

## **complaint**

Miss M complains that Uncle Buck Finance LLP gave her unaffordable payday loans. She wants a refund with interest.

## **background**

Miss M had five loans from Uncle Buck between October 2015 and September 2016. She said Uncle Buck didn't carry out proper affordability checks before approving these. Uncle Buck said it had carried out sufficient affordability checks which showed that Miss M had sufficient disposable income to repay her loans. It said it wasn't responsible for Miss M giving inaccurate information about her expenditure.

Our adjudicator recommended that the complaint should be upheld in part. He thought Uncle Buck had made proportionate and sufficient affordability checks for loan one, but not thereafter. He thought that if it had, then it would have seen that Miss M spent most of her income on gambling. And so it would have found that it was irresponsible to lend to her.

So the adjudicator thought it had been wrong for Uncle Buck to approve loans two to five. He thought it should refund Miss M's interest and charges, with interest, less any principal still owed. He also thought it should remove related adverse information from her credit file.

Uncle Buck didn't reply to the adjudicator's view, so the complaint has come to me for a final 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.

Miss M's five loans were all to be repaid in three monthly instalments. Loan one was for £400. A week after this was repaid, Miss M took out loan two for £800 and she repaid this three weeks later. After six weeks, she borrowed £900 and she repaid this three weeks later. A month later, Miss M borrowed £975 and repaid this after six weeks. After a gap of four months, Miss M took out loan five for £700. This loan is outstanding.

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

Uncle Buck checked Miss M's credit file for each loan. It's provided the results of the checks it made for loans two, three and five. And it asked Miss M for her monthly income and expenditure, including her living expenses and her credit commitment. Miss M earned £3,800 a month after tax.

I think these checks were proportionate and sufficient for loan one. Miss M's disposable income was £938. The most she had to repay in a month was £193.49. So this loan looked affordable. I can't say that it was wrong for Uncle Buck to approve this loan.

Loan two was much larger. Miss M was expected to repay £362.36 a month. This looked affordable compared to her stated disposable income. But Uncle Buck's credit check showed that Miss M had opened 20 accounts in the previous six months. It told us that this showed Miss M was using short-term lending.

So I agree that this should have prompted further checks before the loan was approved. I think these checks should have been full enquiries into Miss M's circumstances to see that she could afford her loans and that she wasn't dependent on short-term lending.

I've looked at Miss M's bank statements from the time to get this information, but Uncle Buck could easily have asked Miss M for it. These show that Miss M was spending more than her income on gambling. This continued for all her loans.

So I think that if Uncle Buck had made sufficient checks, it would have seen, as I have, that Miss M was borrowing to support her gambling and couldn't afford the loans. So I think it was irresponsible for it to lend further to Miss M and I think it was wrong to approve loans two to five.

### **my final decision**

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

1. Refund Miss M the interest and charges she paid for loan two onwards, adding interest at 8% simple per annum from the date of payment to the date of settlement. This refund should be offset against the principal Miss M still owes for her last loan and the rest paid to her.
2. HM Revenue & Customs requires Uncle Buck to withhold income tax from that interest. It must give Miss M a certificate showing how much it's taken off if she asks for one.
3. Remove any adverse information relating to these loans from Miss M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 11 August 2017.

Phillip Berechree  
**ombudsman**