

complaint

Mr W says Uncle Buck Finance LLP (Uncle Buck) irresponsibly lent to him. Mr W says he had a gambling addiction and was in debt when Uncle Buck lent to him and so Uncle Buck shouldn't have lent to him.

background

This complaint is about one instalment loan Uncle Buck lent to Mr W in June 2018. The loan was for £400 to be repaid in four instalments of £161.94. Mr W repaid the loan early – repaying it in full in July 2018.

Two adjudicators looked at this complaint, the first adjudicator didn't uphold the complaint but the second and most recent adjudicator's opinion upheld Mr W's complaint. The adjudicator thought that Uncle Buck's checks showed cause for concern that the loan wasn't affordable for Mr W and so Uncle Buck shouldn't have lent to him.

Uncle Buck disagreed and the complaint was passed to me.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. We've set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Uncle Buck needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr W could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

Before lending Uncle Buck asked Mr W about his monthly income and expenses. It has also provided information to show that it searched Mr W's credit file.

Mr W declared his income as £2,600 and his declared total monthly expenses were a total of £635 including things like utility, transport and food. So on the face of this information provided by Mr W, this loan seems affordable.

However, I'm mindful of the information Uncle Buck found when it searched Mr W's credit file. The results of its search shows that Mr W had three existing short term loans with other lenders with a total value of around £1,150, which meant this would be the fourth loan he would need to repay in the near future.

Also, Mr W's monthly credit repayment was around £2,214 – which likely included his mortgage and regular credit commitments. This information suggests that Mr W was indebted in a way that meant he wasn't in a position to sustainably repay this loan. I think Uncle Buck should have reacted to the information it found, and it shouldn't have lent Mr W this loan.

So I'm upholding Mr W's complaint and Uncle Buck needs to put things right.

putting things right – what Uncle Buck needs to do

- refund all interest and charges Mr W paid on the loan;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- remove any negative information about the loan 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

For the reasons given, I'm upholding Mr W's complaint and Uncle Buck Finance LLP needs to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 21 December 2019.

Tola Oduola
ombudsman