

complaint

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

background

Mr W was given nine loans by Uncle Buck between January 2015 and October 2016. Mr W has repaid all the loans.

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

Mr W's complaint has been assessed by one of our adjudicators. She thought Uncle Buck had carried out sufficient checks before it agreed loans 1-4 and loans 7-9 but not before loans 5 and 6. She thought that better checks would have shown that loans 5 and 6 were unaffordable for Mr W. So she asked Uncle Buck to pay Mr W some compensation for this.

Uncle Buck told us it got this assessment, and said it had responded confirming it agreed with the adjudicator's view but this response hasn't been received. As it appears that Uncle Buck agrees with the assessment of the adjudicator I plan to be brief in this 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 was required to lend responsibly. It needed to make checks to see whether Mr W 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 W 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 W 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 W'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 W. 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 W'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 W.

I think, from the information I've seen, this was enough information for Uncle Buck to collect for the first four loans. Taking into account the amounts Mr W borrowed and his declared income and outgoings, it seems to me that these loans appeared affordable.

By the time Mr W asked for loan 5 I don't think that simply gathering details of Mr W's normal expenditure was enough. I think Uncle Buck should have been independently verifying the

information Mr W was providing about his finances. I think Mr W's request might have shown Uncle Buck that his finances were under significant pressure and prompted the extra checks. I think by this point what Mr W was saying about his finances was at odds with his borrowing pattern.

Had it done further checks of Mr W's financial position Uncle Buck would have seen that he was spending more than he earned on repaying short term loans and gambling transactions. His outgoings on these transactions exceeded his income and he didn't have enough money to repay the loan in a sustainable way without borrowing again. The position is the same for loan 6.

There was then a gap of 7 months before Mr W asked for loan 7. I think this gap was enough to indicate to Uncle Buck that the issues Mr W was experiencing may have passed. I think that the checks the business carried out before loans 7-9 were proportionate and it was reasonable to treat this as a new chain of lending.

If Uncle Buck had done what I consider to be proportionate checks it would have seen that Mr W couldn't sustainably afford loans 5 and 6. Uncle Buck needs to pay Mr W some compensation for these loans.

putting things right

I don't think Uncle Buck should have agreed to give Mr W loans 5 and 6. So in relation to these loans Uncle Buck should;

- write off any interest and charges that Mr W hasn't paid;
- refund any interest and charges paid by Mr W on this loan plus 8% interest simple per annum on each amount from the date of payment to the date of settlement*
- remove any adverse information recorded about the refunded loans 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.

my final decision

My final decision is that I partly uphold Mr W'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 W to accept or reject my decision before 18 July 2019.

Emma Boothroyd
ombudsman