

complaint

Ms W has complained that Provident Personal Credit Limited is unfairly pursuing her for repayment of a loan, which was taken out fraudulently in her name.

background

A loan was taken out with Provident, in Ms W's name. She's explained that this formed part of a larger fraud, perpetrated against her by her ex-partner. She's said that she didn't take out the loan, authorise it, or benefit from the funds.

Ms W has explained that her ex-partner told her that, for various reasons, he'd need to pay his salary into her bank account. She would then withdraw funds – which she believed formed part of his salary – to give to him. She later found out that in fact the money came from a number of loans. One of these was from Provident. When she discovered this, she reported the matter to the Police and was referred to a fraud agency. Although she's continued to pursue it, no formal action has yet been taken, and it seems it may well not be.

Ms W has complained that Provident is holding her liable for the debt.

Two of our adjudicators looked at this complaint. They both recommended that it should be upheld. This was because they thought Ms W had been a victim of fraud, and agreed that she'd not applied for, authorised or benefited from the loan.

Provident disagreed, for a number of reasons. In summary, I consider its key points to be:

- Ms W gave her ex her bank card and PIN;
- the Police and the fraud agency haven't taken any action;
- Ms W should have seen from checking her account that loans were going in, and that these were sporadic, unlike a regular salary;
- she has continued to be in contact with her ex; and
- Ms W's ex appears to have sent her a cheque for the loan amount, but she hasn't used that to pay off the loan.

The complaint's now been passed to me for my final decision.

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 find Ms W's account of what happened to be both persuasive and consistent. I'm satisfied that her ex likely did convince her that his wages needed to be paid into her account. I don't think she was unreasonable in believing this, as at that point she wasn't aware he was untrustworthy. I don't think it relevant that the purported 'wage payments' were somewhat sporadic. For example, many people receive pay on completion of particular jobs, rather than on a set monthly date.

Provident has raised concerns that Ms W didn't check her account for three weeks. I don't think there's anything untoward or unreasonable about this. And – as soon as she checked it and realised what had happened – she reported it.

There also appears to have been a misunderstanding about how Ms W's ex accessed the funds. Ms W has explained he never had her card or PIN – rather, she took the money out herself to give to him. I think this is plausible and, on balance, I think is likely what happened.

I accept that it seems no formal action is to be taken against Ms W's ex – or at least it hasn't been yet. There may be many reasons why the Police don't choose to take action. I don't think that means there wasn't a fraud. Nor do I think it means Ms W was implicated in any way.

I also accept that Ms W has had some limited contact with her ex. No doubt she felt she had personal reasons for this. I don't think it's enough to persuade me of her involvement in the matter.

I've also seen an image of the £1,000 the ex says he'd send to Ms W. I've seen no evidence that he did send the money. In fact, it supports the position that he appears to accept that it's actually him who owes the money, and he was trying to placate Ms W by saying he'd send it. Clearly though, if Ms W ever does receive the money, I'd expect her to pass this to Provident.

In summary, I've seen no evidence to persuade me that Ms W took out the loan, authorised it, was negligent, or benefited from it. Because of this, I think it fair that Provident stops pursuing her for repayment of the money. I also think it fair for it to pay her £50 compensation for the trouble caused by the stance it has taken.

my final decision

For the reasons given above, it's my final decision to uphold this complaint. I require Provident Personal Credit Limited to:

- a) cancel the loan;
- b) refund any amounts Ms W has paid back;
- c) remove any record of the loan from Ms W's credit file; and
- d) pay her £50 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms W to accept or reject my decision before 3 March 2016.

Elsbeth Wood
ombudsman