

complaint

Miss P has complained that Provident Personal Credit Limited lent to her irresponsibly.

background

Miss P took out a few loans within a short period of time through Provident in 2015. In July 2015 Miss P's father (referred to throughout this decision as Mr P, who is also Miss P's representative) contacted Provident to explain his daughter was vulnerable because she suffered from physical and mental health issues.

Miss P's father says that during the phone call it was agreed that his daughter shouldn't be able to take out further loans, and he says the call handler agreed to this.

Miss P then took out a further loan in July, another in August and another in October.

Miss P's father was unhappy that Provident allowed her to take out further loans following the phone call and so complained on his daughter's behalf.

Provident didn't uphold Mr P's complaint. It didn't believe it'd lent irresponsibly and said it couldn't find a copy of the phone call where Miss P's father said he told them Miss P was vulnerable, or that it should no longer lend to her.

It explained that the amounts lent to Miss P weren't excessive and affordability checks had been carried out. It also said its advisors were trained to notice if someone is going through a mental health episode, and thought that Miss P had the capacity to agree to the borrowing each time this had taken place.

Miss P and Mr P weren't happy with Provident's response so the complaint was referred to us.

The investigator looked at the complaint and her view was that Provident shouldn't have continued to lend to Miss P after her father told them she was suffering from mental health problems in July 2015. She also felt that the fact Miss P's father had repaid the debts was further indication that she was unable to make the repayments herself.

The investigator recommended Provident refund the interest on the three loans that were taken out after the phone call in July plus 8% simple interest. She also recommended Provident should remove all record of the loans from Miss P's credit file.

Provident didn't agree with the investigator's opinion so the complaint has now been passed to me for a 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.

Having done so, I've decided to uphold the complaint for broadly the same reasons as the investigator. I think Provident lent irresponsibly to Miss P from 28 July 2015 onwards and I've explained why below.

In my view Provident was put on notice, after Mr P called them in July 2015, that to lend to Miss P in the future would be irresponsible as she couldn't manage her debts. What was actually said during this call isn't entirely clear. Mr P recorded the call himself and wanted to send it to us, but we weren't going to be able to listen to it because it was on a cassette tape. And while Provident told us it couldn't find the call, it did eventually send us a copy, but not in an accessible format.

Mr P says he told Provident his daughter has health issues and is vulnerable. He says he asked the call handler not to let Miss P take out further loans. He's told us the call handler agreed to his request, and told him she would let the agent(s) know. He also paid off the outstanding loan balance at the time.

I find Mr P's testimony persuasive. I say this because he was forthcoming in offering us the evidence to prove what was said during the call, even if we didn't have the resources to listen to it. And Provident, who has listened to the call, has also told us that Mr P told them his daughter was vulnerable, and confirmed that a card payment took place during the call. This reflects part of Mr P's testimony. And I don't think Mr P would've told Provident his daughter was vulnerable, paid off the debt and not said anything further. This is because he's expressed a great deal of concern over his daughter taking out further loans in the future. So I think the rest of his account is probably a fairly accurate reflection of what else was said during the conversation.

Provident has argued that the fact Miss P's father was able to pay off her loans isn't an indication that she wasn't able to repay the loan. I appreciate Provident's point, and I accept that just because Mr P was able to pay off her debts doesn't mean that he had to. But coupled with the fact that Mr P told Provident his daughter was vulnerable, at the same time as paying off her loan, I think Provident ought to have been sufficiently alerted to the fact that it may be irresponsible to allow Miss P to borrow more money. So it's disappointing that she was provided with further loans, seemingly without any particular consideration of her vulnerable state, one of which was less than two weeks later.

Provident has also said that while it accepts Mr P made them aware his daughter was vulnerable, if he hadn't wanted them to lend to his daughter again, it would've expected him to raise this issue as a formal complaint, and fully advise them of his daughter's health issues. I don't think it's fair that Provident expected Mr P to raise a formal complaint before it would act on what he'd told them, or known he needed to do so if Provident didn't explain this to him. I also don't think it's fair to have expected Mr P to have gone into any further detail as to his daughter's health.

Provident has remained unconvinced as to how Miss P's mental health issues affected her decision making, or how they impacted their decision to lend to her. It has argued that the letter from Miss P's GP doesn't make it clear that she was going through a mental health episode at the time the loans were provided, and it says a consumer needs to express signs of mental illness in order for an advisor not to approve the lending. But I think the letter from Miss P's GP supports what Mr P has said about Miss P. The letter explains that Miss P is in a very vulnerable position, and is under the care of a community mental health team. In my view, this suggests that Miss P's mental health issues aren't minor. And I'm afraid that I don't agree it's always possible for someone who isn't medically trained to recognise the signs of a mental illness. I'm minded to put more weight on the opinion of those who know Miss P much better – in this case her father and her GP.

So looking at everything, on balance, I don't think Provident should've lent to Miss P after her father informed them his daughter was vulnerable in July 2015.

putting things right

Mr P has since paid off the loans. And Miss P did have the benefit of them so I don't think it'd be fair to give all the money back. But given I'm satisfied Provident Personal Credit Limited has done something wrong, I direct it to:

- refund the interest on the three loans that were taken out after Mr P informed them of his daughter's vulnerability. For clarification the loans in question are those taken out on 28 July 2015, 14 August 2015 and 14 October 2015;
- remove all record of the above loans from Miss P's credit file; and
- take into account the information it has about Miss P, and the findings in this decision, before it decides to lend her any money in the future.

my final decision

For the reasons set out above, I uphold Miss P's complaint against Provident Personal Credit Limited. I require Provident Personal Credit Limited to follow the requirements set out in the 'putting things right' section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 19 September 2016.

Katie Doran
ombudsman