

The complaint

Miss P complains that Greenwood Personal Credit Limited (referred to here as 'Provident') lent to her irresponsibly.

What happened

Provident Personal Credit has explained '*Greenwoods Personal Credit was purchased by the Provident Financial Group and after amalgamating the terms and conditions, business processes and operating model to match Provident Personal Credit, Greenwoods was closed down in early 2014 with all outstanding debts being transferred to Provident.*'

So I will refer to the respondent as Provident.

Miss P has complained about a series of home credit loans issued to her by Provident and by Greenwoods. This decision will be issued on both complaint cases. And for the purposes of these two complaints one Loan Table has been created.

last 4 figs loan ref	Loan	Date advanced	Date repaid or O/S	Amount	Term and weekly payments
6726 Provident	1	6/11/2009	2/2/2010	£150	23 x £19.75
2557 Greenwoods	2	20/11/2009	9/3/2010	£150	25 x £9
6420 Provident	3	26/1/2010	16/6/2010	£450	50 x £15.75
7068 Greenwoods	4	8/3/2010	12/6/2010	£280	33 x £14
8703 Greenwoods	5	2/6/2010	21/9/2010	£500	33 x £25
0746 Provident	6	14/6/2010	26/10/2010	£650	50 x £22.75
0092 Greenwoods	7	23/8/2010	23/11/2010	£100	33 x £5
1287 Greenwoods	8	20/9/2010	23/8/2011	£800	55 x £25.60
0134 Provident	9	25/10/2010	O/s and sold to L, 4Sept 2014	£1,000	50 x £35
1263 Greenwoods	10	16/11/2010	1/11/2011	£200	55 x £6.40
6234 Provident	11	7/12/2010	O/s and sold to L, 4Sept 2014	£200	25 x £12

1233 Greenwoods	12	18/8/2011	sold L, 2 Sept 2014	£500	55 x £16
1257 Greenwoods	13	18/8/2011	sold L, 2 Sept 2014	£500	55 x £16
3202 Greenwoods	14	28/10/2011	sold L, 2 Sept 2014	£350	55 x £11.20
0760 Provident	15	22/7/2016	27/9/2016	£100	14 x £10
2503 Provident	16	21/9/2016	O/s and sold VB 24 June 2017	£200	23 x £13

One of our adjudicators looked at the whole of the lending and wrote to Provident to say that she thought that Loans 6 to 14 should be the ones that Provident put right for Miss P.

In April 2020, one of Provident's representatives engaged with Miss P and Provident has since offered to refund interest and charges for loans 6 to 16 (less tax) and remove any records of Loans 6 to 16 from Miss P's credit file. The offer included the fact that the outstanding balances on some of the loans would be offset against the refunded sums due from Provident to her. Provident's representative summarised this to Miss P: *'This would leave you with no outstanding balance and a cheque for £297.97.'*

Miss P was unclear on some of the detail and around the outstanding balances. So, she has rejected the offer. Miss P has also referred to her original complaint made to Provident in which she said: *'Many of these loans were rolled over and taken out at the same time as my partners. The initial application used both our incomes, (my partners wages and my tax credit and child benefits).'*

And more recently Miss P has explained that the loan agent used the same income for each loan taken and that comprised of her partner's wages, and their combined tax credits and child benefit.

So, the combination of the confusion in relation to the offer and exactly what it covers, plus this part of the complaint she originally raised with Provident which she does not think has been addressed, has led to it being referred to me for a decision.

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.

We have set out our general approach to complaints about high-cost (including home credit) lending - including all of the relevant rules, guidance and good industry practice - on our website. I have carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss P's complaint.

Provident needed to take reasonable steps to ensure that it did not lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Miss P 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 Provident should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include: where a customer's income is particularly low; where the repayments are particularly high; and/or where the frequency of the loans and the length of time over which a customer has been given loans need to be looked at: repeated refinancing could 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.

Provident was required to establish whether Miss P could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation. 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 this is the case. This is because the Office of Fair Trading Irresponsible Lending Guide (ILG) (superseded by the Financial Conduct Authority's Consumer Credit Sourcebook (CONC)) defined 'sustainable' as being the ability to repay without undue difficulties.

In particular, the customer should be able to make repayments on time, while meeting other reasonable commitments, and 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 will not be able to make their repayments sustainably if they need to borrow further in order to do that.

Miss P's lending covers many years and so in the earlier months and years the ILG will have been applicable. In the later years CONC would have applied.

And I am aware that Provident's representative has, in at least two emails to Miss P, referred to Provident's willingness to concede on Loans 6 to 16. As Provident's final response letter had clearly referred to and listed 16 loans then I think that the offer to accept irresponsible lending on each of Loans 6 to 16 was clear and unequivocal. In those circumstances I consider that there is no dispute in relation to Loans 6 to 16 and I say no more about the merits of those applications and approvals apart from the section on redress due to Miss P.

So, I am addressing Loans 1 to 5 which seem to be the ones where the complaint is disputed. Because the two firms – Greenwoods and Provident - were part of the same group in those years, I think that Provident would've known about any loans sold by Greenwood, and vice versa - so I do consider Loans 1 to 5 as part of one chain.

I have little information about what Provident or Greenwoods knew about Miss P's income and outgoings at the time of lending Miss P Loans 1 to 5. But what I do know from the customer details I have been sent by Provident (for both sets of loans) is that she was unemployed.

Miss P has said that the agent considered her partner's income and yet I have nothing from Miss P to show me what the financial situation for her was in those six months from November 2009 to June 2010. Miss P has had several opportunities to send in more details, including notification that the complaints were being passed to an ombudsman and that if she had anything else to send or say that it was her opportunity to do so.

Although I do think that Provident and Greenwoods ought to have carried out more checks than it did, because she declared that she was unemployed, I have little from Miss P to establish what it would have seen if it had done that.

So, I am not able to uphold Miss P's complaint about Loans 1 to 5.

I understand from emails from Miss P that one of the reasons she was not content to accept any offer from Provident was that she is expecting that some of the principal sums still owing ought to be written off. First, as Provident has told us that several of the loans were sold to third parties then Provident is not the legal owner of those debts and so it is not able to write off the debts and I am not able to direct a third party.

Secondly, if Provident buys back the debts then I have not been given enough reason by Miss P to direct that any of those sums are written off. It is not usual for the ombudsman service to expect that principal amounts lent to consumers are written off: having had the benefit of that money its only right that the principal sums are repaid.

Miss P has said that Provident did it for her partner. But here I am considering Miss P's complaint, and what Provident may have chosen to do for another person is a matter for that firm.

So, I do not uphold that part of Miss P's complaint.

Putting things right

In order to bring the complaints to a conclusion, then the redress for Loans 6 to 16 need to be clear and carried out by Provident for both complaints. Provident needs to:

- refund all interest and charges Miss P paid on loans 6 to 16;
- 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*;
- the number of loans taken from loan 6 onwards means any information recorded about them is adverse. And Provident was content to remove all entries about loans 6 to 16 and so they should be removed from Miss P's credit file.

Provident is entitled to set off any monies arising from the redress against any monies Miss P may owe it, but to be clear this should only be in respect of the principal sum borrowed. Any unpaid charges and interest would need to be removed first and any payments made to either loan treated as if Miss P had paid down the principal.

If a third party owns some of the debts – as Provident says it does in this case - then in order to do the set off I have outlined above, Provident will need to repurchase that debt. If it does not do that then it cannot do the set off and the full amount due will be repayable to Miss P directly. Payments made to that third party will need to be accounted for when working out the redress.

And in those circumstances the third party will need to be directed by Provident to correct any adverse entries on Miss P's credit file, so far as it is able to do so.

*HM Revenue & Customs requires Provident to take off tax from this interest. It must give Miss P a certificate showing how much tax it's taken off if she asks for one. Any tax is to be removed before any set-off.

My final decision

My final decision is that I uphold this complaint in part and direct that Greenwoods Personal Credit Limited, part of Provident Financial Group, does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 11 August 2020.

Rachael Williams
Ombudsman