

complaint

Mr S complains that Uncle Buck Finance LLP gave him a loan that was unaffordable.

background

Mr S borrowed £200 from Uncle Buck in October 2017. The loan was to be repaid in three monthly instalments of £88. He is unhappy that, at the time he applied for the loan, he had a number of other payday loans, had defaults noted against some other loans, was gambling and was using loans to pay off other borrowings. He believes that Uncle Buck should've checked more closely into his credit records and that, had it done so, it would've seen that he couldn't afford this loan.

No repayments had been made to the loan at the time of the complaint to this service.

Uncle Buck has said that it asked Mr S for details of his monthly income and expenditure, carried out a credit check and verified his employment status. It was satisfied that its checks indicated the loan to be affordable.

Our adjudicator considered that Uncle Buck had carried out adequate checks before lending and so didn't believe that Mr S's complaint should be upheld. Mr S doesn't agree. He reiterated that he had numerous other payday loans at the time and had two credit cards that were in default. He feels that these should've been clearly evident to Uncle Buck in its credit search. Also, he told us that he'd exaggerated his income figure within the loan application as he was desperate for the money. He also asked us to take into account his compulsive gambling habit and a mental health issue.

Because Mr S doesn't agree with our adjudicator's findings the complaint has been passed to me for a 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 loan was offered.

Uncle Buck was required to lend responsibly. It needed to make checks to see whether Mr S could afford to pay back the loan before it lent to him. Those checks needed to be proportionate to things such as the amount Mr S was borrowing and his lending history, but there was no set list of checks that Uncle Buck had to do.

This was Mr S's first loan with Uncle Buck. I can see from the lender's business file that Mr S declared his income to be £1,700 and his monthly expenditure to be £450. The amount he needed to repay under this loan was relatively modest compared to the disposable income figure of £1,250 that he'd declared to Uncle Buck. In these circumstances I think that the checks carried out were proportionate and that it would be reasonable for Uncle Buck to rely upon the information provided to it by Mr S.

However, I can see that the credit check undertaken by Uncle Buck showed that Mr S had other borrowings of around £8,000 on nine active accounts. I also note that, in his application, Mr S stated that his monthly commitments for mortgage and fixed loans were

£200. But he stated that he didn't have any monthly commitments to credit cards, whereas the credit check does indicate the existence of revolving credit.

I think that this apparent discrepancy should've prompted Uncle Buck to probe further into Mr S's financial commitments. I can't see that it did so. But, I note that, in his complaint to Uncle Buck at the end of October, Mr S stated that his monthly repayments included £400 for rent/mortgage and £300 for 'other debt repayments'. So I think that, had Mr S been asked for further clarification of his repayments to loans and credit cards, he'd most likely have given them these figures. In that case, I think that the level of his disposable income would still have been considered sufficient to accommodate this additional loan. I don't think that greater knowledge of these other borrowing commitments alone would've led Uncle Buck to come to a different decision.

I've considered the additional comments that Mr S made to us in response to our adjudicator's opinion and have found the following:

- I can see that Mr S was given this loan on 19 October and that his complaint to Uncle Buck about its unaffordability was made less than two weeks later. At that point Mr S told Uncle Buck that he'd overstated his income in his application. He said that his average monthly income at that time had been around £1,240, as opposed to £1,700 declared. I haven't seen any evidence of Mr S's actual salary through, for example, payslips or bank statements. However, Uncle Buck has told us that it carried out a specific credit check that validated Mr S's monthly income at £1,700, consistent with that which he'd declared.
- Uncle Buck also undertook a credit search before lending and says that this showed Mr S didn't have any active judgments against him and also that he had no credit defaults registered against him during the preceding three years.
- I haven't seen the credit reports obtained by Uncle Buck but am mindful that searches with credit reference agencies don't always show all debts, in particular short term / payday loans.
- I'm sorry to hear that Mr S suffers with a mental health problem, and that he has had a compulsive gambling habit. However, I can't see that he made Uncle Buck aware of either of these issues and I don't, therefore, think it would be reasonable to expect it to have known about them, nor to have made any consequent adjustments to the basis of its relationship with him.

Whilst I appreciate that Mr S's financial situation was worse than he told Uncle Buck, I don't think that this would've been revealed by what I consider to be proportionate checks, nor by the additional information that it gleaned from its credit checks. It follows that I don't think Uncle Buck did anything wrong in granting this loan. I know that it'll be disappointing to Mr S but, as a result of this, I'm not upholding his complaint.

my final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 28 July 2018.

Richard France
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