

complaint

Mr L complains that Uncle Buck Finance LLP gave him unaffordable instalment loans. He wants a refund of the interest and charges he paid, with interest.

background

Mr L had twelve loans from Uncle Buck between June 2015 and December 2017. He said he was borrowing to repay other lenders and the loans were unaffordable for him. Uncle Buck said it had carried out adequate and appropriate affordability checks for each loan. It said these showed that Mr L could afford his repayments.

Our adjudicator recommended that the complaint should be upheld in part. She thought Uncle Buck's affordability checks had gone far enough for loans one to four. These loans looked affordable so she couldn't say Uncle Buck had been wrong to approve them. But she thought Uncle Buck should have made better checks for loans five to twelve. She thought that if it had it would have found that Mr L couldn't afford to repay his loans sustainably. So she thought Uncle Buck had been wrong to approve these eight loans.

The adjudicator thought Uncle Buck should refund Mr L's interest and charges for loans five to twelve, with interest, offset this against the principal still outstanding and pay Mr L the rest. She also thought Uncle Buck should remove any related adverse information from Mr L's credit file.

Uncle Buck replied that Mr L had repaid all his loans except for loan twelve on time or early. It said there were gaps between them. It said the loans were small and its checks were proportionate. It said it had relied on Mr L providing accurate information about his finances.

my findings

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

Mr L's loans from Uncle Buck were for between £100 and £200. Mr L's loans were to be repaid in three monthly instalments except for loan twelve which was repaid in six instalments. There were gaps of up to three months between some of the loans. The highest expected monthly repayments ranged between £44.92 and £99.30. Mr L repaid many of the loans early. All the loans were repaid.

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

Uncle Buck said it asked Mr L for his monthly income and outgoings, including his credit commitments. He said he earned between £1,531 and £1,869. He declared his expenses were between £640 and £1,000. Uncle Buck said it also carried out credit checks on Mr L and it's provided copies of the reports for these but they aren't readily interpretable. It said these reports confirmed Mr L's stated income and showed that Mr L had low commitments to other short-term lenders when he applied for his loans.

I can see from summaries that these reports showed that Mr L opened up to 44 other short-term loan accounts in the six months previous to his loans from Uncle Buck. But it said this wouldn't have deterred it from lending to him.

I agree with the adjudicator that these checks were proportionate and sufficient for loans one to four. Mr L's loan repayments were small compared to his stated disposable income. He repaid his loans in full and so developed a good borrowing history with Uncle Buck. So there were no causes for concern that should have prompted it to make further checks before approving his loans. So I can't say Uncle Buck was wrong to approve these four loans.

But loan five, albeit small, was Mr L's fifth in a year of borrowing. I think that from this point Uncle Buck should have been prompted by the pattern and frequency of Mr L's borrowing to ask further questions. This was to ensure that Mr L wasn't dependent on its loans and was using them for their stated purpose.

So I think Uncle Buck should then have verified what Mr L had told it about his finances and looked at his other borrowing, both regular and short-term and his financial situation.

Uncle Buck said it checked Mr L's credit file and there was nothing untoward. But I think these reports show a high level of borrowing activity that should have prompted concern and further questions. Also, contrary to Uncle Buck's view, I don't think the gaps between Mr L's loan applications were significant.

Uncle Buck said it relied on the accuracy of Mr L's statements. It said it spoke to Mr L to confirm what he'd told it. But I think from loan five onwards it should have looked to verify what he'd told it. I can see that it verified his income from his credit report. But I can't see that it verified his outgoings for his living expenses and bills or his credit commitments. So I don't think Uncle Buck's checks for loans five to twelve were proportionate or sufficient.

I've looked at Mr L's bank statements from the time to get information about his finances, but Uncle Buck could easily have asked Mr L for it. These show that Mr L was borrowing from a range of other lenders and he was gambling heavily. I can see that from loan five onwards Mr L's existing commitments to other lenders and his gambling accounted for most or all of his income. So he didn't have enough to repay Uncle Buck without further borrowing. This pattern continued for all eight loans.

So I think if Uncle Buck had made better checks, it would have seen, as I have, that Mr L couldn't afford to repay loans five to twelve sustainably. So I think it was wrong to approve these eight loans.

my final decision

My final decision is that I uphold this complaint in part. I require Uncle Buck Finance LLP to do the following:

1. Refund Mr L the interest and charges he paid on loans five to twelve, adding interest at 8% simple per annum from the date of payment to the date of settlement.
2. HM Revenue & Customs requires Uncle Buck to withhold income tax from that interest. It must give Mr L a certificate showing how much it's taken off if he asks for one.
3. Remove any adverse information relating to these loans from Mr L's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 4 February 2019.

Phillip Berechree
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