

complaint

Mr D complains that Uncle Buck Finance LLP gave him loans he couldn't afford to pay back.

background

Mr D took out ten loans from Uncle Buck between June 2014 and April 2016. They ranged in size from £100 to £200. Mr D says that Uncle Buck didn't carry out proper affordability checks and if it had done it would've seen that he was in financial difficulty. He says that this has led to him having to take out more loans.

Uncle Buck said it relied on Mr D's stated income and expenditure and carried out a credit check to assess affordability.

Our adjudicator recommended that the complaint should be upheld. He thought Mr D's borrowing behaviour should have alerted Uncle Buck to make further checks on affordability after the first four loans given the borrowing pattern. He looked at Mr D's credit file and bank statements and saw that his income was exceeded by his debt repayments and other outgoings each month. These checks would've revealed that Mr D had gambling losses. So he thought the loans were unaffordable. He thought Uncle Buck should refund the interest and charges Mr D paid on loans five to ten.

Uncle Buck replied that it was for Mr D to provide it with accurate information. It said its affordability checks were proportionate. It had no reason to think Mr D couldn't repay the loans given the information he gave. It said that Mr D's borrowing history was positive and there were gaps in the borrowing so there was nothing to suggest it should do any further checking.

my findings

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

Mr D first borrowed £150 from Uncle Buck in June 2014. He said his income was £1630 and his outgoings were £250. Given the amount borrowed and the figures given by Mr D I agree with the adjudicator that it was reasonable to lend Mr D the money.

Mr D repaid the loan in full and on time on the 30 June. On the 12 July he borrowed £150 and this was repaid in full and on time on the 31 July. On 6 December he borrowed £175 and this was repaid in full and on time on 22 December. On 30 December he borrowed £175 and this was repaid in full and on time on 30 January 2015.

Lenders are obliged to make sufficient and proportionate checks to make sure that loan repayments are affordable without undue hardship.

Uncle Buck said it did this by looking at Mr D's stated income and expenditure. It said that it was for Mr D to give accurate information and it wasn't to blame if he didn't. I can see that Uncle Buck relied on Mr D's stated income and expenditure to decide how much to loan him so that he could comfortably repay it. I agree that it was for Mr D to provide accurate information. I think that the checks that were done for these four loans were reasonable and proportionate to the amounts borrowed.

But I also think it was for Uncle Buck to be alert to Mr D's borrowing behaviour for signs of dependency on payday loans. Then it should have made further checks on their affordability. At the point of the fifth loan for £125 taken out on 19 March 2015 I think that Uncle Buck should've asked more questions about why Mr D needed to borrow so often given his stated income and expenditure.

From his stated income and expenditure, Mr D would seem to have had enough disposable income to afford his loans from Uncle Buck. But Mr D was borrowing repeatedly and although it was for relatively small amounts, given his stated disposable income, I think this should've raised the question about whether he was reliant on short term credit and prompted further checking at the point of the fifth loan.

Had Uncle Buck asked these questions or taken a closer look at Mr D's finances it would've seen that he had other short term credit commitments and his declared outgoings figure didn't take these repayments into account. Although on the face of it Mr D said he had enough money coming in to meet the repayments his pattern of borrowing from Uncle Buck and other lenders suggested that he was overly reliant on credit.

Although Mr D took out the loans and said he could afford them I don't think that this is enough for me to say Uncle Buck acted responsibly. Mr D wanted and needed the loans because of the debt he was in. Uncle Buck ought to have known this was the case at the time of the application for the fifth loan given the borrowing pattern.

Even though on the face of it Mr D appeared to be meeting his repayments to Uncle Buck and other lenders, I don't think this is enough to say that the loans were affordable or that Mr D's borrowing history was good so further checks were unnecessary. Mr D was meeting his repayments by borrowing more money from other lenders and borrowing again from Uncle Buck. The loans taken out by Mr D were unaffordable and unsustainable given his other short term lending and outgoings. Relying on what Mr D said about his outgoings without carrying out more robust checking was irresponsible.

Mr D has had the benefit of the money so I think it is only fair that he pays it back but I agree with the adjudicator that all interest and/or charges applied to loans five to ten should be refunded and all information recorded on Mr D's credit file about these loans should be removed

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it Uncle Buck Finance LLP should do the following:

- refund any interest and/or charges applied to loans five to ten together with 8% simple interest per year from the time that the interest and charges were paid to the time Mr D gets it back.
- remove any adverse information recorded about the refunded loans from Mr D's credit file.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 July 2017.

Emma Boothroyd
ombudsman