

**complaint**

Mr B complains that Uncle Buck Finance LLP gave him loans that he couldn't afford to repay.

**background**

Mr B was given 11 loans by Uncle Buck between December 2014 and August 2017. Most of the loans were repayable in monthly instalments. When Mr B brought the complaint to us there was a balance outstanding on his last loan. But Mr B has said that loan has now been repaid. A summary of his borrowing from Uncle Buck is as follows;

<b>Loan Number</b>	<b>Borrowing Date</b>	<b>Repayment Date</b>	<b>Loan Amount</b>
1	09/12/2014	09/01/2015	£100
2	20/01/2015	20/03/2015	£300
3	27/03/2015	26/06/2015	£250
4	30/06/2015	18/09/2015	£150
5	28/09/2015	11/12/2015	£275
6	30/12/2015	04/03/2016	£200
7	05/03/2016	18/04/2016	£600
8	01/06/2016	03/06/2015	£150
9	27/09/2016	15/11/2016	£550
10	12/05/2017	21/07/2017	£550
11	03/08/2017	November 2017	£200

Mr B's complaint has been assessed by one of our adjudicators. He thought that the checks Uncle Buck had done before agreeing the first three loans had been sufficient. But he thought Uncle Buck should have done more checks before the remaining loans. And he thought that better checks would have shown Uncle Buck that Mr B couldn't afford to repay loans 6 to 11. So he asked Uncle Buck to pay Mr B some compensation.

Disappointingly Uncle Buck hasn't replied to that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr B accepts my decision it is legally binding on both parties.

**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 Mr B could afford to pay back each loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr B was borrowing, and his lending history, but there was no set list of checks Uncle Buck had to do.

The Financial Conduct Authority was the regulator at the time Mr B borrowed from Uncle Buck. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). These regulations require lenders to take "*reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*" They define 'sustainable' as being able to make repayments without undue difficulty. And explain that this means borrowers should be able to make their repayments on time and out of their income and savings without having to borrow to meet these repayments.

So, the fact that the amounts borrowed and the interest paid might have been low in comparison with Mr B's income, or that he managed to repay the loans in full and on time, doesn't necessarily mean the loans were affordable for him or that he managed to repay them in *a sustainable manner*. In other words I can't assume that because Mr B managed to repay his loans that he was able to do so out of his normal means without having to borrow further.

Uncle Buck has told us about the checks it did before lending to Mr B. It asked him for details of his income and normal expenditure before agreeing each loan. And it checked his credit file before all but one of the loans too. Although I've not seen the full results of those checks, Uncle Buck has provided us with a summary. And although towards the end of its relationship with Mr B those checks suggested that he might be becoming reliant on short term credit there was nothing else that I think should have caused additional concern to the lender.

The amount Mr B borrowed on his first loan was relatively modest compared to the income he declared to Uncle Buck. And his repayment appeared to be easily affordable based on what he said about his disposable income. So I think it was reasonable for Uncle Buck to rely on what Mr B said about his finances and that it wasn't wrong to give him this loan.

The next three loans that Mr B took from Uncle Buck were all repayable in three monthly instalments. So although the loan amounts were higher than the first loan the amount Mr B needed to repay each month was less. But of course he was making that commitment to repay over a longer period. I think Uncle Buck should have become increasingly concerned as time went on that Mr B might be becoming dependent on its lending. But I don't think these concerns should have been enough to suggest additional checks were needed before agreeing these loans. So I don't think Uncle Buck was wrong to give these loans to Mr B either.

When Mr B asked for his fifth loan, in September 2015, he'd been borrowing almost continuously from Uncle Buck for over nine months. I think this was the point where Uncle Buck should have realised that it couldn't safely rely on the information Mr B was providing about his finances. I think at this stage it should have taken steps to independently verify Mr B's true financial position.

Mr B continued to borrow from Uncle Buck over the next two years. There were a couple of longer periods where he didn't have a loan, but given what had gone before, I don't think either of these were long enough to give Uncle Buck any reassurance that Mr B's finances were back on track. So I think it would have been proportionate for Uncle Buck to continue to independently verify Mr B's finances over the rest of the time he was borrowing from it.

But although I don't think the checks Uncle Buck did from loan 5 onwards were sufficient, that in itself doesn't mean that Mr B's complaint should succeed. I'd also need to be persuaded that what I consider to be proportionate checks would have shown Uncle Buck that Mr B couldn't sustainably afford the loans. So I've looked at Mr B's bank statements, and what he's told us about his financial situation, to see what better checks would have shown Uncle Buck.

Once Uncle Buck began independently verifying Mr B's financial position it would have seen that he was spending on what appear to be gambling transactions. At the time of the fifth loan, in September 2015, his monthly gambling expenditure was around £400. Although that might have concerned Uncle Buck I don't think it was enough to make the lender think there was a real problem. And looking at the rest of Mr B's expenditure I think it would have been reasonable for the lender to conclude that this loan was affordable.

But by the time Mr B asked for his next loan, in December 2015, his gambling had begun to increase markedly. By that time he was spending over half of his normal income on gambling transactions. And his financial situation didn't improve over the rest of the time he was borrowing from Uncle Buck. It does seem that Mr B began to reduce the amount he was spending on gambling transactions over the following year. But by then he had borrowed heavily from a number of other short term lenders to fund that gambling spending. And he'd then entered a cycle of taking new short term loans to repay his existing borrowing. The amount he was typically borrowing each month was approaching the level of his normal income.

If Uncle Buck had done what I consider to be proportionate checks from loan 6 onwards I think it would have seen that Mr B couldn't sustainably afford his loans. He was repeatedly borrowing from one lender to repay loans to another. And, at the start of that period, he was spending heavily on gambling transactions. So knowing this, and as a responsible lender, I don't think Uncle Buck would have given these loans to Mr B. It needs to pay him some compensation.

### **putting things right**

I don't think Uncle Buck should have agreed to lend to Mr B after, and including, the loan that he took on 30 December 2015 (loan 6). So for each of those loans Uncle Buck should;

- Refund any interest and charges applied to the loans.
- 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 Mr B'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 Mr B a certificate showing how much tax it's taken off if he asks for one.

**my final decision**

My final decision is that I partly uphold Mr B's complaint and direct Uncle Buck Finance LLP to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 May 2018.

Paul Reilly  
**ombudsman**