

complaint

Mrs H complains that it was irresponsible for Provident Personal Credit Limited to have lent to her and that the loans were unaffordable. She's being helped with her complaint by her husband.

background

Provident made five loans to Mrs H under fixed sum loan agreements that she signed between October 2008 and May 2011. The first loan was for £200 and was repaid early in June 2009. The second loan was made in June 2009 for £500 and was repaid early in April 2010. The third loan was made in April 2010 for £1,000 and was closed in November 2013 with an outstanding balance of £767.89. The fourth loan was made in September 2010 for £300 and was repaid early in May 2011. The fifth loan was made in May 2011 for £500 and was closed in November 2013 with an outstanding balance of £831. The outstanding balances were sold to a third party in August 2014. Mrs H complained to Provident earlier this year and said that she didn't have the capacity to obtain credit, affordability checks weren't properly completed, she was in a debt management plan, previous complaints hadn't been responded to and that she'd received no communication from Provident since she moved in 2015.

Provident said that it made proportionate checks before lending to Mrs H, the loans were affordable for her, it had no knowledge of a debt management plan until December 2013 and it wasn't aware of Mrs H's medical issues. It said that Mrs H's debt was sold to a third party in August 2014 but that, given her situation, it would buy back the account and close it with no further payments required and it sent her a cheque for £30 for the delays she'd experienced. Mrs H wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. She said that Provident had followed its lending process correctly and that Mrs H's payment history suggested that Provident didn't have any reason for rejecting her loan applications on the basis of affordability. She said that Provident became aware of Mrs H's debt management plan in December 2013 – but that was after her last loan application had been approved. And Provident says that Mrs H's medical issues weren't brought to its attention until her complaint was made - which was after the lending processes had been completed. She thought that it was fair for it to buy back the debt from the third party and close the account – and that £30 was a fair and reasonable amount for the inconvenience that Provident had caused by delays in its final response to Mrs H.

Mrs H's husband – on her behalf - has asked for this complaint to be considered by an ombudsman. He says, in summary, that Provident didn't carry out the correct affordability checks to see if Mrs H was giving the correct information and that her health issues meant that she didn't have the mental capacity to make her financial decisions. He says that his income at the time of the fifth loan was £437 each month (not weekly) and that Provident was aware of Mrs H's medical issues in 2008 because her income came from disability benefit. He says that Mrs H's debts are included in the debt relief order so Provident buying back the account and closing it does little to benefit Mrs H. And he says that their other complaints have been upheld. He also asked for copies of the loan agreements and the payment history – and they were provided by the investigator.

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 consider each complaint on its individual merits – so the outcome of other complaints won't affect my findings on this complaint.

Provident has provided copies of the loan agreements and Mrs H's payment history. It says that an assessment of Mrs H's circumstances was made by confirming employment details, reviewing proof of ID and documenting details of income and expenditure. It says that it no longer has the records to show what information was provided by Mrs H for the first four loans – and it says that this service has no jurisdiction to consider the loans made in 2008 and 2009. But it has previously confirmed that this service could consider those loans – and I consider that it would be appropriate in these circumstances for me to do so. The payment history for the loans shows that Mrs H was able to make the payments due on the loans each week (with a few exceptions) until about August 2011. She repaid the first two loans early and her payment history on the third loan was good until about August 2011. The fourth loan was repaid early and the fifth loan also had a good payment history until about August 2011. The fifth loan agreement shows that Mrs H was a homemaker and that the weekly household income was £437 (with a disposable weekly income of £206.50) at the time of that application. Mrs H's husband says that his income was recorded incorrectly – but Mrs H signed the application to say that she understood: *“that the information on this form, which I declare to be true, will be held by Provident Personal Credit Ltd”*. Mrs H also signed the first four agreements which included a declaration which said:

“I confirm that I have thought about my finances and that I can afford to repay the loan at the weekly payments level (i.e rate) set out in this agreement. I confirm that I am not currently in receipt of, nor seeking, nor thinking about seeking advice or assistance regarding debt re-structuring from any body, business or agency involved in the provision of debt management advice.”

I consider it to be more likely than not that Provident made proportionate checks about the affordability of the loans before lending to Mrs H. And I consider that it was reasonable for it to conclude – on the basis of those proportionate checks – that the loans were affordable for Mrs H at the time that they were made.

I'm not persuaded that there's enough evidence to show that Provident was aware of Mrs H's medical issues at the time of her applications – but, even if it had been aware of those issues, I'm not persuaded that there's enough evidence to show that she didn't have the capacity to enter into the loan agreements – or that Provident shouldn't have lent to her because of those issues.

I don't consider that Provident was aware – or ought to have been aware - of Mrs H's financial difficulties when the loans were made to her. It's provided evidence to show that it became aware of her debt management plan in December 2013 and she entered into a debt relief order in November 2016. Her repayment history shows that she stopped making regular payments to her loans in August 2011 – which was after the last of the loans had been made to her.

For these reasons I'm not persuaded that it was irresponsible for Provident to have made the loans to Mrs H or that the loans were unaffordable at the time that they were made to her. Because of Mrs H's circumstances, Provident has said that it's buying back the accounts from the third party and that it will close the accounts with nothing further to pay. And it has sent a cheque for £30 to Mrs H because of its delay in sending her its final response letter. I consider those actions to be fair and reasonable in the circumstances. And I find that it wouldn't be fair or reasonable for me to require Provident to take any further action in response to Mrs H's complaint.

my final decision

For these reasons, my decision is that I don't uphold Mrs H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 26 March 2018.

Jarrold Hastings
ombudsman