

complaint

Mr W complains that Uncle Buck Finance LLP was irresponsible to continue lending to him when he had low disposable income and outstanding debts elsewhere.

background

Mr W had four loans from Uncle Buck between January 2015 and March 2015 as follows:

<u>Loan</u>	<u>Date</u>	<u>Amount</u>	<u>Term</u>	<u>Repayment</u>	<u>Due</u>	<u>Status</u>
1	12 Jan 2015	£100	1m	£115.20	30 Jan 2015	On time
2	30 Jan 2015	£225	1m	£277.20	27 Feb 2015	On time
3	4 Mar 2015	£375	1m	£450.00	28 Mar 2015	On time
4	31 Mar 2015	£585	3m	3 x £295.11	30 Jun 2015	Repaid 31 Jul 2015

Mr W says Uncle Buck didn't do enough affordability checks before approving the loans. He says he had limited disposable income and these loans, on top of his other debts, caused him to be in a cycle of borrowing. He adds that the Uncle Buck loans had made his financial position worse.

Uncle Buck says it asked Mr W for information about his income and expenditure before approving each of the loans. It says it also verified his employment and salary details and checked his credit file. Uncle Buck explains that, on the basis of those checks, for the last three loans it offered Mr W substantially less than the £1,000 for which he'd applied. Although Uncle Buck says it acknowledges Mr W told it he was in financial difficulties in May 2015, it says this was due to a change in circumstances (gambling), rather than the loan itself being unaffordable. It says it froze interest and charges on loan 4 and gave Mr W free debt management information as a result.

Our adjudicator recommended the complaint should be upheld. She was satisfied that Uncle Buck did enough checks before approving the first two loans, but, by the time he applied for loan 3 she considered it should have carried out a full financial review. She said that, had it done so, Uncle Buck would have found that Mr W was gambling around half of his monthly income. Our adjudicator considered it was irresponsible to continue lending to Mr W on that basis and recommended Uncle Buck should refund interest and charges on loans 3 and 4 (plus 8% statutory interest) and remove any associated negative information from Mr W's credit file.

Uncle Buck responded to say, in summary, that it considered its checks were proportionate for loans 3 and 4 and any further checks would have made the process excessively onerous for Mr W.

my findings

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

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

Loans 1 and 2

Uncle Buck asked Mr W to declare his income and expenditure before it approved his first two loans. Mr W said his income was £1,375 and his expenditure was between £300 and £350. As Mr W's scheduled repayments were less than £300, I'm satisfied Uncle Buck did enough checks before deciding the loans were affordable.

Loan 3

Mr W's self-declared disposable income remained at just over £1,000 when he applied for loan 3. But I don't consider Uncle Buck did enough checks before approving the £375 loan. I acknowledge Mr W actually applied for £1,000, but had Uncle Buck carried out proportionate checks, I'm satisfied it wouldn't have found that £375 was affordable to him either.

This was Mr W's third loan in quick succession. It was almost twice his second loan and the required repayment was a significant proportion of his income. Indeed, the repayment was almost half of what he'd declared to be his disposable income. Because of this, I find Uncle Buck should have carried out a full financial review before approving loan 3.

Had it done so, it's likely to have found Mr W's disposable income was actually around £780. In addition he needed to repay almost £200 to another short-term loan provider. Although this left Mr W with almost £600 with which to make the £450 repayment, Mr W was also withdrawing around £200 in cash each month and, in February 2015, he gambled over £800.

I'm satisfied, therefore, that had Uncle Buck carried out proportionate checks, it is likely it would have considered it irresponsible to continue to lend to Mr W.

Loan 4

Mr W's financial circumstances remained broadly unchanged in March 2015. But he did take out another short-term loan meaning he now needed to repay about £375 to such lenders. I accept the required repayment to Uncle Buck reduced to £295 for this loan, but with over £1,000 spent on gambling, I don't consider it was responsible to approve loan 4 either.

my final decision

My decision is that I uphold this complaint. Uncle Buck Finance LLP should:

- Refund all interest and charges that Mr W paid on loans 3 and 4;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about loans 3 and 4 from Mr W's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 2 December 2018.

Amanda Williams
ombudsman