complaint

Mr F complains that Provident Personal Credit Limited ("PPC") acted irresponsibly when agreeing to grant him a loan.

background

Mr F took out two loans with PPC in March 2013 and November 2013. The first loan was for £500 and repayable at a weekly rate of £17.50 over a year. The second loan was for £700 and repayable at a weekly rate of £21 over 63 weeks. Mr F said that PPC's agent had talked him into taking the second loan. The second loan repaid the balance of £362 on the first loan. Mr F said that PPC shouldn't have provided him with the second loan, that it had failed to carry out any affordability checks, and that it hadn't asked for proof of his income. He also had another loan commitment at the time. In addition Mr F said that the figures he had provided to PPC relied on his error prone figures which he'd supplied off the top of his head. He couldn't afford the second loan repayments and he wanted PPC to cancel the loan.

The adjudicator recommended that the complaint should be upheld. She'd reviewed the information about the two loans. She could see that PPC had carried out an income and expenditure check before the grant of the first loan relying on the information Mr F had provided. She noted that Mr F had a weekly disposable income of £130, and so the weekly payment of £17.50 a week appeared to be affordable. But Mr F's subsequent payment history showed otherwise. Odd amounts were credited over varying frequencies. She noted that there were four missed payments and five occasions on which Mr F was behind on what he was contractually obliged to pay. So, when the second loan of £700 was granted, the adjudicator thought that PPC should have carried out further checks. She noted that Mr F had said that PPC had simply taken the information from his first loan application. But, as the loan amount and the weekly repayments of £21 were higher than the first loan, and taking into account Mr F's erratic repayment history, she thought that further checks should've been carried out. Mr F then missed a number of repayments, and agreed a reduced repayment plan in May 2014, but didn't keep to this. Because of this, the adjudicator recommended all interest and charges be removed from the second loan, and she said that a new income and expenditure affordability check should be completed with Mr F so as to agree an affordable repayment plan.

PPC disagreed and responded to say in summary:

Income and expenditure information
PPC said that the information provided for both loans was not the same, and that the rent and loan payments varied. Regardless of what information was taken, these loans were affordable according to its policy and on each occasion Mr F was left with £130.00 weekly disposable income to afford the minimal repayments to the loan.

Mr F's responsibility to declare factual and accurate information
On each occasion Mr F signed to verify that the information on the form was true. There was no reason for it to press for further information unless it suspected the information provided was false.

Knowledge of the customer
As Mr F had been issued with an initial loan and then further credit after this, its agent knew him, and his previous payment history would have been used when a further application was

made. The agent in question issued both loans to Mr F and both were based on the affordability information taken and the previous repayment history.

Payment history
Mr F had been making lump sum payments instead of weekly payments. Whilst over time a small number of payments were missed, this didn't suggest financial difficulties. The account was then settled and Mr F benefited from an early settlement balance. On the second loan, the same repayment pattern continued. The payments were consistent amounts and obviously intended to be fortnightly or monthly payments. So, it couldn't agree Mr F didn't understand the payment obligation, or that the loan was unaffordable.

Change in circumstances at the point of issue
In the absence of evidence to show that Mr F's income and expenditure was different for the second loan, the evidence suggested a change in circumstances after the grant of the second loan which it couldn't have foreseen.

Guidance at the time
The loans were issued under Office of Fair Trading ("OFT") guidance which said that it was required to conduct proportionate checks and not question a customer further unless it had reason to suspect the figures provided were incorrect. Given the low amounts of credit provided to Mr F, it said that the checks were proportionate, and it had done enough at the time to assess affordability. The weekly payment for the second loan was low in relation to the disposable income Mr F had available and in taking the new credit, Mr F's previous loan was paid off.

Arrears
Mr F had a very small amount of missed payments in relation to those which became due. The account was then brought up to date and settled when new lending was issued.

Waiver
When Mr F first alerted it to the fact he was struggling financially, it provided him with a reduced payment arrangement. Unless a customer told it he was struggling, it cannot help. The evidence in this case pointed to a change in circumstances.

Responsibility on the customer to declare financial hardship
Mr F didn't tell it he was suffering financial difficulties, and so the second loan was granted. Mr F had never told it he was suffering financial hardship and continued to make payments without raising these concerns.

Credit File checks
At the time, it wasn't required to perform credit file checks. The only way it would have known about possible adverse information on Mr F's credit file would be if he had declared this. He didn't do this.

Recent Ombudsman outcomes
It referred to two other complaints but accepted that each case is assessed on its own merits.

my findings

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

I note that at the time of the grant of the two loans, lenders were required by the Office of Fair Trading's ("OFT") guidance on irresponsible lending to undertake a reasonable assessment of affordability. Lenders were obliged to consider sufficient information to be able to reasonably assess a borrower's likely ability to be able to meet repayments in a sustainable manner without the borrower incurring (further) financial difficulties and/or experiencing adverse consequences. The guidance set out a number of things that a lender might wish to consider when assessing affordability. The assessment must be based on sufficient information obtained from the borrower where appropriate. Information to be considered includes some or all of a record of previous dealings, evidence of income and expenditure, information from the borrower and a credit report.

I have carefully examined the circumstances surrounding the agreement of the two loans. PPC said that the loans were affordable according to its policy. I note that Mr F completed and signed a customer details form for each of the loans. He said that the information he provided was error prone and off the top of his head. So I think that PPC's agent should have realised that the information may not have been entirely accurate.

It is also clear to me that the information given on each form is different. On the first loan, the customer details showed no other credit products held, that Mr F had two dependents and was self-employed, earning £500 per week and paying £120 per week rent and £250 other outgoings. On the second loan, the customer details showed that Mr F was married with three dependents. He now had a credit card and whilst his rent had reduced to £100, he now had another weekly loan repayment of £20 to pay. Even though the disposable net income remained the same on the two forms, I think that the differences in the details between the two forms should have prompted further checks, especially taking into account the additional dependent and credit products. The unusual reduction in rent should also have been queried. And as the second loan was sold in Mr F's house, I would have thought that proof of income and expenditure could have easily been obtained if requested.

I also note that PPC said that Mr F had a very small amount of missed payments in relation to those which became due. But I have checked Mr F's repayment history for his first loan and I can see that in the eleven weeks before the grant of the second loan, Mr F paid a total of only £140 instead of the £192.50 due. As Mr F missed over 27% of his repayments for this period, I don't think that this could be described as a very small amount, and I think that this should have suggested to PPC that he had financial difficulties. In addition, I agree with the adjudicator that this recent payment history should have prompted further affordability checks rather than a reliance on the information provided by Mr F.

And as Mr F had been struggling to meet the repayments of £17.50 for the first loan, it is also concerning that the repayments for the second loan were increased to £21 per week for another 63 weeks.

PPC has also referred to previous complaint outcomes from this service, but, as PPC has acknowledged, each complaint is decided on its own facts and merits.

So, in view of the differences in circumstances shown on the customer details form, the unsatisfactory repayment history for the first loan, and the increased loan repayments for the second loan, I think that PPC should have carried out further affordability checks. I think it needed these to be able to reasonably assess his likely ability to be able to meet his repayments in a sustainable manner without incurring financial difficulties. So, I don't think from what I've seen that the information requested by PPC from Mr F was sufficient for it to make an adequate credit assessment of Mr F's ability to repay the second loan. I am therefore not surprised that Mr F couldn't make regular repayments for the second loan. I note that Mr F was only able to repay £110 in the first twelve weeks and not the contracted £252. He then paid nothing more for the next twelve weeks, and then £20. A repayment arrangement was then agreed of £10 per week, but Mr F couldn't keep to that and only paid £160 in the next 58 weeks.

Whilst I accept that Mr F had a responsibility to give PPC accurate information about his income and expenditure, I think that PPC had a greater responsibility to ensure that its lending was affordable. Overall, I don't think PPC has acted appropriately. So, I agree with the adjudicator that PPC should:

- Remove all the interest and charges it had applied on the second loan; and
- Arrange an affordable repayment plan for Mr F to pay back the balance of the capital which he had borrowed on the second loan (minus all interest and charges).

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of it, I order Provident Personal Credit Limited to:

1. Remove all the interest and charges it had applied to Mr F's second loan; and
2. Arrange an affordable repayment plan for Mr F to pay back the balance of the capital which he had borrowed on the second loan (minus all interest and charges).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 30 August 2016.

Roslyn Rawson
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