

## complaint

Mrs B says Uncle Buck Finance LLP irresponsibly lent to her.

## background

This complaint is about 3 instalment loans Uncle Buck Finance provided to Mrs B between 13 February 2018 and 1 April 2018. Mrs B's borrowing history with Uncle Buck Finance was as follows:

Type of Loan	Loan number	Loan amount	Highest Repayment	Total Due	Start Date	End Date
Instalment	1	£400	£120.04	£711.10	13/02/18	26/03/18
Instalment	2	£200	£66.59	£395.10	27/03/18	29/03/18
Instalment	3	£400	£132.32	£784.60	01/04/18	Settled on unknown date

Mrs B told us she spent a significant amount of her earnings gambling and recently produced evidence of that by bank statements.

Our adjudicator upheld Mrs B's complaint and thought all the loans should not have been given. Uncle Buck Finance disagreed with our adjudicator's view and the complaint was passed to me.

Uncle Buck Finance added some points, some of which are as follows:

- It did not know about Mrs B's gambling;
- She did not tell it about her gambling at any time although she had opportunity to disclose it;
- It asked Mrs B to update her income and outgoings or asked her to confirm there were no changes before each loan;
- Her bank statements do not show she was overdrawn between February and March 2018;
- Its documents included warnings about product suitability which Mrs B had to sign acceptance.

## 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. I've followed this approach when thinking about Mrs B's complaint.

Uncle Buck Finance 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 Mrs B 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.

But certain factors might point to the fact that Uncle Buck Finance should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable. So I think that it is important for me to start by saying that Uncle Buck Finance was required to establish whether Mrs B could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow that this is the case. This is because the relevant regulations define 'sustainable' as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs B's complaint.

Uncle Buck Finance told us it carried out certain affordability and credit checks before agreeing to lend to Mrs B. I've thought about this with a view to seeing if there was a point at which Uncle Buck Finance should reasonably have seen that lending was unsustainable, or otherwise harmful to Mrs B.

Having done that, I agree with our adjudicator that, having completed initial checks, Uncle Buck Finance did not go far enough in analysing the information it had received. So I think more checks could have been completed by Uncle Buck Finance before each loan was processed.

I say this because I've looked at the credit reports which Uncle Buck Finance said it would have seen at the time of each loan application. Each credit report showed Mrs B had defaulted accounts and had accounts on which she could not pay the minimum payment at the required time. On a closer analysis, our adjudicator also correctly pointed out that Uncle Buck Finance would have seen Mrs B had over £47,000 of total debt, of which around

£19,000 was revolving credit. So after seeing the credit reports, I think Uncle Buck Finance should have made a full review of Mrs B's finances before lending to make sure she could sustainably repay the loans.

As our adjudicator explained, a check which was more proportionate for Mrs B's situation in respect of all three loans would most likely have shown that Mrs B was having problems managing her money. Uncle Buck Finance would have seen that Mrs B was spending a significant amount on gambling through various betting websites. On seeing these things, it is most likely that Uncle Buck Finance would have realised Mrs B was not engaged in short term lending to deal with an unexpected cash-flow. It was more likely she had longer term problems related to her debts. So I think Uncle Buck Finance most likely would have seen that the loans were unsustainable for her.

So I am upholding the complaint about these three loans and Uncle Buck Finance should put things right.

### **putting things right – what Uncle Buck Finance LLP needs to do**

- refund all interest and charges Mrs B paid on the three loans;
- 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 payment information about the three loans from Mrs B's credit file;

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

### **my final decision**

For the reasons given above, I am upholding Mrs B's complaint. Uncle Buck Finance LLP should put things right for Mrs B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 16 February 2020.

Amrit Mangra  
**ombudsman**