

The complaint

J complains that Provident Personal Credit Limited has acted fraudulently in respect of loans he had with it.

What happened

In 2013, two loans were taken out with Provident in J's name. Several years later, he contacted Provident to say that he didn't take out the loans. He also said that the signatures on the loan documentation are inconsistent and that his rights under data protection legislation had been breached by Provident.

Provident responded to say that there was no evidence of fraudulent activity and that while J was unhappy with an investigation by one of its field investigation officers, it couldn't provide the witness statement where it contained information about others.

J referred his complaint to this service – adding that a debt had been passed to a recovery agent and that his credit file had been damaged. He also gave other reasons why he felt that the loans here would be unenforceable – some of which related to the language the agreements used.

Our investigator looked at J's complaint, but didn't think Provident had handled this situation unfairly or that it should do anything else. She said that the loans both looked to have been signed and dated by J and that, while J had concerns about the language used in the applications, these both clearly explained what was expected of J. While Provident hadn't provided the field officer's statement, she didn't feel this had affected J's ability to bring his complaint to us.

In terms of the impact on J's credit file, she noted that where a customer hasn't made their repayments under an agreement, debts can be passed onto a recovery agent as they were here.

Mr J disagreed – providing further comments on why he felt the agreements were 'void' in his view. So the complaint has been passed to me to reach a final decision on.

What I've decided – and why

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

The majority of the points that J has made here revolve around why these loan agreements aren't enforceable – or as he says "void". He's given a variety of reasons why he thinks this – focusing on technicalities around the language and grammar used in them.

It may help if I explain that only a court can decide if an agreement is enforceable or not – as that's ultimately a legal consideration. This service doesn't have the same powers as a court and so it's not for us to decide whether agreements are enforceable, or can be

considered 'void' for any of the reasons he's given. Instead, we're a quick and informal service, here to decide what's fair and reasonable in the circumstances of individual disputes.

So while I've considered all of J's points around the language used in the agreements, along with his comments and annotations on them – I have to agree with our investigator here. I too think the agreements are clearly written and explain the terms of the loans in the way I'd expect. I can't see any reasons that the language and grammar used in these agreements mean that Provident shouldn't have relied on them to seek repayments for the associated lending provided under them.

I realise that J says that the signatures here are inconsistent and that he didn't agree to the second loan. Provident doesn't accept that's the case and I can see why. The application information from J certainly seems to have been completed by him, with the documentation showing that the relevant agent from Provident was in attendance when these were signed. This agent would've verified his identity and asked for his signature.

J had also taken a loan with Provident before and if he really hadn't taken this second loan out, I don't know why he would have made payments to it, or waited so long to make a complaint to Provident over eight years later. So taking everything into account here, I think it's fair that Provident has sought repayment from him under the terms of these agreements.

That means that, where Provident may have sold or passed these debts to third party recovery agents, I think it was entitled to do that where payments may not have been made in line with the agreements. And it would've been entitled to record information relating to the conduct of these loans on J's credit file too.

Beyond this – I haven't seen any evidence that Provident has done anything wrong here in how it's handled this dispute. It's explained why it hasn't been able to provide the field officer's report and the explanation it's given is a fair one. In any event, J has still been able to dispute this with both Provident and this service. So I don't think he's been disadvantaged by this. Nor have I seen anything to suggest that Provident has handled J's data in a way that has unfairly impacted him. So there are no grounds that I can ask Provident to take any action here.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask J to accept or reject my decision before 7 June 2021.

James Staples
Ombudsman