

complaint

Mr A complains that Provident Personal Credit Limited acted irresponsibly in lending to him when he was already in financial difficulty, and continued to increase its lending without checking that it was affordable by him.

background

Mr A says he contacted Provident in July 2009 in response to an email he received from it. At the time he had defaulted on several existing loans and had a court judgment against him from a utility bill. Nevertheless Provident lent him £500 in October 2009 (loan 1). In February 2010, Provident's collection agent offered him a further loan of £200, which he accepted (loan 2).

Mr A says he asked Provident's agent in May 2010 if he could reduce his weekly repayments. But Provident said he couldn't as he had only recently taken out loan 2. In the summer of 2010 he was struggling to pay other debts, and also borrowing elsewhere. In September 2010 he asked Provident's collection agent again about lowering his repayments.

The agent said he could take out a new loan of £900 repayable over two years. From this he could repay what he owed on loans 1 and 2 (£438 altogether) and receive the balance. This would reduce his weekly repayments from £24.50 to £18. Mr A agreed to take out this loan (loan 3) in September 2010.

In January 2011 Provident's collection agent offered Mr A a further loan of £300 repayable at £10.50 a week over 50 weeks, which he accepted (loan 4). Provident also lent his wife £400 in May 2011 (loan 5) which increased what the family was paying each week to £42.50.

Throughout this time Mr A was in financial difficulties. He wasn't aware that Provident had checked to see if his loans were affordable, or done any credit checks which would have revealed his other debts and arrears.

In July 2016 Mr A read an article about payday/door step lenders treating customers unfairly. He said he looked back over his dealings with Provident and felt it hadn't treated him fairly, especially when he was having payment difficulties. When he was struggling to pay his existing loans, its solution was to lend him more money instead of accepting lower repayments and directing him to debt help. So he complained to Provident.

Provident didn't accept his complaint. It said that with the passage of time and changes in its personnel it wasn't possible now to assess the circumstances surrounding the making of these loans. It had completed all the regulatory checks required at the time, which didn't include checking Mr A's credit record.

It said that its records showed that certainly for loan 4 Mr A had completed an income and expenditure account, which indicated that the loan was affordable at the outset. And its payment records showed that initially at least he had made regular repayments for the various loans. So it didn't accept that its lending had been irresponsible.

Mr A had made requests for further loans since 2011, which Provident had refused. From January 2013 onwards it had also assisted him by accepting reduced repayments.

Our adjudicator didn't recommend that this complaint should be upheld. She said that we had to follow the rules which governed us – the Financial Conduct Authority's (FCA) Dispute Resolution ("DISP") Rules.

DISP 2.8 said that we couldn't consider a complaint if it was brought to us more than:

- (a) six years after the event complained of; or (if later)
- (b) three years from the date on which the complainant became aware (or ought to have become aware) that they had cause for complaint;

unless the complainant referred the complaint to the lender or to us within that period and had a written acknowledgement or some other record of the complaint having been received.

Loans 1 2 and 3 were taken out more than six years before Mr A complained to us in November 2016. Mr A complained that Provident lent to him before he had repaid existing loans. But this was something he knew at the time. So the adjudicator didn't think we could consider his complaint about loans 1 2 and 3. And loan 5 was made to his wife, so we could consider this as part of Mr A's complaint.

The adjudicator thought loan 4 was made in accordance with the guidelines about affordable lending as they existed at the time. Provident had carried out an affordability check before making this loan, and had also taken Mr A's previous repayment history into account. So there wasn't anything to suggest to Provident that the loan was unaffordable at the outset.

Mr A responded to say, in summary, that:

- it was only in 2016 - less than three years ago – that he realised that Provident's business approach was unprofessional, and that it had treated him unfairly;
- the fact he managed to make payments to Provident didn't mean the loans were affordable – he was struggling to meet household expenditure and pay other bills and debts;
- Provident had offered more loans without doing proper affordability checks – it kept him in a vicious debt circle and didn't give him breathing space to see what was best for him; and
- his payment book for loan 4 showed he had taken much longer than its term of 50 weeks to repay this, at the same time as repaying loan 3 which still wasn't cleared. So this lending by Provident was clearly too much for him.

The adjudicator still thought that Mr A had been aware of the main point of his complaint – that Provident was offering new loans before his old loans were repaid and so getting him into a spiral of debt – at the time the loans were being made, and so loans 1 2 and 3 were outside our jurisdiction.

She was satisfied Provident carried out proportionate affordability checks at the time before making loan 4. It had also taken into account his previous repayment history. This was all Provident would have been required to do to assess affordability at the time under the less stringent requirements which then applied.

Mr A had told Provident his weekly income was £500, and weekly outgoings were £451, leaving a weekly surplus of £49. The adjudicator had looked at Mr A's bank statements from the time, from which it appeared that this information wasn't entirely correct. Because Mr A hadn't given Provident accurate information, she couldn't hold Provident accountable for the loan being unaffordable.

Mr A didn't agree, and so this complaint has been passed to me to issue a 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 don't think Mr A became aware in 2016 of any facts about his earlier loans which he didn't know at the time. So under our rules which are set out above I don't think I can consider Mr A's complaints about the circumstances under which Provident gave him loans 1 2 and 3. And I also agree that it's not appropriate in this complaint by Mr A for me to consider loan 5, which was made to Mr A's wife.

For the reasons the adjudicator explained, I think Provident took sufficient steps to check that loan 4 was affordable by Mr A in accordance with the requirements that applied at the time. However the information Mr A supplied to Provident wasn't entirely accurate. So if loan 4 proved to be unaffordable, I can't say this was Provident's fault.

my final decision

For the reasons I have set out above, my decision is that I don't uphold this complaint, and make no order against Provident Personal Credit Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 21 April 2017.

Lennox Towers
ombudsman