

complaint

Mr J complains that loans he had from Uncle Buck Finance LLP were unaffordable.

background

Mr J had five loans from Uncle Buck between 9 January 2015 and 1 June 2015 as follows:

Loan	Date	Amount	Term	Monthly Repayment	Due	Settled
1	9 Jan 2015	£300	20d	£348.00	28 Jan 2015	On time
2	31 Jan 2015	£425	26d	£513.40	27 Feb 2015	On time
3	27 Feb 2015	£425	29d	£523.60	27 Mar 2015	On time
4	28 Mar 2015	£585	88d	£292.81	26 Jun 2015	28 May 2015
5	1 Jun 2015	£450	88d	£221.88	28 Aug 2015	On time

Mr J says he doesn't think Uncle Buck did enough checks before approving the loans. He says he had to borrow from other lenders to make the repayments and that if Uncle Buck checked his credit file, as it said it did, then it should have realised that the loans were unaffordable.

Uncle Buck says it asked Mr J for information about his income and expenditure and checked his credit file. It says it also verified the income information provided. As a result, Uncle Buck says it offered Mr J less than the loan application for all but the final loan. Uncle Buck adds that it was reliant on the information Mr J provided about his expenditure and neither that, nor the information in his credit file, indicated Mr J was in financial difficulty. Indeed, it says, Mr J repaid all his loans either on time or early and his borrowing pattern did not suggest he was reliant on short-term lending.

However, on review, Uncle Buck says it now agrees that Mr J could not afford the repayment on loan 2, based on the information he'd provided. It also says that it should have done better checks before approving loan 3. It has offered to refund both these loans, plus 8% statutory interest.

Mr J did not accept this offer.

Our adjudicator recommended the complaint should be upheld. She considered Uncle Buck should have carried out better checks before approving loans 4 and 5. She was satisfied that, had it done so, Uncle Buck was likely to have found it was irresponsible to continue lending to Mr J as he owed significant amounts to other short-term lenders and was gambling on a regular basis. She recommended that Uncle Buck should refund interest (plus 8% statutory interest) on loans 2 to 5, and remove any associated negative information from Mr J's credit file.

Uncle Buck responded to say, in summary, that it did not question Mr J's drop in reported expenditure since the second loan as loans 4 and 5 would still have been affordable even at the higher level. It says that it was reliant on the information provided by Mr J with regard to his expenditure and that it would have expected him to include any short-term payments within his credit commitments. It says that, based on its credit file checks, the figures provided by Mr J appeared reasonable and it was entitled to rely on them. It added that Mr J's gambling outgoings were not part of his essential expenditure and, therefore, affordability needed to be considered without taking this into account.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Uncle Buck was required to lend responsibly. It should have made checks to make sure Mr J could afford to repay the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr J was borrowing, and his lending history. But there was no set list of checks Uncle Buck had to do.

Loan 1

Mr J applied for £350 on 9 January 2015. Uncle Buck asked him for information about his income and expenditure and checked his credit file. It also verified the salary information Mr J provided. Based on his £2,600 income and £2,112 expenditure, Uncle Buck offered Mr J the reduced amount of £300. As Mr J's reported disposable income was just under £500, and the required repayment was £348, I find it reasonable that Uncle Buck considered this loan was affordable to him.

Loans 2 and 3

Uncle Buck has agreed to uphold these loans so I won't consider them further here.

Loan 4

By the time Mr J applied for his fourth loan in quick succession, I consider Uncle Buck should have specifically asked him about any other short-term loan commitments. I acknowledge Uncle Buck says the credit commitments component of the expenditure summary should have included such payments. But I don't consider "*Include all your monthly credit repayments (excluding mortgage) e.g. loans and credit card payments*" makes it clear that short-term loans need to be included. I say that because a typical short-term loan is a payday loan and only requires one repayment i.e. it is not monthly.

At the time Mr J applied for loan 4, his self-declared disposable income was just over £1,200. But Mr J needed to pay around £2,000 to six other short-term lenders in the forthcoming month, so I find loan 4 was unaffordable to him.

Loan 5

When Mr J applied for loan 5, I consider Uncle Buck should have carried out a full financial review, to include the verification of the information Mr J had provided. I can't see it did that.

I've looked at Mr J's bank statements from this time and it's clear Mr J's income was actually £2,400, rather than £2,600. I can also see he spent £400 on rent each month, £200 on credit card repayments, £150 on a loan and £100 on his phone bill and bank charges. This totals over £850 before his bills, food and travel costs are taken into account. Mr J consistently told Uncle Buck his spend on those items was over £600 and I can see transactions totalling more than that on his statements. Given Mr J needed to pay around £900 to one short-term loan provider in June 2015, plus almost £240 to two others, this would have left Mr J with no disposable income with which to make a monthly repayment on loan 5. So I find loan 5 was unaffordable to Mr J even before his gambling spend of almost £800 was taken into account.

I acknowledge that Uncle Buck says that gambling should not be taken into account when carrying out an affordability check as that is a decision Mr J made with regards to how he spent his disposable income. However, as a responsible lender, I'd have expected Uncle Buck to consider such expenditure in the context of whether it was appropriate to continue lending to Mr J.

So, had Uncle Buck carried out proportionate checks for loan 5, I'm satisfied it would not have approved this loan.

my final decision

My decision is that I uphold this complaint. Uncle Buck Finance LLP should:

- Refund all interest and charges that Mr J paid on loans 2 to 5;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about loans 2 to 5 from Mr J's credit file.

*HM Revenue & Customs requires Uncle Buck to take off tax from this interest. Uncle Buck must give Mr J a certificate showing how much tax it's taken off if he asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 15 November 2018.

Amanda Williams
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