DRN-4119548

## The complaint

Mr M complains through a representative that Buffa Loans Ltd (Buffa) gave him loans without carrying out proportionate affordability checks.

## What happened

Mr M took three loans from Buffa, and I've outlined a summary of his borrowing below.

| loan number | loan amount | agreement date | repayment date | number of instalments | instalment amount |
|---|---|---|---|---|---|
| 1 | £400.00 | 16/07/2020 | 02/10/2020 | 3 | £179.89 |
| 2 | £300.00 | 31/01/2021 | 10/02/2021 | 5 | £108.49 |
| 3 | £350.00 | 14/04/2021 | 05/10/2021 | 6 | £106.53 |

In response to Mr M's representative's complaint, Buffa issued its final response letter. In summary, it said it had carried out proportionate checks which showed these loans were affordable and so it didn't uphold the complaint. Mr M's representative didn't agree and instead referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who didn't uphold it. He concluded the checks carried out by Buffa were proportionate and showed the loans to be affordable. He said Buffa hadn't needed to review Mr M's bank statements before the loans were approved.

Mr M and his representative didn't agree with the outcome, and I've summarised the response below:

- Buffa's checks needed to go further due to the delinquent defaulted accounts on Mr M's credit file.
- Had Buffa carried out further checks, it would've seen Mr M was spending significant amounts of money each month gambling and so the loans weren't affordable.

As no agreement could be reached the complaint has been passed to me for a 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 general approach to complaints about short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Buffa had to assess the lending to check if Mr M 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. Buffa'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 M'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 Buffa should have done more to establish that any lending was sustainable for Mr M. These factors include:

- Mr M 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 M 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 M 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 M.

Buffa was required to establish whether Mr M 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 M was able to repay his loan sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

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

Buffa has shown, that as part of the affordability assessment before it approved these loans it asked Mr M for details of his income and expenditure. Mr M's income has been recorded as being £2,500 per month when loan 1 was advanced and then £2,800 per month when loans 2 and 3 were provided.

Mr M also asked to declare his outgoings for rent, utilities, credit commitments and 'other'. These costs were declared as being £400 at loan 1 and £350 for loans 2 and 3. Mr M was assessed as having a minimum disposable income of £2,100 per month when loan 1 was approved.

In addition, before these loans were approved Buffa also carried out a credit search and it has provided the Financial Ombudsman with a copy of the results it received from the credit reference agency for each loan. I want to add that although Buffa carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Buffa couldn't do, is carry out a credit search and then not react to the to the information it received – if necessary.

Having reviewed the credit check results for each loan, there isn't anything that would've indicated that Mr M was having financial difficulties, for example it knew there were no insolvency markers, or debt management plans and Mr M hadn't defaulted on any accounts within the previous year before loan 1 was advanced. And during the time of the lending Mr M hadn't defaulted on any further accounts.

Buffa was aware of four defaults, but these were all recorded at the end of 2017 into 2018 and given this was over two years before loan 1 was advanced, I think these were too far removed from the loan start dates to have given Buffa any concerns.

And while there were delinquency markers – which indicated missed payments, the most recent of these was recorded around six months before the first loan was approved. And the results indicate that no further accounts entered delinquency by the time of loan 3 was advanced.

In my view, there wasn't anything, solely from the credit check results that ought to have led Buffa to either have carried out further checks such as reviewing bank statements or to have prompted it to have declined Mr M's application for credit.

There was also nothing else in the information that I've seen that would've led Buffa to believe that it needed to go further with its checks – such as verifying the information Mr M had provided. So, while Mr M has provided his bank statements, in this case, it would've been disproportionate for Buffa to have considered them. And this also means that Buffa wasn't aware of Mr M's gambling.

Given it was early on in the lending relationship, the lending wasn't consecutive – by which I mean there are small breaks between one loan being repaid and another being granted. I think it was reasonable for Buffa to have relied on the information Mr M provided to show he had sufficient disposable income to afford the loan repaymetns. There also wasn't anything else to suggest that Mr M was having financial difficulties or that the loan repayments would be unsustainable for him.

I'm therefore not upholding Mr M's complaint.

## My final decision

For the reasons I've explained above, I'm upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 31 July 2023.

Robert Walker
**Ombudsman**