

complaint

Mrs G complains that Uncle Buck Finance LLP gave her loans that she couldn't afford.

background

Mrs G took a total of three loans with Uncle Buck. The first, for £200, was in late February 2015. The second, for £100 was in late March 2015, and the final loan, for £200, was in late April 2015. All three loans were due to be repaid on Mrs G's next pay date. Mrs G repaid the loans on time. But she says she was heavily in debt at the time, and spiralled into deeper debt as a result of her borrowing.

Before making each loan, Uncle Buck asked Mrs G for details of her monthly income and expenditure, and details of her other credit commitments. It also carried out a credit check before making the first loan.

Our adjudicator recommended that the complaint should be upheld in part. He thought the checks Uncle Buck had done before making the loans went far enough. But in the case of the first two loans, he thought that it should have realised that Mrs G would have been left with minimal disposable income, once the loan repayments were taken into account. So she wouldn't have been able to pay for any unexpected outgoings. He thought she wasn't borrowing sustainably, so he didn't think Uncle Buck should have made the first two loans. He recommended that it refund all interest and charges on the first two loans, with interest on the refund. And he recommended that it remove any negative information about those loans from Mrs G's credit file.

Uncle Buck wasn't happy with the adjudicator's view, so the complaint has been passed to me.

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. Having done so, I've reached the same conclusion as the adjudicator, and for similar reasons.

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

I'm satisfied that the checks that Uncle Buck did before making the loans went far enough, given their relatively small size. Mrs G provided details of her monthly income and regular monthly expenditure, including amounts payable on store and credit cards. Once her total monthly expenditure was subtracted from her salary, £232 remained. But after repayment of the first loan, she'd only have had £89 left over for non-essential spending and for any unforeseen bills. I'm not satisfied, in the circumstances, that the loan was genuinely affordable for her.

Similarly, after taking into account Mrs G's regular expenditure and the repayment of £115 on the second loan, Mrs G would have been left with less than £25 for non-essential spending and any unforeseen costs. Again, I think the fact that her remaining disposable income would have been so low should have alerted Uncle Buck to the fact that the borrowing was likely to be unsustainable for her.

I acknowledge that Uncle Buck says that because some of the expenditure figures which Mrs G gave it looked low, it increased them to bring them into line with figures which are widely used in the credit industry to reflect the current cost of living. It says this would have shown the worst case scenario. I accept that it was being cautious and responsible in increasing the figures. But the fact remains that if Mrs G's expenditure was at or around the level of the adjusted figures, she'd have been left with very little money to see her through the month. And given that Uncle Buck says that the adjusted figures were widely accepted as reflecting the cost of living at the time, I don't think it would have been unreasonable to assume that Mrs G's expenditure was around that level.

Uncle Buck has also commented that the fact that Mrs G wouldn't have had much disposable income after repaying the loans didn't mean that they weren't affordable to her. It says it isn't its responsibility to tell customers how much they should have left over after paying bills. But based on the income and expenditure figures Uncle Buck had, Mrs G's remaining disposable income was so low that she'd have had to borrow further to pay for any significant non-regular expense. So I remain of the view that Uncle Buck should have realised that there was a significant risk that the loans would turn out not to be sustainable for Mrs G. And taking everything into account, I don't think it should have made the first two loans.

The position is different regarding the third loan. Even after increasing the expenditure figures that Mrs G gave it, the figures that Uncle Buck had available suggested that she'd have enough money to afford to repay the loan relatively comfortably. And I've seen nothing in Mrs G's bank statements to suggest that her regular monthly expenditure would have left her unable to repay the third loan. It's true that she was making frequent gambling transactions, so it may be that she was, in fact, likely to struggle to repay the loan. But Uncle Buck would only have been aware of this if it had asked to see her bank statements. And given that this was only her third loan, it was for a relatively low amount, and she'd repaid the previous loans on time, I think it was reasonable of Uncle Buck to make the loan without asking to see statements.

my final decision

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

- refund all interest and charges Mrs G paid on the first and second loans, which it made in February and March 2015 respectively;
- pay interest on those refunds at 8% simple* per year from the dates of payment to the date of settlement;
- remove any adverse information about the loans referred to in the first bullet point above from Mrs G's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 5 June 2017.

Juliet Collins
ombudsman