

complaint

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

background

Mr F was given five loans by Uncle Buck between May and December 2015. The first two loans were repayable the following month. The remaining three loans were repayable in three monthly instalments. Mr F repaid all the loans. A summary of Mr F's borrowing from Uncle Buck is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount	Notes
1	5/05/2015	16/05/2015	£ 100	
2	18/05/2015	13/06/2015	£ 350	
3	15/06/2015	15/09/2015	£ 350	3 x £177
4	15/09/2015	15/12/2015	£ 585	3 x £295
5	22/12/2015	24/03/2016	£ 500	3 x £243

When Mr F first complained to Uncle Buck it didn't think it had been wrong to agree any of the loans. Mr F didn't accept that so he brought his complaint to this Service.

Mr F's complaint has been assessed by one of our adjudicators. She thought Uncle Buck had carried out sufficient checks before it agreed loans 1-3, but not before loans 4 or 5. She thought that better checks would have shown that loans 4 and 5 were unaffordable for Mr F. So she asked Uncle Buck to pay Mr F some compensation for this.

Uncle Buck told us it got this assessment, but disappointingly hasn't sent us a response, so I don't know if it agrees with the assessment or not. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide.

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 F 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 F was borrowing, and his lending history, but there was no set list of checks Uncle Buck had to do.

I'm going to look at whether Uncle Buck carried out appropriate checks, to satisfy itself Mr F could repay the loans in a sustainable way. If not, I'll consider whether appropriate checks have most likely shown he could repay them sustainably. Taking into account the short term purpose of the loans, I'll go on to consider whether the overall pattern of lending increase Mr F's indebtedness in a way that was unsustainable or otherwise harmful to him. Finally I'll look at whether Uncle Buck acted unfairly or unreasonably in any other way.

Uncle Buck has told us about the checks it did before lending to Mr F. Before each loan it asked him for details of his income, and his normal monthly expenditure. And Uncle Buck says that it also checked Mr F's credit file before agreeing each loan. I've not seen all the results from those credit checks, but Uncle Buck says there was nothing that suggested it shouldn't have lent to Mr F.

I think, from the information I've seen, this was enough information for Uncle Buck to collect for the first three loans. It recorded Mr F's income as £1,500 each time and his outgoings as £300. And it's shown me that it asked Mr F about his normal monthly credit payments. Taking into account the amounts Mr F borrowed and his declared outgoings, it seems to me that these loans appeared affordable.

By the time Mr F asked for loan 4 I don't think that simply gathering details of Mr F's normal expenditure was enough. I think Uncle Buck should have been asking Mr F some very specific questions about his finances, including asking him about any other short term loans he already had outstanding. Mr F asked for loan 4 the same day he repaid loan 3, and it was for a much larger amount. I think Mr F's request might have shown Uncle Buck that his finances were under significant pressure and prompted the extra checks.

Mr F asked for his fifth loan a week days after repaying loan 4. I think by now Uncle Buck should have realised that Mr F's financial situation was unlikely to be anywhere near as healthy as he was declaring. I think that it would have been reasonable here to independently verify the information Mr F was providing about his finances.

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

At the time of loan 4 it would have been reasonable for Uncle Buck to rely on the information Mr F was providing about his finances. But, as I said earlier, I think Uncle Buck should have supplemented that with specific details of any other short term loans that Mr F was already committed to repaying.

If Uncle Buck had done that, it would have found out that, in addition to his declared outgoings of £400, Mr F had credit commitments of about £525 and outstanding short term loans totalling over £1,300. Even though he said his income was higher at £1,700 it's clear Mr F couldn't afford any more loans at this point.

For loan 5 I think Uncle Buck should have been independently verifying Mr F's finances. Had it done so, it could have seen that he was spending more than he earned on what appear to be online gambling transactions. And he still had to meet his credit commitments and had a short term loan for £630 outstanding. He appears to have been using short term loans from Uncle Buck and other lenders to help fund his gambling expenditure.

If Uncle Buck had done what I consider to be proportionate checks it would have seen that Mr F couldn't sustainably afford loans 4 or 5. So as a responsible lender, it would have declined these loan applications. Uncle Buck needs to pay Mr F some compensation for these loans.

putting things right

I don't think Uncle Buck should have agreed to give Mr F loans 4 or 5. So in relation to all of Mr F's borrowing after, and including, the loan he took on 15 September 2015 (loan 4) 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 F'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 F 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 F'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 F to accept or reject my decision before 27 October 2018.

Sue Peters

ombudsman