

## **complaint**

Mrs H has complained about an instalment loan approved by Uncle Buck Finance LLP ("Uncle Buck"). Mrs H says Uncle Buck lent her the loan when she couldn't afford to repay it. Mrs H also says she found Uncle Buck's final response letter threatening.

## **background**

Mrs H was given a loan for £200 by Uncle Buck in July 2018 – this loan was due to be repaid in six monthly instalments. The maximum instalment payment was around £65. Mrs H has said Uncle Buck was aware and had a discussion with her about her debt of over £3,000 to other lenders but it still gave her the loan. Uncle Buck says there's no evidence on its system that it discussed this with Mrs H.

Mrs H was repaying the loan through a repayment arrangement until she informed Uncle Buck she had a serious illness, Uncle Buck says it has now put her account in a "breathing space". When Mrs H complained to Uncle Buck in September 2018, it didn't uphold her complaint. It said the checks it carried out were proportionate and it hadn't done anything wrong by lending to her.

Unhappy with the response, Mrs H referred her complaint to this service. One of our adjudicators looked at the complaint and thought that Uncle Buck gave Mrs H the loan when she couldn't sustainably afford to repay it.

As Uncle Buck didn't accept the adjudicator's opinion, the complaint has come to an ombudsman 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 needed to carry out proportionate checks to see that Mrs H could sustainably afford to make her loan repayments before agreeing to lend. Its checks needed to be customer focussed and could take into account things like the size and length of the loan and what it knew about the customer.

Uncle Buck has told this service that it searched Mrs H's credit file, checked her income and regular outgoings before agreeing to lend to her. Uncle Buck has provided a summary of its search of Mrs H's file and Mrs H has also provided a copy of her credit file and I can't see that there were any defaults or county court judgements (CCJs) recorded on her file at the time.

Uncle Buck also said it independently verified Mrs H's income and its records showed that she earned around £1,100. Mrs H told Uncle Buck that her regular expenses were around £1,000 – this included:

- Store/credit cards - £450
- Transport - £100
- Utilities – £250
- Food - £200

Based on the information Uncle Buck knew about Mrs H at the time, she had around £100 of monthly disposable income of which more than half over a six month period had to be used to repay the loan.

One question that I've had to consider here is whether I think it's responsible for Uncle Buck to have lent to Mrs H given that it knew she would be left with around £35 of disposable income after making the loan repayments. I've asked Uncle Buck why it thought this amount of disposable income was sufficient but it hasn't provided a response.

When Mrs H complained to Uncle Buck she said she had two children and was receiving child benefit of around £430 per month – this wasn't something she told Uncle Buck at the time of the loan.

Mrs H has also said her credit file showed that she was in debt of more than £3,000 and Uncle Buck knew this. From Mrs H's credit file and bank statements, I can see that she was due to make monthly repayments of more than £500 to other short term lenders. The fact that Mrs H had outstanding debts doesn't on its own automatically mean Uncle Buck shouldn't have lent to her. I would expect Uncle Buck to consider Mrs H's circumstances as a whole when making its lending decisions. The checks Uncle Buck carried out showed that Mrs H may not have been in a position to sustainably repay this loan over its term.

I think Uncle Buck's checks raised some concerns about Mrs H's ability to sustainably repay the loan over the term and this should have prompted further checks. As a responsible lender, I'd expect Uncle Buck to not only collect information but consider that information and react to it accordingly. In this instance, it should perhaps have checked if Mrs H had other income – as it suggests that there was a business registered to her address. It may also have wanted to know if she had other debt repayments before lending to her.

Even with the child benefit Mrs H received, I don't think that this loan was affordable as she still had to make repayments over £500 to other lenders and in those circumstances – after deducting her declared living costs, Mrs H didn't have enough to repay the loan.

So given what Uncle Buck knew about Mrs H at the time, I think the disposable income she was left with after making the loan repayment wasn't sufficient to satisfy Uncle Buck that she could sustainably afford to repay the loan over the term. And had Uncle Buck carried out further checks as I think it should have been prompted to do, it would have found that Mrs H couldn't afford the loan.

I've reviewed Uncle Buck's final response letter which Mrs H said was threatening. She hasn't explained why she feels this was the case. The letter goes into details about Uncle Buck's checks and why it thought it lent responsibly to Mrs H. It also reminds Mrs H about her outstanding balance - asking her to make contact to agree a repayment plan and that it will begin recovery action if it didn't hear from her. The tone of the letter doesn't come across as threatening but contains information that I consider reasonable in the circumstances. So with the information I have I can't say that Uncle Buck did anything wrong here.

Because Uncle Buck gave Mrs H a loan she couldn't sustainably afford to repay, when it ought to have known this, it should;

- refund any interest and charges Mrs H paid towards the loan she was given in July 2018.

- 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\*.
- Uncle Buck can deduct the outstanding capital amount and pay any surplus redress to Mrs H.
- remove any adverse information recorded on Mrs H's credit file in relation to the loans.

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

**my final decision**

I uphold Mrs H's complaint and require Uncle Buck Finance LLP to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 7 March 2019.

Oyetola Oduola  
**ombudsman**