

## **The complaint**

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

## **What happened**

Mr H took one loan from Buffa for £500 on 6 April 2021. Mr H was due to make six monthly repayments of £154.38 and the loan was repaid on 30 September 2021.

In response to Mr H's representative's complaint, Buffa issued its final response letter, and it didn't uphold the complaint. Mr H'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. She concluded the checks carried out by Buffa were proportionate and showed the loan to be affordable. She also concluded there wasn't anything in the information Buffa received that would've prompted it to have carried out further checks.

Mr H and his representative didn't agree with the outcome and asked for a final decision. 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 H could afford to pay back the amount 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 H'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 H. These factors include:

- Mr H 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 H 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 H 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 H. The adjudicator didn't think this applied to Mr H's complaint.

Buffa was required to establish whether Mr H could sustainably repay the loan – 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 H 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 H's complaint.

Buffa has shown, that as part of the affordability assessment it asked Mr H for details of his income and expenditure. Mr H declared his income was £1,800 per month and he declared monthly outgoings of £850. Therefore, based solely on Mr H's declared income and expenditure details the loan repayment of around £154 each month appeared affordable.

In addition, before the loan was 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. 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 the loan, there isn't anything in the results that would've indicated that Mr H was having financial difficulties. While Buffa knew that Mr H had defaulted on a loan account, this was around two years before the loan was advanced. So, I don't think Buffa would've been too concerned by that.

In addition, Buffa knew Mr H had had two current accounts, two loans with a combined monthly repayment of £441 per month and car insurance costing Mr H £294 per month. These active accounts had been managed well because there were no late payment markers or other signs that Mr H was having difficulties maintaining his payments.

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 prompted it to have declined Mr H'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 H had provided. So, while Mr H has provided copy bank statements, in this case, it would've been disproportionate for Buffa to have considered them.

Given it was early in the lending relationship, I think it was reasonable for Buffa to have relied on the information Mr H provided along with the income and expenditure figures to show he had sufficient disposable income to afford the repayments he was committed to

making. There also wasn't anything else to suggest that Mr H was having financial difficulties or that the loan repayments would be unsustainable for him.

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

### **My final decision**

For the reasons I've explained above, I'm not upholding Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 August 2023.

Robert Walker  
**Ombudsman**