complaint

Mr H says Provident Personal Credit Limited “Provident” irresponsibly lent to him.

background

This complaint is about one payday loan Provident provided to Mr H on 10 July 2017 for £700. The loan was due to be repaid in 12 instalments of £116.20.

Our adjudicator upheld Mr H’s complaint and thought that Provident would have seen that Mr H had a high level of indebtedness and that it was likely he had problems managing his money. Provident disagreed and the complaint was passed to me.

my findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint. We’ve set out our general approach to complaints about short-term lending - including all of the relevant rules, guidance and good industry practice - on our website.

Provident needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr H could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer’s income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Provident should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer’s income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.
Provident was required to establish whether Mr H could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr H's complaint.

Before agreeing to lend to Mr H, Provident says it checked Mr H's monthly income and living expenses. Mr H declared his monthly income as being £2,230 and his monthly expenses as £1,200. Provident says it added a buffer of £65 to Mr H's declared expenses.

Provident also searched Mr H's credit file and Mr H has provided a copy of his credit report and from what I can see, Mr H had two defaults recorded on his file in 2016 and he was in arrears and payment arrangements with at least five other creditors. And in May 2017 – two months before this loan, Mr H entered a debt management plan on another account.

The partial credit search results from Provident show in summary that it checked Mr H's IVA and bankruptcy status and it found that Mr H was in a debt management plan.

Given the amount of adverse information on Mr H' credit file, which I think Provident likely saw, it should've seen that lending to Mr H in these circumstances was increasing his indebtedness. Mr H had to repay several other debts which took up most of his income. Also, I think Provident should have been concerned that Mr H had problems managing his money and it shouldn't have lent to him.

putting things right – what Provident needs to do

I understand there's still an outstanding balance on the loan. So Provident should rework the loan to remove all interest and charges and to treat any payments made as if they were payments towards the principal. If Mr H has already paid Provident more than £700, it will need to refund any amount above this adding 8% simple interest per year† from when Mr H made the overpayments until the date of settlement.

If Mr H has paid less than £700, I remind Provident should treat him positively and sympathetically in relation to any repayment plan.

Provident should also remove any adverse information it has recorded about the loan from Mr H's credit history – but it only needs to do this once the loan has been repaid.

† HM Revenue & Customs requires Provident to take off tax from this interest. Provident must give Mr H a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons given above, I'm upholding Mr H's complaint. Provident Personal Credit Limited should pay Mr H compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 2 October 2019.

Oyetola Oduola
ombudsman