

complaint

Miss E complains that Provident Personal Credit Limited wrongly lent her money she couldn't afford to pay back.

background

Miss E said that the business didn't carry out proper affordability checks and allowed her to borrow when she was in financial difficulty. She says that this has led to a spiral of debt and she has been unable to afford to repay her loan and has had to set up a repayment plan.

Our adjudicator recommended that the complaint should be upheld. He thought that Provident should've carried out more checks to see if Miss E could afford to repay what she was borrowing. He thought that looking at Miss E's borrowing and repayment history this should've alerted Provident that Miss E was in difficulty and couldn't meet her credit commitments. Miss E complained about all the loans she had from Provident but the adjudicator explained that he couldn't look at all of these because of our rules on the timescales for bringing complaints. But he thought that the last two loans shouldn't have been given taking into account Miss E's history and her income and expenditure. Provident didn't respond to the adjudicator's view until after the case had been allocated to me. It provided information about its checking and said that the loans were given correctly.

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 have reached the same conclusions as the adjudicator for the same reasons.

I can't see that any proper affordability checks were carried out by Provident when approving the last two loans to Miss E. For the loan of £300 taken out in 2013 Miss E explained that she had £275 a week coming in and £250 going out. The sections of the form I have seen have no figure for rent or mortgage and the £250 figure is a total for "other regular outgoings" but it isn't clear what these include. This leaves Miss E with £25 per week disposable income and the loan repayment is £10.50. I can't see from the paperwork provided that the figure for Miss E's outgoings was properly assessed as reasonable. Miss E had struggled to make payments on previous loans and the repayment was a significant proportion of her disposable income.

I think that the loan was unaffordable given the difficulty Miss E had in repaying it. After the first few weeks Miss E regularly missed payments or paid under the agreed amount. This further suggests that the loan was unaffordable for her.

In December 2014 Miss E refinanced the balance on the previous loan and took out further total borrowing of £500. In her application Miss E said that she had weekly income of £262 and weekly outgoings of £87. This gave Miss E a weekly disposable income of £175. This would seem to be inconsistent with her previous application and also inconsistent with her repayment history on the previous account. She struggled to make her agreed repayments of £10 despite having £175 a week spare. I would've expected Provident to ask Miss E more questions about her circumstances and carry out more robust checking. Miss E had struggled to pay £10 per week and the new loan increased her weekly repayments to £17.50.

Although Miss E took out the loans and provided information to get them I don't think that this is enough for me to say Provident acted responsibly. Miss E wanted and needed the loans because of the spiral of debt she was in. As far as I can tell Provident didn't verify what Miss E's income and outgoings were and didn't properly assess the figures she gave. Asking Provident to refinance the loan with her repayment history and increasing her borrowing suggests Miss E was in financial difficulty and couldn't properly meet her credit commitments.

Even though Miss E made payments towards the loans, I don't think this is enough to say that they were affordable. Miss E was missing payments and paying less than the agreed amount. She was also re-financing and taking on extra borrowing. I think that this clearly suggests that the loans were unaffordable. Lending Miss E money in these circumstances without carrying out more robust checking was irresponsible. I have taken into account the fact that the loans were smaller than mainstream lending and checks should be proportionate. In my view, the checks that were carried out by Provident weren't enough given Miss E's repayment history and pattern of borrowing.

Miss E has had the benefit of the money so I think it is only fair that she pays it back but I agree with the adjudicator that all interest or charges incurred on the last two loans should be refunded and all information recorded on Miss E's credit file about these loans should be removed. If there is an outstanding balance after the refund then I would expect Provident to arrange a suitable repayment plan with Miss E.

my final decision

My final decision is that I uphold this complaint. In full and final settlement of it Provident Limited should do the following:

1. Refund any interest and/or charges applied to the final two loans taken out in 2013 and 2014 together with 8% simple interest per year from the time that the interest and charges were paid to the time Miss E gets it back.
2. Remove all information recorded on Miss E's credit file about these loans.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss E to accept or reject my decision before 15 August 2016.

Emma Boothroyd
ombudsman