

complaint

Mr G complains that the loans he had from Uncle Buck Finance LLP were unaffordable and trapped him in a debt spiral.

background

Mr G had ten loans from Uncle Buck between March 2015 and November 2016 as follows:

<u>Loan</u>	<u>Date</u>	<u>Term</u>	<u>Amount</u>	<u>Due</u>	<u>Payment</u>	<u>Status</u>
1	02 Mar 2015	26d	£250	27 Mar 2015	£302.00	On time
2	27 Mar 2015	33d	£300	28 Apr 2015	£379.20	On time
3	30 Apr 2015	89d	£300	28 May 2015	£149.36	Repaid 20 May 2015
4	23 May 2015	32d	£125	26 Jun 2015	£157.00	On time
5	28 Jun 2015	91d	£400	28 Sep 2015	£201.68	On time
6	13 Feb 2016	75d	£400	28 Apr 2016	£179.17	Repaid 29 Mar 2016
7	30 Mar 2016	91d	£300	28 Jun 2016	£151.36	On time
8	29 Jun 2016	91d	£600	28 Sep 2016	£301.25	Repaid 27 Aug 2016
9	27 Aug 2016	93d	£600	26 Nov 2016	£307.26	On time
10	28 Nov 2016	94d	£600	28 Feb 2017	£307.81	1 late payment

Mr G says if Uncle Buck had properly checked his credit file and bank statements, it would have seen he was using multiple short-term lenders and couldn't afford the loans. He adds that Uncle Buck didn't reduce the interest it charged when he repaid the loans early and overcharged interest on the last loan.

Uncle Buck says it carried out a credit check and confirmed Mr G's income before approving the loans. It says it also asked Mr G for his monthly expenditure and, for loans 1 and 9, approved less than the amount for which he'd asked. It says it continued to ask Mr G about his financial circumstances for each loan application, including his other credit commitments. It adds that it called Mr G before loans 4, 5, 6, 7, 9 and 10 to confirm he wasn't in a debt management plan and wasn't using the money to repay other debts.

Our adjudicator recommended the complaint should be upheld in part. She was satisfied that Uncle Buck's checks went far enough before approving the first four loans, but she considered it should have done better checks for the remaining ones. She said that had it done so, it's likely Uncle Buck would have found loans 6 to 10 were unaffordable to Mr G. She recommended that interest and charges should be refunded on these loans (plus 8% statutory interest) and that any associated negative information should be removed from Mr G's credit file.

Uncle Buck didn't respond so the complaint has been passed to me for a final 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.

Uncle Buck was required to lend responsibly. It should have made checks to make sure Mr G could afford to repay the loans before it lent to him. Those checks needed to be proportionate to things such as the amount Mr G was borrowing, and his lending history. But there was no set list of checks Uncle Buck had to do.

Loans 1 to 4

As a minimum, I consider proportionate checks should have included asking Mr G about his income and regular expenditure for these loans. Uncle Buck did this and found Mr G's disposable income was between £1,400 and £1,700 per month. The maximum scheduled repayment on any of the first four loans was less than £400. So, I find it reasonable that Uncle Buck approved the loan applications.

Loan 5

When Mr G applied for another £400 in June 2015, it was his fifth loan in quick succession. As such, Uncle Buck should have considered the possibility he was becoming reliant on such loans and verified the information Mr G had provided, including confirming whether he had any other short-term loans. I acknowledge Uncle Buck called Mr G before it approved most of the later loans and Mr G said he wasn't using the money to repay other debts. But, I find proportionate checks should have verified that information as well as Mr G's self-declared income and expenditure.

Had it done so, by, for example, looking at Mr G's bank statements, it would have found that actually Mr G's income was about £5,500 in June 2015, as opposed to the roughly £4,800 he'd declared. I can see Mr G spent £578 on rent each month (including bills) and an average of £100 per month on mobile phone bills. He also spent about £70 on credit card repayments in the month before loan 5, and over £700 on gambling transactions. But this still left Mr G with over £4,000, although he'd told Uncle Buck he spent around £400 on food each month. But even when I consider Mr G owed over £2,000 to five other short-term lenders at the same time as loan 5's first instalment was due, I can't conclude Uncle Buck should have found loan 5 to be unaffordable.

Loans 6 to 10

When Mr G applied for loan 6, I can see that his income was the £4,786 that he'd declared to Uncle Buck. He was still spending £578 on rent and bills and about £200 on phone bills and credit card repayments. He was now also repaying £214 per month on a loan. This left him with about £3,800 before any spend on food. I can also see he needed to repay almost £2,500 to six other short-term lenders at the same time as he needed to make the first repayment to Uncle Buck. When I consider Mr G spent £950 on gambling in the month before loan 6, I find the repayment on loan 6 was unaffordable for him and I think it was irresponsible for Uncle Buck to approve it.

From then on, Mr G's gambling and borrowing escalated to a point where it became unsustainable. Indeed, I can see Mr G was gambling his entire monthly income in some months. So I also find Uncle Buck was irresponsible to approve loans 7 to 10.

I acknowledge Mr G says he thinks he should have been given a discount on the interest when he repaid the loans early, and that he thinks he was overcharged because of a late payment on loan 10. Having looked at the loan agreements, I can't see that a discount for early settlement is specified. Nevertheless, as I'm upholding Mr G's complaint about loans 6 to 10, his interest payments will be refunded on those loans anyway.

my final decision

My decision is that I uphold this complaint. Uncle Buck Finance LLP should:

- Refund all interest and charges that Mr G paid on loans 6 to 10;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement*;
- Remove any negative information about loans 6 to 10 from Mr G's credit file.

*HM Revenue & Customs requires Uncle Buck to take off tax from this interest. Uncle Buck must give Mr G 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 G to accept or reject my decision before 22 June 2018.

Amanda Williams
ombudsman