

DRN-2100472



## The complaint

Miss C complains Advancis Limited trading as Buddy Loans lent to her irresponsibly. She says Buddy Loans did not complete proportionate and thorough checks before it agreed to lend to her. She says had it done so it would've realised the loan was unaffordable. Miss C says she's lost out financially as a result as she has had to pay additional interest and charges.

## What happened

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

Date	Amount	Term	Monthly repayment	APR	Total amount payable
November 2016	£5,000	36 months	£243.95	49.9%	£8,763.24

Miss C says at the time she applied for the loan she was experiencing financial difficulties. Miss C says Buddy Loans didn't completed reasonable and proportionate checks, and had it done so it would seen the true state of her financial affairs, and realised any further lending was unaffordable.

Miss C says she applied for the loan with Buddy Loans to consolidate down some of her existing debts.

Buddy Loans investigated Miss C's complaint and felt it had lent to her responsibly. It says it completed an income and expenditure check and verified Miss C's income electronically. Buddy Loans also completed a credit file check. It says based on these checks, Miss C had a disposable income of approximately £110 per month. Buddy Loans says it undertook a review of Miss C's existing credit commitments to understand which debts Miss C would be consolidating down. It agreed to pay off one of Miss C's existing credit commitments directly to reduce her outgoings further. It says based on these actions the loan would be affordable to Miss C.

Our investigator looked into the complaint and recommended that it be upheld. He felt that Buddy Loans should've completed further checks before deciding to lend to Miss C. In particular he felt that further checks would've shown Miss C's outgoings were higher than she had declared. This meant she had significantly less than the £110 disposable income remaining each month; and meant any further lending would've unsustainable.

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 we consider to be good industry practice on our website. And I've used this approach to help me decide Miss C'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 Miss C's complaint. These are:

1. Did Buddy Loans complete reasonable and proportionate checks on Miss C, each time it lent, to satisfy itself that she 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 Miss C would have been able to do so?
2. Did Buddy Loans act unfairly or unreasonably in some other way?

Did Buddy Loans complete reasonable and proportionate checks on Miss C, each time it lent, to satisfy itself that she was in a position repay the loans in a sustainable way?

Buddy Loans needed to carry out reasonable and proportionate checks to be able to understand if any lending was affordable to Miss C. The relevant rules don't set out which specific checks it has to complete for them to be reasonable and proportionate. But relevant checks could include things such as a customer's income (over the full term of the loan), and their outgoing expenses. These checks should also be reasonable and proportionate to the amount of credit being provided including the total amount of credit, amount of repayments and total length of the term. The checks also need to be 'borrower focused'.

In relation to repaying the loan in a 'sustainable' way, the industry rules and guidance define this as being able to repay without undue difficulties. And in particular the borrower should be able to make repayments on time, while meeting other reasonable commitments; and without having to borrow to meet the repayments.

There was also an obligation on Buddy Loans to carefully consider all of the information it is presented before deciding to lend, and for it to make a fair decision. One of the things which Buddy Loans needed to consider included the overall level of debt a borrower was already in and what effect any further credit would have on their future circumstances.

Buddy Loans says it completed reasonable and proportionate checks before agreeing to lend to Miss C. It says it searched Miss C's credit file, as well as completed an income and expenditure assessment, which highlighted that Miss C was in part-time employment and was receiving benefits. Initially Miss C declared her income to be £2,000, however after further verification this amount was reduced to just over £1,700.

Miss C's expenditure was calculated at being just over £1,600; leaving Miss C with approximately £110 disposable income per month. The outgoings included Miss C's existing creditors. The list of creditors was obtained from Miss C's credit file. The credit file also showed Miss C had had five defaults in the not too distant past; and had a number of existing credit commitments from other high cost credit providers.

The largest existing credit commitment amounted to £297, and Buddy Loans agreed to consolidate this loan directly with the lender. Miss C also confirmed she would consolidate other smaller existing credit commitments. And thereby free up more disposable income. Buddy Loans say the remainder if Miss C's credit file was well maintained, and as such no further checks were warranted.

Having considered Buddy Loans arguments; I'm not persuaded its checks were proportionate. As I've mentioned above it is not just enough for Buddy Loans to complete the checks, it needs to carefully consider the information it is provided before it decides to lend. Buddy Loans' checks showed Miss C was on a low income (lower than she had initially

declared) as she was working part time and receiving benefits. At the time of the application Miss C was earning approximately £506 in wages and the remainder in benefits including child tax credits, carer's allowance and child benefits. Indeed, the benefits payments were the most significant part of Miss C's income – amounting to approximately £1,200.

With her stated expenses Miss C only had a small amount of disposable income per month - £110. Buddy Loans was aware that she was carer, as well as having dependants. As such I think it ought to have realised that Miss C was running her budgets to a very tight margin of error. It was also aware that Miss C had numerous existing credit commitments, as well as historic defaults, which suggest that Miss C may've had issues maintaining her finances in the past. This is combined with the fact she was looking to consolidate down debts, which in itself may suggest that she was struggling to meet her commitments.

Taking all of this into account, I'm satisfied it would've been proportionate for Buddy Loans to take additional steps to check Miss C's creditworthiness and get a thorough understanding of her financial circumstances. As Buddy Loans didn't do that, it follows that I'm not satisfied Buddy Loans completed proportionate checks in this instance.

Would further checks have shown that Miss C would have been able to sustainably repay the loan?

As I've set out above, I'm satisfied that Buddy Loans should've got a further understanding of Miss C's financial circumstances before it agreed to lend to her. It could've achieved this by requesting copies of Miss C's bank statements. Miss C has provided our service with copies of these statements, and I've reviewed them to see if Miss C would've been able to sustainably repay the loans. Having done so, I'm satisfied that it's unlikely Miss C would have been able to sustainably make the repayments required under this agreement.

I say this because the statements show that Miss C's expenditure often exceeded the amount of income she was receiving. The account summaries show that she was often running at a negative balance, entering into her overdraft on occasions. There is no evidence of the £110 disposable income per month remaining. Miss C's outgoings cover a number of things, but also include regular payments to the online gambling websites. The amounts increasing to around £400 per month prior to the loan being approved. During this period of time Miss C's income is being supplemented by the credit commitments which Buddy Loans noted in their initial assessment.

Buddy Loans says the loan it approved Miss C would've reduced her outgoings and thereby making her repayments affordable. I've carefully considered this argument, but I disagree that is the case in this instance. Given Miss C's expenditure included gambling, which I think proportionate checks would more likely than not have shown, I think it's unlikely that she was in a position where she could pay what she owed without suffering undue difficulty or borrowing further. When you also combine this with the fact Miss C had dependents and was a carer – meaning she had no margin for error for any unexpected changes in circumstances - I'm satisfied the loan shouldn't have been provided to Miss C.

Buddy Loans was aware it needed to ascertain if Miss C 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 Miss C would've been able to do this. And so on this basis, I'm satisfied the loan would've always been unaffordable to Miss C.

## **Putting things right**

In order to put things right, Advancis Limited trading as Buddy Loans needs to:

- Refund all interest and charges Miss C paid on this loan;
- Pay Miss C % simple interest on the refunded interest and charges from the date they were paid to date of settlement†;
- Remove any adverse information on Miss C'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 Miss C 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 C to accept or reject my decision before 18 September 2020.

Tom Whittington  
**Ombudsman**