

complaint

Mr Y complains that Uncle Buck Finance LLP shouldn't have given him instalment loans because of his previous financial history. He wants a refund of his interest and charges.

background

Mr Y took out seven loans from Uncle Buck between March 2015 and October 2016. He said he couldn't afford to repay the loans. Uncle Buck said it had carried out affordability checks and these showed that the loans were suitable for Mr Y.

Our adjudicator recommended that the complaint should be upheld in part. He thought Uncle Buck had made proportionate and sufficient checks on the first three loans but not thereafter. He thought if Uncle Buck had made sufficient checks it would have found that loan four was affordable, but not the last three loans due to Mr Y's spending on gambling.

So the adjudicator thought it had been wrong for Uncle Buck to approve these three loans. He thought it should refund Mr Y his interest and charges for these, with interest, and remove related adverse information from his credit file.

Uncle Buck replied that it had called Mr Y to discuss the affordability of these three loans with him. It had gone through his expenditure in these calls and also checked his credit file. It didn't think it was responsible if Mr Y hadn't given it accurate information.

my findings

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

Mr Y's loans were repayable in three monthly instalments. Loan one was for £225 with the monthly instalments £112.66. He repaid this and then two weeks later borrowed £200 to be repaid in instalments of £93.76. He repaid this and then borrowed £200 again two months later. The instalments were £100.45. A week after this was repaid, loan four was for £300, to be repaid in three instalments of £145.25.

Again a week after this was repaid, Mr Y borrowed again. Loan five was for £500 and the instalments were £242.48. Two weeks later, loan six was for £150 (£68.47 instalments). A month later, loan seven was for £400 (£199.29 instalments). Mr Y paid one instalment and a balance remains outstanding.

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

Uncle Buck said it carried out income and expenditure checks for each loan and it made credit file checks. Mr Y said his monthly income was about £1,200 after tax and his outgoings were £700. The credit check showed defaults within the past three years, but Uncle Buck said this wouldn't hinder it lending to Mr Y. Uncle Buck also called Mr Y to discuss his last three loan applications and I've listened to these calls.

I agree that Uncle Buck's checks were proportionate to the amount he was borrowing and his repayment instalments for his first three loans. But I also agree that Uncle Buck should have made further checks for loan four. Mr Y had been borrowing continuously for six months. I think Uncle Buck should have then been alerted to ask about any other short-term lending to check that he wasn't dependent on it and that the loan was affordable.

I've looked at Mr Y's bank statements from the time to get this information, but Uncle Buck could easily have asked Mr Y for it. I think sufficient checks would have shown that Mr Y could afford this loan.

But when Mr Y asked for loan five, the increased amount and his continuous borrowing should have prompted Uncle Buck to make full enquiries into Mr Y's circumstances. Uncle Buck said it did this by talking to Mr Y about his finances. But I don't think it was enough for it to rely on Mr Y's statements at this stage.

I think it's reasonable for Uncle Buck to rely on Mr Y's stated information unless it has reason for concern. Its call handlers said there was a concern, i.e. Mr Y's continuous borrowing. But they didn't enquire about the purpose of the loans or why someone with stated sufficient disposable income should require them so frequently. So I think it should have looked to verify his income and outgoings, such as asking for bank statements.

I've looked at these, and I think that if Uncle Buck had made sufficient checks, it would have seen, as I have, Mr Y's gambling. And so, as a responsible lender, it would then have declined further loans. So I think it was wrong for Uncle Buck to approve Mr Y's last three loans.

my final decision

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Y to accept or reject my decision before 14 August 2017.

Phillip Berechree
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