

The complaint

Mr W complains Advancis Limited trading as Buddy Loans irresponsibly lent to him. He says Buddy Loans didn't complete reasonable and proportionate checks before approving him for a loan. He says had Buddy Loans done this, it would've seen the loan was unaffordable to him.

What happened

Mr W was approved for the below loan by Buddy Loans:

| Date | Amount | Term | Monthly Repayments |
|------------|--------|-----------|--------------------|
| March 2017 | £2,250 | 24 months | £139 |

Mr W says Buddy Loans didn't complete proportionate checks; and had it done so it would've seen the loan was unaffordable to him. He says he has lost out financially as he has had to pay additional interest and charges.

Buddy Loans considered Mr W's complaint but didn't uphold it. It argued it had completed reasonable and proportionate checks, and these showed the loan was affordable. Because of this, Buddy Loans says its decision to lend was fair.

At the time of the application, Buddy Loans completed a credit file search. These showed Mr W had nine active accounts with debit balances totalling approximately £17,000. There were no default markers, but two of the accounts had late payments markers. Buddy Loans says it took this into consideration before approving the loan, but Mr W had explained the loan was for debt consolidation, so it still felt its decision to lend was fair.

Buddy Loans also completed an income and expenditure assessment, and asked Mr W for the details of the loans he was consolidating. Based on this assessment, Buddy Loans says Mr W had sufficient disposable income to meet the monthly repayments.

Our investigator recommended the complaint be upheld. She felt the fact Mr W had a high number of active accounts, as well as a 91% debt ratio, that Buddy Loans should've completed further checks. In particular she felt Buddy Loans should've done more to verify Mr W's income and outgoings. Our investigator argued had Buddy Loans done this, it would've reasonably seen Mr W's outgoings were higher than those which Buddy Loans had relied on. In particular further checks would've likely soon Mr W had been spending significant outgoings on online gambling websites; and as such he didn't have the required disposable income to meet the monthly repayments.

Buddy Loans disagreed with our investigator and maintained its checks were proportionate in this instance. As no agreement could be reached the matter has been passed to me to issue 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 irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. And I've used this approach to help me decide Mr W's complaint. Bearing in mind the dispute before me, I think that there are two overarching questions that I need to consider in order to fairly and reasonably determine Mr W's complaint. These are:

1. Did Buddy Loans complete reasonable and proportionate checks on Mr W, to satisfy itself that he was in a position repay the loans in a sustainable way?
 - a. If so, did it make a fair decision to lend?
 - b. If not, would those checks have shown that Mr W would have been able to do so?
2. Did Buddy Loans act unfairly or unreasonably in some other way?

I'll deal with each question in turn.

Did Buddy Loans complete reasonable and proportionate checks on Mr W, to satisfy itself that he was in a position repay the loans in a sustainable way?

Turning to the first of two questions; the regulations which applied at the time, required Buddy Loans to carry out an assessment on whether Mr W could repay any loan in sustainable way. These checks are referred to as an affordability assessment or an affordability check.

In making this affordability assessment, Buddy Loans needed to ensure any checks were 'borrower-focused'. This means Buddy Loans needed to consider if any repayments Mr W made would cause him any financial difficulties or have any adverse consequences on his finances. The checks also needed to be 'proportionate' to the specific circumstances of the loan which was being approved.

The relevant rules don't set out which specific checks it has to complete for them to be reasonable and proportionate. But these checks needed to be proportionate to the amount of credit being provided including the total amount of credit, amount of repayments and total length of the term.

It is also not sufficient for Buddy Loans to just complete proportionate checks. It also needs to consider the information it is provided with and make a fair lending decision.

Buddy Loans says it completed proportionate checks. It says it searched Mr W's credit file, and completed a detailed income and expenditure assessment. It says it got a thorough understanding of Mr W's circumstance, including the debt consolidation he was going to complete with the loans. It also says it verified Mr W's income via a confidence level indicator. It says these checks combined were proportionate, and showed the loan was affordable to Mr W.

I've carefully considered this argument, but in this instance, I disagree these checks were proportionate. As I've set out above Buddy Loans needed to carefully consider the information it was provided before it decided to lend. I've done this, and based on the information it had at the time, I believe further checks would've been proportionate in this instance.

I say this because the credit file search which Buddy Loans completed showed Mr W had nine active accounts with a high debt ratio (91%) and a high debit balance (approximately £17,000). These accounts, whilst not having default markers, did have some late payment markers on them as well. Whilst this information alone wouldn't necessarily be enough to decline an application, I'm satisfied it should've prompted further checks, including verifying Mr W's outgoings.

I think this is made more relevant by the fact Mr W seemingly possessed a high level of income. Mr W had declared his income at £3,000, which Buddy Loan's confidence checker seemingly verified. I believe the presence of this level of income, with the significantly high debt ratio, and debit balance would appear to be inconsistent. And combined with the reasons I've outlined above, should've reasonably have prompted further checks. With this in mind it follows that I'm not satisfied Buddy Loans completed reasonable and proportionate checks before lending to Mr W.

Would further checks have shown that Mr W would have been able to make the repayments sustainably?

As I've set out above, I'm satisfied Buddy Loans should've completed further checks, and in particular done more to verify Mr W's outgoings. It could've achieved this in a number of ways, such as requesting copies of bills or bank statements. Mr W has provided our service with bank statements from the time around the loan was approved, and I've considered this information when reaching my decision.

The statements show Mr W's income was actually higher than he had declared, approximately £3,400 in total. However, the statements also show Mr W's was not managing his finances well, and in particular that he was managing this to a very tight and sometimes negative margin. In addition to this Mr W was often using other high cost credit providers and money from family members to supplement his income. The statements also show Mr W was heavily reliant on his overdraft, frequently being over £2,500 overdrawn, which places considerable doubt on the disposable income Mr W's assessment suggested.

In addition to this, Mr W had also been regularly spending substantial amounts of money on online gambling websites. These payments are a substantial part of his outgoings on a monthly basis, and severely restrict the amount of income he actually had each month to meet his outstanding commitments. For example, I can see in one month Mr W spent approximately £2,500 on online gambling websites. This reduced his available income to below £1,000 meaning he was unable to meet his necessary outgoings. This pattern is consistent both before and after the loan was approved, and as such I'm satisfied it is reasonable to take this additional outgoing into consideration.

Buddy Loans was aware it needed to ascertain if Mr W could meet any repayments sustainably. This means without any undue financial difficulties or incurring further debt. For the reasons I've outlined above, I'm not satisfied Mr W would've been able to do this, and Buddy Loans ought to have been aware of this had it completed further checks. And so, on this basis, I'm satisfied the loan would've always been unaffordable to him.

Putting things right

In order to put things right, Buddy Loans needs to:

- Refund all interest and charges Mr W paid on this loan;
- Pay Mr W 8% simple interest on the refunded interest and charges from the date they were paid to date of settlement†;
- Remove any adverse information on Mr W's credit file in relation to this loan.

†HM Revenue & Customs requires Advancis Limited trading as Buddy Loans to take off tax from this interest. Advancis Limited trading as Buddy Loans must give Mr W a certificate showing how much tax it's taken off if he asks for one.

My final decision

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 9 February 2021.

Tom Whittington
Ombudsman