

complaint

Mrs T complains that Uncle Buck Finance LLP gave her loans that were unaffordable.

background

Between November 2014 and August 2016 Mrs T borrowed a number of loans from Uncle Buck, as follows:

Loan No	Date	Amount	Loan type	Repaid
1	19.11.14	£150	Payday	27.11.14
2	3.1.15	£325	Instalment	26.3.15
3	27.3.15	£700	Instalment	25.6.15
4	14.7.15	£375	Instalment	24.9.15
5	13.10.15	£300	Instalment	23.12.15
6	1.2.16	£400	Instalment	28.4.16
7	9.5.16	£300	Instalment	28.7.16
8	9.8.16	£200	Instalment	27.10.16

Loan 1 was a payday loan but each of the subsequent loans was payable by three monthly instalments. All the loans were repaid on schedule.

Mrs T feels that Uncle Buck was irresponsible in lending to her. She says she was trapped in a debt spiral, needing to borrow repeatedly from Uncle Buck and other short term lenders to meet her financial commitments. And she was in a debt management plan at the time. She believes that Uncle Buck should've been aware of all of this, both from her credit file and from its own experience through the pattern of her borrowings.

Uncle Buck considers that the checks it carried out before each loan were both adequate and appropriate, which is borne out by the fact that all loans were repaid in full and on time.

Our adjudicator felt that Mrs T's complaint should be upheld in part. He thought that the checks Uncle Buck did for loans 1 to 4 inclusive were sufficient but that those for the remaining loans didn't go far enough. He suggested that, had the lender done better checks, it would've been evident that the last four loans weren't affordable and so proposed that Uncle Buck pay some compensation to Mrs T.

Uncle Buck has agreed with our adjudicator's view in respect of loans 7 and 8 but doesn't agree that loans 5 and 6 were lent irresponsibly. Because the parties don't agree the complaint has been passed to me for a decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Uncle Buck was required to lend responsibly. It needed to make checks to see whether Mrs T could afford to pay back the loan before it lent to her. Those checks needed to be proportionate to things such as the amount Mrs T was borrowing and her lending history, but there was no set list of checks that Uncle Buck had to do.

Because Uncle Buck has already accepted our adjudicator's recommendation about paying compensation to Mrs T in relation to loans 7 and 8 I don't intend to consider these loans further within this review.

Uncle Buck has shown us that, before each loan was offered, it obtained from Mrs T details of her income and expenditure. It also carried out credit checks through external credit reference agencies. These verified details such as Mrs T's income and overall indebtedness via both unsecured and secured borrowings. It also provided information on, amongst other things, new accounts opened, defaults, CCJs and overdue payments etc. We've been provided with the data output from some of these searches.

loans 1 to 4 inclusive

In her first three loan applications Mrs T stated her monthly income to be £2,500, and this reduced to £2,300 for loan four. She declared her monthly expenditure to be between £710 and £850 which left apparent monthly disposable income of between £1,450 and £1,790.

Loan 1 was a payday loan. Loan 2 was provided just over one month after loan 1 had been repaid. Given that these were Mrs T's first loans from Uncle Buck, and the repayments represented a modest proportion of her declared disposable income, I think the checks Uncle Buck completed went beyond what I'd have considered proportionate in the circumstances. I can't see anything in the results of their checks that might have caused concern and so I don't think Uncle Buck was wrong to provide these loans.

Loan 3 was for an increased amount and was lent on the day after loan 2 had been repaid. There was then a modest gap of a couple of weeks between repayment of loan 3 and the provision of Loan 4, and this was for a reduced amount. Here again, I think the extent of the checks undertaken by Uncle Buck were proportionate to the circumstances of the loans. Mrs T's declared disposable income appeared sufficient to make the loans affordable and I haven't seen anything in the output that should have compelled Uncle Buck to either question the information it'd been given by Mrs T, or carry out deeper checks into her finances.

It follows that I don't think Uncle Buck was wrong to offer these loans.

loan 5

In her application for loan 5 Mrs T declared her monthly income to be £2,300 and her regular expenditure to be £850, leaving her with disposable income of £1,450. The monthly repayments required for this loan were £138 which, on the face of it, would appear affordable. However, this was Mrs T's fifth loan from Uncle Buck in less than 12 months, and she had been borrowing almost constantly from it during this time. In those circumstances I think that Uncle Buck should have been considering whether she was becoming dependent upon short term borrowing. And, also, if it should have been questioning whether it could rely upon the information she'd provided.

I think that, by this time, Uncle Buck should've been looking to get a comprehensive understanding of Mrs T's overall financial circumstances. There are a number of ways in which this could have been done, such as asking for copies of wage slips, bills or her bank statements. I can't see that it did so.

I've reviewed Mrs T's bank statements and can see that her salary income in the month preceding loan 5 was actually higher than had been declared at £2,663. Against this she had normal monthly expenditure of £1,116, regular financial commitments of £92 and repayments due under other short term loans of £1,465. In addition I can also see regular, and very extensive, payments for online gambling which amounted, in the previous month, to over £4,500.

As such I think that, had Uncle Buck carried out the better checks that I consider to be proportionate at this time, it would've seen that its loan wasn't sustainably affordable to Mrs T.

loan 6

Loan 6 was granted just over a month after the prior loan had been repaid. Here again, given Mrs T's borrowing history with Uncle Buck, I'd have expected it to carry out a further comprehensive review of her financial situation.

I can see from her bank statements that her salary was £2,914. Her normal living costs were £1,062, she had regular financial commitments of £148 and also needed to make repayments under other short term loans of £761. I can also see payments made in relation to online gambling amounting to over £3,700 in the preceding month.

Accordingly, here again, I think that Uncle Buck would've seen that its loan wasn't sustainably affordable if it'd carried out the better checks that I consider to be proportionate.

If Uncle Buck had done what I consider to be proportionate checks it would have seen that Mrs T wasn't able to sustainably afford loans 5 and 6. So, as a responsible lender, it would most likely have declined these applications, in addition (as it's already accepted) to loans 7 and 8.

putting things right

I don't think Uncle Buck did anything wrong in providing loans 1 to 4 to Mrs T. However, I don't think it should have given her loans 5 and 6. Uncle Buck has already accepted that it shouldn't have granted loans 7 and 8 to Mrs T and so it should now:

- refund all interest and charges applied to loans 5 to 8 inclusive;
- add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*;
- remove any adverse information recorded on Mrs T's credit file in relation to these loans.

*HM Revenue & Customs requires Uncle Buck to take off tax from this interest. Uncle Buck must give Mrs T 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 in part and require Uncle Buck Finance LLP to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 7 December 2018.

Richard France
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