

## **The complaint**

Mr P complains that Advancis Limited trading as Buddy Loans lent to him irresponsibly.

## **What happened**

Mr P was given a guarantor loan of £1,500 by Buddy Loans in September 2018 to be paid in 12 instalments of around £155 per month. The total amount to be repaid over the one year term including interest was £1,844.21. The loan was repaid in full and on time.

Mr P says he had a gambling problem at the time he applied for the loan and had several defaults on his credit file, payday loans and other credit. He complains that Buddy Loans failed to carry out proportionate affordability checks or review his bank statements. He thinks that if Buddy Loans had done so, it would have seen that it shouldn't have lent to him. He says it was irresponsible for it to do so.

One of our investigators looked into the complaint. He didn't think Buddy Loans should have lent to Mr P and asked it to put things right. Buddy Loans didn't agree with the investigator's assessment – though Mr P did – so the complaint has been passed to me for a final decision.

## **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 approach to complaints about high cost credit and guarantor loans on our website – including the key relevant rules, guidance good industry practice and law. And I've considered this approach when deciding this complaint.

Buddy Loans needed to take reasonable steps to ensure that it didn't lend to Mr P irresponsibly by carrying out reasonable and proportionate checks. I think there are key questions I need to consider in order to decide what is fair and reasonable in the circumstances of this complaint:

- Did Buddy Loans carry out reasonable and proportionate checks to satisfy itself that Mr P was in a position to sustainably repay the loan? If not, what would reasonable and proportionate checks have shown at the time?
- Did Buddy Loans make a fair lending decision?
- Did Buddy Loans act unfairly or unreasonably towards Mr P in some other way?

Buddy Loans was required to carry out a borrower focussed assessment. This assessment is sometimes referred to as an 'affordability check' or affordability assessment'. The purpose of the checks is for Buddy Loans to think about whether repaying the loan sustainably would cause difficulties or adverse consequences for Mr P. In other words, it wasn't about Buddy Loans assessing the likelihood of it being repaid, but it had to consider the impact of the loan repayments on Mr P. The fact that the loan was guaranteed by a third party and the potential of Buddy Loans to pursue the guarantor instead of Mr P doesn't alter or lessen the

obligation.

Buddy Loans had to carry out reasonable and proportionate checks to satisfy itself that Mr P would be able to repay the loan sustainably. There was no set list of checks that Buddy Loans had to do, but it could take into account several different things such as the amount and length of the loan, the amount of the monthly repayments and the overall circumstances of the borrower.

Taking all that into account, I think a reasonable and proportionate check ought generally to have been more thorough where:

- a customer as a low income (because it may make it more difficult to make loan payments of a set amount from a low level of income);
- the higher the amount due to be repaid (because it may be more difficult to meet a higher repayment for a particular level of income);
- the longer the term of the loan (because the total cost of the credit is likely to be higher, and the customer is obliged to make payments for a longer period); and
- the greater the number and frequency of loans and the longer the period of time during which a customer has been given loans (because of the risk of repeated refinancing may signal that the borrowing has become or was becoming unsustainable).

#### Did Buddy Loans carry out reasonable and proportionate checks?

Buddy Loans asked Mr P for information about his income and expenditure and got his permission to review his credit file. It says it carried out a number of checks to confirm what Mr P had told it. Buddy Loans says the checks it carried out before agreeing to lend to Mr P were reasonable and proportionate, and it believes the loan was affordable for him. But I don't think it's enough for a lender to simply carry out checks; I'd expect it to think about the information it gathers when it reaches its decision to lend.

It's fair to say that Mr P had a reasonable income and was borrowing a relatively low amount over the shortest term Buddy Loans allow. So from the point of view of a risk to Buddy Loans, I can understand why it felt its checks were proportionate. But if it had considered all the information it found and things which Mr P told them during the application, I think it would have been reasonable to have made further checks, bearing in mind its obligation to carry out *borrower focussed* checks.

Mr P's credit file at the time, showed he'd defaulted on six other debts – two in the last few months. He'd taken 15 short term loans in the last year, and a larger, longer term loan in July 2018 – six weeks or so before this application. He had another guarantor loan with another provider (and a different guarantor). During conversations with Buddy Loans, Mr P told it that the larger loan had been taken to purchase a vehicle. When they spoke to him again to go through his expenditure, Mr P told them he didn't drive and paid nothing in insurance.

While Mr P's income had been confirmed through the checks Buddy Loans carried out, I think his credit history and the information it gathered during its affordability assessment ought to have made it realise that further checks were necessary. The rules and regulations say that where income and expenditure is taken into account, it's not generally sufficient for a lender to rely solely on a statement of those matters from a potential borrower.

Taking everything into account, I don't think the checks Buddy Loans carried out before agreeing to lend to Mr P were fair, proportionate or reasonable.

### What would reasonable and proportionate checks have shown at the time?

Mr P has provided us with copies of his bank statements for a few months leading up to his application to Buddy Loans. I've looked at those to consider what Buddy Loans might have learned from more detailed checks.

Buddy Loans says that based on what Mr P told them in response to its questions about his income and expenditure, and that the loan was repaid in full and on time, it thinks the loan was affordable. But as I've said earlier, a lender is required to ensure a loan can be repaid *sustainably* by the borrower; that is, they should be able to repay the credit without undue difficulty, while being able to meet other commitments and without having to borrow further.

I don't think that the fact that the loan was repaid on time and in full can be taken as proof that the loan was affordable or sustainable. Mr P has said the he was very conscious that he'd asked a friend to act as guarantor for the loan, so he'd treated it as a priority.

Different checks are likely to show different things and Buddy Loans was already aware from the checks it had carried out, that Mr P had taken 15 payday loans in a year and had recently acquired further credit. His credit file showed he had six defaulted accounts – two in the last few months. This doesn't demonstrate an ability to sustainably repay the borrowing he had at the time and, in my view, casts doubt on whether he'd be able to sustainably repay the new loan.

I think if Buddy Loans had carried out what I consider to be proportionate checks, it would have found out more about Mr P's financial circumstances. It would have seen for example, that Mr P was regularly gambling a large percentage of his income – and in some months more than his income.

I think Buddy Loans ought reasonably to have realised that Mr B was having serious financial difficulties managing his finances and that he was most likely borrowing as a result of his gambling. I think it ought reasonably to have realised that it was unlikely that Mr P would be able to sustainably repay this loan, so it should have concluded it was not appropriate to lend to him.

### Did Buddy Loans act unfairly or unreasonably towards Mr P in some other way?

I've carefully read, listened to and thought about all the evidence provided by each party to this complain. Having done so, I don't think Buddy Loans has acted unfairly or unreasonably towards Mr P in some other way. But I do think Buddy Loans should have refused to lend to Mr P, so I am upholding his complaint about the loan.

### **Putting things right**

When I find that a business has done something wrong, I'd normally direct that business to put the complainant in the position they would be in now if the mistake it made hadn't happened, as far as is reasonably practical.

In this case, that would mean putting Mr P in the position he would be in now if he hadn't been given the loan. Mr P was given the loan, used the money and has already repaid the entire amount including interest due under the agreement.

So, I think Buddy Loans should:

- Calculate the total amount Mr P has paid to the loan (including interest and charges)

and deduct the amount of the loan itself (£1,500).

- If this results in Mr P having repaid more than the loan he received, then any overpayments should be refunded to him along with 8% simple interest from the date the overpayments were made until the date of settlement.
  - If Buddy Loans considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr P how much it's taken off. It should also give him a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.
- Remove any negative information recorded on Mr P's credit file regarding the loan.

### **My final decision**

For the reasons I've explained above, I'm upholding Mr P's complaint. Advancis Limited trading as Buddy Loans should put things right for Mr P in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 26 May 2021.

Richard Hale  
**Ombudsman**