

complaint

Mr H complains that Uncle Buck Finance LLP lent him money he couldn't afford to repay.

background

Mr H took out five loans with Uncle Buck between May and October 2014.

Mr H says Uncle Buck was irresponsible to agree to lend to him. Mr H says he had a gambling addiction at the time. He wants Uncle Buck to compensate him.

Before this service became involved, Uncle Buck offered to refund interest and charges on loan five. Mr H declined this offer.

The adjudicator recommended that Mr H's complaint be upheld in part. The adjudicator thought that although Uncle Buck's checks didn't go far enough before agreeing loan one, better checks wouldn't have made a difference to Uncle Buck's decision to lend.

The adjudicator thought that if Uncle Buck had carried out proportionate checks before loans two to five, it wouldn't have agreed to lend.

Uncle Buck doesn't agree with the adjudicator's recommendation. Uncle Buck points out that it declined a large number of Mr H's loan applications. Uncle Buck says that Mr H had enough disposable income to afford loan two as Mr H only had to make one repayment.

Uncle Buck says that it's important to assess Mr H's complaint against the standards in place at the time of lending. Uncle Buck says it expected Mr H to provide accurate information about his financial situation as it wasn't in its interest to offer a loan that Mr H couldn't afford to repay.

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.

Uncle Buck was required to make sure Mr H could repay any money that it lent to him in a sustainable way. Any checks had to be proportionate to things such as the amount of the loan, the repayments and any borrowing history. But there wasn't a set list of checks Uncle Buck had to carry out.

I appreciate that Uncle Buck says it wasn't required by law to ask for bank statements as part of its affordability assessment but this is just one of the ways a lender could carry out a more thorough financial assessment before agreeing to lend. And although Uncle Buck was entitled to treat any information that Mr H gave as being accurate, that doesn't mean it shouldn't have looked out for signs that something was wrong or that relevant details had been left out.

Uncle Buck has already offered to put things right for loan five. As it doesn't appear that this loan is in dispute, I don't think I need to say anything more about it.

loan one

Mr H was due to repay just over £200 for loan one.

It was early on in Mr H's lending history with Uncle Buck and the repayment on loan one represented a relatively modest proportion of his declared income of £1,200 I consider a proportionate check should've included asking about Mr H about his living costs and regular credit commitments.

Uncle Buck only asked Mr H about his income so I need to consider what it's likely he would've told Uncle Buck had it asked him out his outgoings at the time.

It seems likely to me that Mr H would've given broadly similar expenditure information to what he declared some five months later. If Mr H had done this, it would've appeared to Uncle Buck that he had a monthly disposable income of £330. I agree with the adjudicator that even with better checks, it would've looked as though Mr H could afford to repay loan one.

loan two

Mr H asked for loan two a couple of months after repaying loan one. Mr H was due to repay over £470 in one go. This represented more than a third of his declared monthly income of £1,400.

I think that it was reasonable to expect Uncle Buck to ask about Mr H's monthly outgoings, including any other short term loans. As Uncle Buck hasn't given me any evidence to suggest that it asked Mr H for any of this information, I don't think its checks were proportionate.

I think it's reasonable to find it likely that if asked, Mr H would've given Uncle Buck a similar expenditure figure for loan two as he did for loan five. On this basis, Mr H would've been left with about £530 of disposable income.

Although it would've still appeared that Mr H could just about afford to repay loan two from his disposable income, I don't think this means that he could afford to repay the loan in a sustainable way. Mr H was left with about £55 after making the payment to Uncle Buck. If he'd had had any unexpected expenses – even relatively minor ones – Mr H would've been left with no disposable income at all.

I appreciate that Uncle Buck thinks that as Mr H only had to make one repayment, a £55 contingency was enough to say that he could repay the loan in a sustainable way. However, this doesn't change my decision to uphold Mr H's complaint about loan one.

loans three and four

By the time Mr H borrowed from Uncle Buck in August 2014, he'd already taken out two loans in the same chain. This meant Uncle Buck should've been aware of Mr H's borrowing history and done more to check whether he could afford the loans.

I think Uncle Buck should've had some concerns that Mr H was using the loans for general living costs rather than to help with one-off expenses. The pattern of lending should've

reasonably prompted Uncle Buck to try and get a comprehensive picture of Mr H's finances. It could've done this by asking to see bills or bank statements for example.

Just because I consider that Uncle Buck should've carried out further checks, doesn't necessarily mean that I must go on to uphold Mr H's complaint. I would need to be persuaded that if Uncle Buck had carried out the proportionate checks I think were reasonable, it would've discovered that Mr H couldn't afford some or all of the loan repayments.

Although Mr H didn't have much in the way of monthly outgoings before loan three, with better checks it's likely that Uncle Buck would've discovered that Mr H had a significant amount of online gambling transactions. Over the course of one month before Mr H applied for loan three, he spent almost £4,500 online gambling.

Mr H had less gambling transactions before loan four but he owed money to other payday lenders. Taking these liabilities together with his living costs and regular credit commitments, Mr H wasn't left with enough disposable income to afford loan four.

If Uncle Buck had looked at Mr H's financial circumstances in as much detail as I think was proportionate, it would've realised that he was using payday lending to support a gambling habit. As a responsible lender, I don't think Uncle Buck would've agreed loans three and four.

Overall, Mr H has lost out so Uncle Buck should compensate him more than it's offered to so far.

putting things right

To put things right Uncle Buck should:

- Refund any interest and charges paid on loans two to five;
- 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*; and
- Remove any negative information recorded about loans two to five from Mr H's credit file.

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

my final decision

My decision is that I uphold Mr H's complaint in part 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 H to accept or reject my decision before 4 February 2019.

Gemma Bowen
ombudsman