

## **complaint**

Mr S complains that Provident Personal Credit Limited gave him two loans without carrying out affordability checks. He wants the outstanding balance written off and the default removed.

## **background**

Mr S says the affordability checks were falsified and it is not his signature on the affordability form. He doesn't think he should have been given the two loans and that they should be written off. He says the information on the second loan was false as it says he has two dependents when he only has one.

The adjudicator upheld the complaint. She said that Mr S took out two loans with Provident; one for £495 that he paid off, the second was for £1,274. She did not think Provident should have lent Mr S the second loan as it did not correctly carry out the affordability checks. She recommended that Provident write off interest of £574 and should only pursue Mr S for the capital of £700. She also wanted it to remove the default.

Mr S wants compensation for the stress suffered and also because he says the agent was fraudulent. Furthermore, he has recently received a letter from a debt collector.

Provident did not agree, in summary, it says it correctly carried out affordability checks. In the original complaint form, Mr S says he didn't sign the loan documentation, yet his signature is on the form. The agent who issued the credit was on the fraud system, but Mr S was not visited as part of the fraud allegation. Provident also referred to recent ombudsman decisions which state the affordability checks must be proportionate. And it did not suspect the information on the affordability check was untrue. Furthermore, Mr S waited 3-4 years to complain about affordability.

The adjudicator maintained her view. She did not base her decision on the affordability form being forged. She said Mr S has had the benefit of the funds and if he suspected something he should have questioned the situation rather than just accepting the funds. She did think that Provident should have made checks to see what rent or mortgage he was paying. Reasonable checks would have led Provident to obtain bank statements that would show Mr S was gambling.

## **my findings**

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

### *allegation of forged affordability document*

Mr S says he did not complete or sign the affordability document. The agent fraudulently completed this. I have looked at the signatures on the various documents and they appear to be the same. I agree with the adjudicator that if Mr S had concerns about the agent and the affordability document he would not have accepted the money, but questioned the loan at the time. He accepted the money and has had the benefit of it.

### *affordability documents*

I do not find that the affordability document was fraudulently completed, but I do agree with the adjudicator that the information provided was limited and should have prompted Provident to make some further enquiries into Mr S's financial circumstances. In particular Mr S left the rent/mortgage section blank, and I would expect Provident to make further enquiries. Mr S ticked that he is unemployed but says his income is £200 a week. No further enquiry was made about where this income came from, when it is clearly in excess of any Job Seeker's Allowance. Although Mr S took out the loan and provided information to get it I don't think that this is enough for me to say Provident acted responsibly. Mr S wanted and needed the loan presumably due to his gambling. Even though on the face of it Mr S appeared to be able to afford the loan, I don't think this is enough to say that the loan was affordable when there was no indication of where this income came from. And there was no breakdown of his outgoings or the costs for the dependent. Mr S paid off his previous loan, but it was for just under £500, the second loan was over twice as much and so further checks should have been completed.

#### *the two loans*

I agree with the adjudicator that as the first loan was for £495, the checks did not need to be as stringent as the checks for the loan for £1,274. I agree with the adjudicator that further enquiries should have been made to see if the loan for £1,274 was affordable. If further checks had been carried out it is likely they would have revealed that the loan was not affordable.

#### *previous ombudsman decisions*

Provident has said that in other similar cases, ombudsmen have not upheld the cases. But each case is decided on its own facts and is based on what is fair and reasonable in the circumstances of the individual case. We are not bound by what is decided in other cases, but must look at what is fair and reasonable. The information provided was vague and should have prompted Provident to carry out further checks. Provident has also said that Mr S waited 3-4 years before raising affordability, but just because he delayed raising this does not mean the loan was affordable or the correct checks were completed.

I agree with the adjudicator that in respect of the first loan for just under £500, Provident are not required to take any action. This was a smaller loan and has been paid back. Regarding the second loan, Mr S has had the benefit of the money so I think it is only fair that he pays it back, but I agree with the adjudicator that all interest should be removed and Mr S should just be required to pay back the capital of £700. Further, all information recorded on Mr S's credit file about this loan should be removed.

I would expect Provident to come to an affordable arrangement with Mr S to pay this back.

I do not find it fair and reasonable to award any compensation as I do not find that the agent fraudulently signed the documents.

#### **my final decision**

My final decision is that I uphold this complaint. In full and final settlement of it Provident Personal Credit Limited should do the following:

1. Write off the interest of £574 and any charges and just pursue Mr S for the capital of £700.
2. Remove all information recorded on Mr S's credit file about this loan.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 May 2016.

Clare Hockney  
**ombudsman**