

The complaint

Mrs S complains that Provident Personal Credit Limited is failing to provide her with an item she believes she is entitled to receive. That item is a copy of a recorded call from June 2020.

What happened

Mrs S took loans from Provident in or around 2017. The details of those loans are not relevant to this complaint. When Mrs S completed and sent her complaint form to this Service in September 2020 she explained that she was repaying Provident at £20 a week. So, the relationship between Mrs S and Provident existed then, and likely remains now.

Mrs S moved address and in her complaint form Mrs S has said '*...that for some reason my address did not get changed.*' A letter Provident sent Mrs S to her old address in or around June 2020, is the root of the upset here. Later in that complaint form Mrs S explained that she was not '*going after*' Provident. Mrs S has not complained about Provident sending the letter to the wrong address.

A third party obtained the opened letter and telephoned Provident about it. Mrs S maintains that laws have been broken as that third party pretended to be her and was getting information from Provident about her.

Provident has responded to Mrs S' complaint and its final response letter (FRL) explains that the recorded call between a Provident representative in June 2020 and a third party had been listened to by the complaint handler. That person confirmed to this Service

'...no Data Protection Breach, occurred during the conversation with our call handler.'

Since then Provident has explained to our adjudicator that

'A letter was received by a third party at their address which is the former address of the customer. They rang Provident to confirm they have received a letter from Provident but the customer no longer resides there. We thanked them for letting us know, asked if there was a forwarding address which there wasn't and asked the letter be securely destroyed. Absolutely no discussion took place about the customer's personal details as we abide by GDPR.'

Provident's reference to '*GDPR*' is the General Data Protection Regulations.

These facts are a part of the background as Mrs S' complaint form makes it clear she wants a copy sent to her of the June 2020 telephone call between the Provident representative and the third party. Mrs S said on her complaint form

'I would like the recording so I can hear who it was on the phone.'

Our adjudicator, having obtained additional information from Provident, wrote to Mrs S to say that Provident was not going to do that. It had explained to our adjudicator

'..this is with a third party so for their data protection rights we're unable to provide the call.'

Our adjudicator explained to Mrs S that the Information Commissioner (IC) at the Information Commissioner's Office (ICO) deals with alleged data breaches and it would be an option for Mrs S to report it to the IC at the ICO.

Mrs S has said:

'I feel that not only opening my letter then getting someone to be me is very wrong and breeches [sic] my private business and security. It is against the law to open other people's mail and dangerous to make out your [sic] someone when your [sic] not. I'm grateful for your time but I want this matter taken further because they have broken the rules and my private business.'

And

'I feel it is very serious when someone pretends to be you and ask your information.'

The complaint remained unresolved and was passed to me to decide.

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.

I've taken time to give a lot of detail in the '**what happened**' section of this decision. I have considered the GDPR and the relationship between the actions of the parties on the date the June 2020 telephone call took place and the background to the complaint as described by Mrs S and Provident.

Mrs S has not actually complained about the letter being sent to the incorrect address. I do not know the background of how and why Provident were not informed of her new address.

The events of the day on which the June 2020 telephone call was made to a Provident representative may never be totally clear. The persons who will know what was said during the call are the persons involved and the Provident investigator who has listened to that call recording.

I do not have the call recording evidence. What I do have is an assertion by the Provident complaints department investigator that having listened to the call then no data breach in respect of Mrs S' data occurred. I have no reason to disbelieve that assertion, but I have not heard the oral evidence myself.

Even if the call had been sent to me to listen to, this Service is not able to make any determinations about alleged data breaches and if Mrs S wishes to report that element I must reiterate what our adjudicator has said which is that the IC at the ICO is the person to investigate that. So, I leave that element of the complaint there.

I do think it was unfortunate that Provident's representative said in its FRL that it would send a copy of the call recording to Mrs S and then altered its view. Provident thinks it's not able to release a copy of that call recording to Mrs S. Provident is concerned about the very same

sets of rules and regulations about which Mrs S is concerned – protection of personal data. Provident thinks those GDP rules would likely be breached if that call recording was forwarded to anyone else. This is Provident's explanation as to why it has not, and will not, send that call recording to Mrs S or to this Service.

The grounds for its change in opinion (to not send the recording to Mrs S) appear sound as to do so, in its opinion, would have led to a breach or potential breach of the GDP regulations. It is not within my remit to determine whether Provident is right or not as the ICO is the body to investigate that.

I would be going beyond my remit to conclude and direct that Provident must do an action which is contrary to a set of regulations and so I am not going to do that.

And for those same reasons, it does not seem fair or reasonable to contemplate awarding any compensation against Provident for that change of opinion (that is – saying it would send a copy of that call and then deciding not to send it to Mrs S) when the grounds for its change in opinion appear sound.

The background to the complaint is that the reason for Mrs S wanting that call recording is not to establish that Provident has done something wrong, but that, in her view, the third party has done something wrong. I say that for two reasons:

- A) because Mrs S in her complaint form has explained, '*I did tell them it was not them that I was going after...*', the '*them*' in this sentence referred to Provident; and
- B) because Mrs S' explanations to our adjudicator as to why she wished the complaint to be referred to an ombudsman was because she feels that the third party has done wrong.

Having thought about this carefully then I do not think I can make any findings on this aspect as the respondent to this complaint is Provident. The issues Mrs S has are in relation to a third party, but this complaint has been brought against Provident which is what I have been asked to deal with. So, for all of these reasons I do not uphold Mrs S' complaint.

My final decision

My final decision is that I do not uphold Mrs S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 20 September 2021.

Rachael Williams
Ombudsman