

complaint

Miss C complains that Provident Personal Credit Limited (Provident) irresponsibly lent to her. She also says that they failed to respond sympathetically to her when she contacted them and explained her financial difficulties.

background

Miss C was approved for three loans by Provident. Two of them were set up in 2007 one of these was for £330 and the other for £168. The third loan was established in 2011 just short of six years before Miss C brought her complaint to Provident. It was for just over £270. Miss C says that in all cases Provident failed to take into account her poor financial performance. She explains that she had other loans at the time and had defaulted on payments to them. So she wants Provident to refund the interest she has paid on these loans.

Provident initially suggested that we did not have jurisdiction to look at the loans from 2007 as they referred to actions that took place more than six years ago and these were time barred. But our investigator explained Miss C had only become aware in the last three years of the potential to reclaim interest on irresponsible borrowing and he explained that, in that case, we did have jurisdiction.

As the loans were made so long ago the information Provident could supply was a little limited as they no longer had all of the information. But they did confirm that in 2007 Miss C had provided them with a statement of earnings and expenditure that suggested she would have a disposable income of £70 after her expenditure of £100 was taken into account. They said that as the repayments on these two loans were only £9 per week they were satisfied that Miss C could afford them. Provident also provided information about the 2011 loan. They said that at that time Miss C had suggested she had a weekly income of £95 and a disposable income of £54 so they didn't think the repayments of £5 would be a difficulty.

Our investigator agreed with Provident. He thought Miss C had a responsibility to report accurate information to them when she signed the customer detail form. And he thought the information she'd provided would have suggested her disposable income was enough to afford the relatively modest repayments, especially as the 2007 loans were paid off by the time Miss C took out her 2011 loan.

He didn't think it was wrong for Provident not to have checked the information that Miss C gave them as he said their checks should be proportionate to the amount they were lending and these sums were relatively small. So he thought they could have relied on the information they'd been provided by Miss C and also on her previous credit performance when making their decisions.

He said that Miss C had a good repayment history with Provident and he noted that she hadn't missed any payments towards her agreement and her credit file was good at the time of her applications. He also noticed that the default Miss C had reported was in the same month as her loan application so he didn't think Provident would have been able to take that into account. And he could not find any evidence to suggest that Miss C had told Provident about her financial difficulties so he didn't think it would be fair to suggest they knew about them or needed to take any further action.

But Miss C disagreed and she asked for a final decision by an ombudsman.

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 know it will disappoint Miss C but I agree with the investigator's view. Please let me explain why.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

I do not have a free hand to investigate all of the complaints that are referred to me. I cannot consider a complaint that is outside of the jurisdiction of this service. Our rules say that I can't consider a complaint if the complainant refers it 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 reasonably to have become aware) that she had cause for complaint.

In this instance whilst the 2007 agreements were made more than six years ago I am satisfied with the investigator's opinion that Miss C didn't become aware of the potential to reclaim interest and therefore have a cause to complain, until much later and as this was within three years I think we can, and should, consider all of the loans.

Before agreeing to provide a loan a business should check that the loan is affordable. The type of checks which a business should carry out should be proportionate, so (for instance) a mortgage lender will ask for bank statements and payslips, but a catalogue offering a low credit limit doesn't have to go into so much detail.

In considering this complaint, I've looked at whether Provident carried out proportionate checks, and at what information they had been given about Miss C's financial circumstances. The loans were taken out some time ago and Provident have limited information about them. I don't think this is unusual but I think enough information has been provided for me to make a decision about the lending.

The methods Provident used to establish affordability were for them to decide but the practices and procedures they used had to be effective. And the depth of their analysis could be proportionate to the amount of money being requested.

Miss C's repayments and loans were relatively modest so I am persuaded that Provident didn't have to apply extremely stringent analysis when authorising them – their analysis could be proportionate and I think it was acceptable to rely on the information Miss C provided them.

Of course this information could have been exaggerated, and Miss C tells us that it was, but Provident also had her previous repayment history to rely on when they approved her 2011 loan – and this history was very good. They also had information on her credit file but I can't see there was anything there that would have raised concerns. As the investigator has said, the default didn't appear until later. I agree with him that this would not have necessarily resulted in them rejecting Miss C's application anyway because they specialise in supplying loans to those with lower credit scores and the additional risk they take on is balanced by the higher interest rates they charge.

Had Miss C told Provident that she was in financial difficulties I would have expected them to have been sympathetic and to have taken this information into account when considering whether to authorise further loans. But I've not seen evidence that this happened so it would not be reasonable of me to suggest Provident were aware of Miss C's circumstances.

So I think there was nothing to imply Miss C was not creditworthy for the relatively low level of lending she was applying for and I don't think I can reasonably say that Provident did anything wrong or need to take any further action.

my final decision

For the reasons I've given above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 19 April 2018.

Phil McMahon
ombudsman