DRN-2200683

The complaint

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

What happened

Mr M was given a guarantor loan of £2,000 by Buddy Loans in March 2018, to be paid in 36 instalments of around £98 per month. The total amount to be repaid over the three-year term including in interest was £3,534.70. The loan has now been repaid in full and on time.

Mr M says he thinks that if Buddy Loans had carried out proper checks on his application, it would have refused to lend to him because he'd recently taken another larger loan and he couldn't afford both.

One of our investigators looked into the complaint. She didn't think Buddy Loans should have lent to Mr M and asked it to put things right. Buddy Loans didn't agree with her assessment – Mr M 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. 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 M 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 M 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 M 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 check is for Buddy Loans to think about whether repaying the loan sustainably would cause difficulties or adverse consequences for Mr M. In other words, it wasn't about Buddy Loans assessing the likelihood of *it* being repaid, but to consider the impact of the loan repayments on Mr M. The fact that the loan was guaranteed by a third party and the potential of Buddy Loans to pursue the guarantor doesn't alter or lessen the obligation.

Buddy Loans had to carry out reasonable and proportionate checks to satisfy itself that Mr M 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 carried out a number of checks before it agreed to lend to Mr M. It says these included a full credit search, an enhanced bank check to ensure the account provided belonged to Mr M, income verification through an automated service, a full income and expenditure check and allowed a certain amount for discretionary spending. It also obtained one month's bank statement for an account Mr M held jointly with his partner and three weeks' payslips from Mr M. It says these checks were reasonable and proportionate, and satisfied it that Mr M could afford the repayments.

It's fair to say that Buddy Loans gathered a reasonable amount of information about Mr M during the application process. So from the point of view of a risk to Buddy Loans, I can understand why it felt it's checks were reasonable and proportionate. But if it had considered all the information it had gathered, I think it would have been reasonable to have made further checks bearing in mind its obligation to carry our *borrower focussed* checks.

The application information Buddy Loans used to assess the lending, showed a 'monthly take home pay' of £1,500. Its underwriting had reduced that to £1,414 apparently using a year to date average. It calculated his expenditure as £413 for credit and a further £645 for household expenditure, leaving a disposable income of £356 per month. The automated services lenders use, often return a 'confidence score' based on account turnover which the lender then uses to verify the income quoted. The income verification tools are not generally sophisticated enough to separate out turnover for different account holders and different types of income. In this case, the account used was a joint one with Mr M's partner. There were various benefit payments going through the account which belonged to his partner but may have been included in the income verification. Nonetheless, Buddy Loans obtained three weeks' payslips to try to confirm Mr M's income.

These payslips showed pay of an average of £308 per week so about £80 less per month than the £1,414 Buddy Loans used for Mr M's income. But the statements for January showed an average of £266 per week – a difference of around £180 per month less than the payslips showed, and £260 less than the monthly figure used by Buddy Loans. The statement also revealed a couple of large unexplained credits – one of £2,000 and another of £600 - and credit turnover of £5,179 which is lower than the debit turnover of £5,236. I think the discrepancies in the income and account activity ought to have prompted Buddy Loans to ask further questions of Mr M.

Mr M’s credit file at the time showed he’d taken out another loan just two months earlier for £5,000 over five years, with monthly repayments of £197. It showed that he’d opened a home credit account in January 2017 but had made no payments for the last five months, so the account had been marked as ‘delinquent’. He’d opened another home credit account in June 2017 to which he’d made no payments at all, so it had been defaulted. He also had two credit cards with limits of £200 and £150 both of which were up to their limits, and a hire purchase agreement for £52 per month all of which were up to date.

I acknowledge that Buddy Loans lends to people who may not have a good credit history. But I think the presence of the recent, larger loan, and the recently delinquent and defaulted home credit accounts ought to have prompted it to take a closer look at Mr M’s finances.

Having reviewed the evidence Buddy Loans obtained, I think the information it gathered through the credit checks and had received from Mr M should have led it to ask further questions. Taking everything into account, I don’t think the checks Buddy Loans carried out before agreeing to lend to Mr M were fair, proportionate or reasonable.

<u>What would reasonable and proportionate checks have shown at the time?</u>

I don’t think that the fact that the loan has now been repaid on time and in full can be taken as proof that the loan was affordable or sustainable. Mr M has said the he was very conscious that he had a guarantor for the loan, so he’d treated it as a priority.

I think Buddy Loans did the right thing in obtaining the bank statement and payslips from Mr M. But I don’t think it paid enough attention to what that information – alongside the information it already had - was telling it.

Comparing the bank statement and payslips to Mr M’s income and expenditure, it seems Mr M’s income was overstated. And some of the payments to creditors were understated. For instance, the hire purchase is included in Buddy Loan’s calculations as £13 per month, but the credit file shows the account reducing at £52 per month which implies the £13 is in fact a weekly figure.

Furthermore, the Mr M’s financial situation appeared to be worsening given that his credit file showed recent adverse information – the default and delinquent home credit accounts. I’ve seen nothing which suggests Buddy Loans spoke to Mr M to find out what was happening with these accounts and why one of them had received no payments at all.

Taking these factors into account, I think it ought to have been clear to Buddy Loans that Mr M was having difficulty managing his finances. He was becoming increasingly reliant on credit and was already failing to meet some of the agreements he’d entered into just a short time earlier. I think Buddy Loans should have realised that Mr M was unable to afford his current commitments and adding a further loan to those, would be unsustainable for him. I think it should have concluded it was not appropriate to lend to Mr M.

<u>Did Buddy Loans act unfairly or unreasonably towards Mr M in some other way?</u>

I’ve carefully read, listened to and thought about all the evidence provided by each party to this complaint. Having done so, I don’t think Buddy Loans has acted unfairly or unreasonably towards Mr M in some other way.

But I do think Buddy Loans should have refused to lend to Mr M, 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 M in the position he would be in now if he hadn't been given the loan. Mr M 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 M has paid to the loan (including interest and charges) and deduct the amount of the loan itself (£2,000).
    - If this results in Mr M 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 M 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 M's credit file regarding the loan.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 June 2021.

Richard Hale
Ombudsman