The credit check results gave an overview of the active credit accounts and some closed accounts that Mr W had. It knew that Mr W had an active mail order account that was within the credit limit. He had missed a payment towards it at the end of 2021, but the account had been brought up to date the following month so I don't think that ought to have prompted further checks as there was no indication that there was a systemic issue or that Mr W had wider financial problem.

Mr W also had four active credit cards that were all up around the credit limit, but none of the accounts were reporting any adverse payment information such as missed payments. So, it would've been reasonable for Valour to have concluded that Mr W was managing these accounts well.

There is a default recorded on the credit file, from around a year before the loan was advanced, but that default had been satisfied by September 2021. In those circumstances while a default in some situations can be enough of a concern to warrant further checks, I don't think that is the situation here.

It had been around a year since the default and it had subsequently been settled. I think it would've been reasonable for Valour to not have been overly concerned by this, when viewing the application as a whole and the rest of the information Mr W had provided.

The investigator also said Mr W was in arrears with a loan, but according to the credit report Mr W didn't have any active loans. The arrears were related to a credit card account that had been closed and settled in March 2021. This again was too far removed from the loan start date to have given Valour cause for concern.

Overall, the credit search results show that Mr W had a low level of indebtedness and was on top of his payments. In those circumstances, I can't fairly conclude that these credit check results were of sufficient concern that would've led Valour to carry out further checks or to have declined Mr W's application.

The investigator has commented on Mr W's gambling transactions and I do think it's important to say, that had Valour reviewed Mr W's bank statements to obtain a full understanding of what his finance position was and to be clear I don't think it needed to here. Then I do think it would've likely decided that the gambling was taking up too much of his income and therefore not have lent. But there was no indication in what Mr W told Valour, or what it found out from the credit reference agency to suggest he was using income or loans to gamble. This means I wouldn't have expected Valour to have known about this.

Given it was early in the lending relationship, it was reasonable for Valour to have relied on the information Mr W provided about his income and expenditure as well as the credit check results - which showed sufficient disposable income to afford the repayments. There also wasn't anything else to suggest that Mr W was currently having financial difficulties or that the repayments would be unsustainable for him.

I am therefore indenting to not uphold Mr W's complaint about this loan.

Loans 2 and 3

Valour hasn't provided the date that loan 1 was settled, so I don't know, based on the information that I have to hand whether loan 2 (and then loan 3) were taken immediately after the previous loans had been repaid, or whether there was a break between the loans. The same checks were carried out before loan 2 was approved as they were before loan 1 was approved. The same income has been recorded and checked and this time monthly

outgoings amounted to £1,120.99.

Although I do have some concerns about Mr W's income, for the affordability assessment Valour says that it knew the last three months of salary, and these ranged from £1,071.11 to £1,358. And it went on to say that it "We always use the lowest income figure available and the highest expenditure amount..". In which case, it isn't clear why loan 2 hasn't been upheld.

I say this firstly because Mr W's income didn't appear to be as high in the three months before the loan was approved as Valour used for the affordable assessment. Secondly, using the lowest income figure – which is what Valour said it would do in the final response, then I can't see how the loan was affordable, because Mr W's declared expenditure was greater than the lowest recorded income – so he wouldn't have had sufficient funds to afford the loan. To me, it seems on Valour's own metrics it ought to have concluded the loan wasn't affordable.

But in saying that, it probably was just about reasonable for it to have relied on the upper end of the income range because the lowest amount seems to have been an outlier. But there does seem to me that the affordability of this loan was marginal, given the income range that Mr W received.

As before, a credit search was carried out. No new adverse payment information had been reported compared to loan 1. He still had four credit cards, all of which were within the limits, he was making use of an overdraft facility – but was within it. He had also recently opened a couple of new bank accounts. He had two loans this time, costing him around £100 per month and his mail order account was now significantly over the credit limit – he owed £837 compared to a credit limit of £800.

I'm still not convinced that the credit checks on their own were enough to have either upheld the complaint about loan 2 or to have prompted further checks. But the credit check results coupled with the marginal affordability of the loan given Valour's own checks I do think ought to have prompted further checks.

Valour could've gone about doing these additional checks a number of ways, it could've asked to see evidence of Mr W's outgoings such as copy bills, a copy of his full credit report or it could've asked to see a copy of Mr W's bank statements.

I accept that there were a number of ways Valour could've carried out further checks, but Mr W has provided copies of his bank statements, so I think it's entirely fair and reasonable to consider these. I also accept that Mr W declared he didn't have any gambling transactions, but the onus is on the lender – in this case Valour to carry out proportionate checks and there were grounds here for doing more.

Had it done further checks, it would've likely discovered Mr W's gambling and seeing this it needed to reacted to it, it couldn't just ignore what it saw. I'm also not persuaded that Mr W could've afforded the loan, indeed given the value and frequency of the gambling transactions it's likely this was a representation of his normal expenditure, and so Valour ought to have concluded, that this pattern would've continued for each month that he held the loan.

To be clear, for loan 2 if I had decided that Valour didn't need to have carried out further checks, then I'd have reached the same outcome as loan 1. That being there was no indication of gambling in either the information Valour collected or what it was told. But the fact remains there were grounds for further checks, and so once those further checks were carried out, as I've said above – Valour needed to react to them and it would've likely discovered that this loan was neither affordable nor sustainable.

I am therefore intending to uphold loan 2 and all remaining loans because further checks would've highlighted that Mr W was spending a significant each month on gambling transactions.

Finally, Valour has suggested that information about gambling accounts should be recorded with the credit reference agency. This is a regulatory matter and so isn't one for the Financial Ombudsman Service to comment on.

But what I would say is that in this complaint, Valour had reasonable grounds to carry out further checks before lending to the Mr W, irrespective of the loan value. Had better checks been made than I think it would've likely discovered that Mr W was spending significant amounts of money on gambling each month which made the loans unaffordable. I've outlined below what Valour needs to do in order to put things right for Mr W.

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.

Valour hasn't responded to the provisional decision, and I've thought about what Mr W has provided in response to the provisional decision. Having done so, it hasn't changed my mind about the outcome that I've reached.

Mr W has provided evidence in the form of a bank statement and email from another lender, that he says shows that it is Valour's sister company loan. This loan was granted in January 2023. However, I've reviewed both Valour's website and the third-party company's and they have different company numbers – indicating they aren't connected.

In addition, I've searched the industry regulator register of companies. Both Valour and the third-party company appear but there is no overlap. They have different authorisation numbers and different company addresses. And neither Valour nor the third-party company is listed in the trading name list of either company. So, I'm satisfied, that although the third party has a similar parent company name to Valour these two companies are separate and distinct from one another.

No other submissions have been provided and so I see no reason to change the outcome that I reached in the provisional decision. Mr W did provide a pay slip and bank statement from 2023 but I've already decided, in the provisional decision to uphold the loan that was granted at this time – loan 3.

So, I still think Valour had enough information from carrying out the checks that it did to be satisfied that Mr W wouldn't likely have been able to afford loans 2 and 3 and I've set out below what Valour needs to do in order to put things right for him.

Putting things right

In deciding what redress Valour should fairly pay in this case I've thought about what might have happened had it stopped lending to Mr W from loan 2, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr W 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 they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they 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 they had done that, the information that would have been available to such a lender and how they 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 Mr W 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 Mr W would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Valour's liability in this case for what I'm satisfied it has done wrong and should put right.

Valour shouldn't have given Mr W loans 2 and 3. If Valour has sold the outstanding debt it should buy it back if Valour is able to do so and then take the following steps. If Valour isn't able to buy the debts back, then Valour should liaise with the new debt owner to achieve the results outlined below.

- A. Valour should add together the total of the repayments made by Mr W towards interest, fees and charges on loan 2.
- B. Valour should calculate 8% simple annual interest* on the individual payments made by Mr W which were considered as part of "A", calculated from the date Mr W originally made the payments, to the date the complaint is settled.
- C. Valour should remove all interest, fees and charges from the balance of loan 3, and treat any repayments made by Mr W as though they had been repayments of the principal. If this results in Mr W having made overpayments then Valour should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Valour should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" can be used to repay any balance remaining on loan 3. If this results in a surplus, then this should be paid to Mr W. However, if there is still an outstanding balance then Valour should try to agree an affordable repayment plan with Mr W.
- E. Valour should remove any adverse information recorded on Mr W's credit file in relation to loans 2 and 3.

*HM Revenue & Customs requires Valour to deduct tax from this interest. It should give Mr W a certificate showing how much tax Valour has deducted, if he asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mr W's complaint in part.

Valour Finance Limited trading as Savvy.co.uk should put things right for Mr W as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 9 April 2024.

Robert Walker
Ombudsman