

The complaint

Miss O complains Advancis Limited trading as Buddy Loans irresponsibly lent to her. She says she couldn't afford the loan, and further checks would've shown this. Miss O says she has lost out financially as a result.

What happened

Miss O was approved for the below loan by Buddy Loans:

Date	Capital Amount	Term	Monthly Repayment
June 2018	£3,750	36 months	£182.96

Miss O says at the time of the application she was in financial difficulties and was using a number of high cost credit providers to supplement her income. She says she needed this loan as a way of consolidating some of her existing debts but had Buddy Loans conducted further checks it would've seen the loan was always unaffordable to her. She was also spending a proportion of her monthly income on online gambling websites.

Buddy Loans says it lent responsibly. It says it completed reasonable and proportionate checks before lending to Miss O. It says it completed an income and expenditure assessment, as well as completing a credit file search on Miss O. It says these checks were proportionate to the amount being borrowed, and that the checks showed the loan was likely affordable to Miss O.

Our investigator recommended the complaint be upheld. She felt Buddy Loans should've completed further checks on Miss O; as her credit file had showed she had a number of existing credit commitments and her overall debt level was high. Our investigator argued had further checks been completed it is likely Buddy Loans would've seen the loan was unaffordable. This was because Miss O's outgoings exceeded her income and she was using payday loans as well as family and friends to supplement her income.

Buddy Loans disagreed with this assessment. It maintained it had completed proportionate checks and therefore its decision to lend was reasonable. As no agreement could be reached the matter has been passed to me to issue a final decision on.

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 Miss O's complaint. Bearing in mind

the dispute before me, I think that there are a number of overarching questions that I need to consider in order to fairly and reasonably determine Miss O's complaint. These are:

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

I'll deal with each in turn.

Did Buddy Loans complete reasonable and proportionate checks on Miss O to satisfy itself that she was in a position repay the loan in a sustainable way?

The regulations which applied at the time, required Buddy Loans to carry out an assessment on whether Miss O could repay any loan in sustainable way. These checks are referred to as an affordability assessment or an affordability check.

This means Buddy Loans needed to consider if any repayments Miss O may be required to make would cause her any financial difficulties or have any adverse consequences on her 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.

Finally, it is also important to note that the fact this loan was a guarantor loan, and therefore, had the security of a guarantee, didn't remove or anyway lessen the obligations which applied to Buddy Loans at the time Miss O applied for the loan.

Buddy Loans says it completed reasonable and proportionate checks. It says it completed a detailed income and expenditure check on Miss O, as well as checking her credit file. It says these checks showed Miss O had sufficient income to meet the monthly repayments. Miss O's declared income was a combination of her employment as well as tax benefits related to her children. This gave a declared income of around £1,700. Buddy Loans says it completed a detailed expenditure call with Miss O to understand which loans she would be consolidating with this one. It says these checks showed the reduction in her costs as well as her other income would mean the loan was affordable.

In relation to the credit file Buddy Loans says the fact Miss O had a high credit utilisation on her report does not mean Miss O was struggling to meet her credit commitments.

I've carefully considered Buddy Loans' argument but in this instance I disagree its checks were proportionate. The credit file search shows Miss O had had issues managing credit in her past. Her credit score is reasonably low, and the overall summary Buddy Loans received highlighted that Miss O had a number of historic defaults as well as a high credit utilisation. I don't think this in itself is that unusual and it is line with the fact Miss O was seeking to consolidate down some of her existing debts. However, that fact does not mean the credit file should not be considered carefully. As I mentioned above it is not enough for Buddy

Loans to complete the search it also needs to carefully consider the information it is presented with.

In this instance Miss O had an overall credit debt of over £7,500, with a credit utilisation of around 96%. I can see from the report Miss O had numerous active accounts; this included a bank account with a small overdraft which was completely utilised, a number of existing unsecured loans and credit cards. Importantly all of Miss O's credit cards are seemingly close to/if not at their full limits.

The credit file also shows that Miss O had had a significant number of settled short term high cost credit loans in the past. There are also some historic defaults, the most recent being a couple of years prior to the application of this loan. Whilst this information alone does not mean someone may not be credit worthy, I think it is useful to demonstrate that the consumer had issues managing their finances in the past. This combined with the increasing debt she was in at the time, as well as the high utilisation may indicate someone who is struggling to meet their credit commitments.

So, based on the above, I'm satisfied Buddy Loans should've completed further checks to verify Miss O financial circumstances. As it did not it follows that I'm not persuaded it completed reasonable and proportionate checks in this instance.

Would further checks have shown Miss O was in a position to repay the loan sustainably?

I've explained above why I'm satisfied Buddy Loans should've completed further checks on Miss O. It could've done this in a number of ways such as checking payslips, bills or bank statements. Miss O has provided our service with copies of bank statements from the time of the application. And in the absence of other information from that time, I've used this information to make my findings.

The statements show that Miss O isn't managing her finances particularly well. Looking through them it is clear she is managing to a very tight margin, which sometimes is exceeded as she enters in and out of her overdraft. The statements show that she is supplementing her income in a number of ways, but a significant factor being borrowing money from friends and family. There are also a high number of pay day / short term loans on the account; again, suggesting that Miss O was struggling to manage her finances to a reasonably sustainable budget.

The statements show Miss O's outgoings are high, and that they're made higher by the fact she is spending around £300 a month on online gambling websites. This pattern is consistent, and I'm satisfied that it would've been identifiable for Buddy Loans too.

Buddy Loans has said the consolidation provided by this loan would help make this loan affordable. I've considered this, however looking through the statements I'm not persuaded this is the case. Ultimately Miss O still has several credit commitments, high outgoings (increased by gambling), and a significant amount of money borrowed from family. When combining this with the fact she had dependents I don't think there was enough income remaining each month for her to sustainably meet the repayments.

So for these I'm satisfied had Buddy Loans completed further checks it would've seen this too, and as such wouldn't have lent. So, it follows that I'm not satisfied this loan was affordable for Miss O from outset, and as such shouldn't have been lent.

Did Buddy Loans act unfairly or unreasonably in any other way?

I've not been presented with any information which suggest Buddy Loans acted unfairly in

any other way in relation to Miss O's complaint about this loan.

Putting things right

In order to put things right I require Buddy Loans to do the following:

- To add up the total amount of money Miss O received as a result of having being given this loan. The repayments Miss O has made should be deducted from this amount.
 - If this results in Miss O having paid more than she received then any overpayment should be refunded along with 8% (calculated from the date the overpayments were made until the date of settlement) †
 - If any capital amount remains; then Buddy Loans should attempt to arrange an affordable/suitable payment plan with Miss O.
- To remove any adverse information about this loan from Miss O credit file.

† HM Revenue & Customs requires Buddy Loans to take off tax from this interest. Buddy Loans must give Miss O a certificate showing how much tax it's taken off if she 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 Miss O to accept or reject my decision before 11 May 2021.

Tom Whittington
Ombudsman