

complaint

Mr M says Provident Personal Credit Limited irresponsibly lent to him.

background

This complaint is about nine short term loans that Provident (trading as Satsuma) provided to Mr M between 10 December 2014 and 15 May 2018. Mr M's borrowing history is as follows:

Loan / Draw	Loan type	Total amount borrowed (£)	Initial length of loan (months)	Date of loan draw	Account closure date
1	instalment	350	10	10/12/2014	30/04/2015
2	instalment	560	12	1/05/2015	29/04/2016
3	instalment	750	5	30/04/2016	5/07/2016
4	instalment	1500	10	5/07/2016	10/08/2017
5	instalment	1500	3	8/12/2017	18/12/2017
6	instalment	1500	3	19/12/2017	12/12/2017
7	instalment	1500	5	24/01/2018	23/03/2018
8	instalment	2000	6	24/04/2018	7/05/2018
9	instalment	2000	4	17/05/2018	yet to be repaid

Our adjudicator upheld Mr M's complaint and thought the loans from loan 3 onwards shouldn't have been given. Provident didn't agree that any of the loans had been given irresponsibly, and Mr M asked that his complaint about loan 2 be upheld too.

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 M 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.

I think that it is important for me to start by saying that Provident was required to establish whether Mr M 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 M's complaint.

I think the information Provident had when agreeing loans 1 and 2 wouldn't have clearly suggested the lending was irresponsible. Looking at the information Mr M had given Provident about his income and expenditure for these two loans, it would have been reasonable for Provident to think he could cover the repayments reasonably.

Mr M did have some difficulty in making payments during loan 1. He explained this, in an email to Provident on 3 March 2014, as being due to "temporary financial issues". But only one payment for loan 1 was classified as having been in arrears before it was paid off. And I think the other information Provident had reasonably gathered, or could have gathered, at the time wouldn't clearly have alerted it to the fact Mr M was likely to struggle with the subsequent loan that started on 30 April 2015. So I don't think it was unreasonable of Provident to have agreed to loan 2.

I've also looked at the overall pattern of Provident's lending history with Mr M, with a view to seeing if there was a point at which Provident should reasonably have seen that further lending was unsustainable, or otherwise harmful - meaning Provident should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr M's case, I think that this point was reached when he applied for loan 3. I say this because:

- At this point Provident ought to have realised Mr M was not managing to repay his loans sustainably. Mr M had been indebted to Provident for over 17 months, and now Provident was committing Mr M to owing it money for another 5 months.

- Mr M's first loan was for £300 and loan 3 was for £750. At this point Provident ought to have known it was likely Mr M wasn't borrowing to meet a temporary shortfall in his income but to meet an ongoing need.
- From loan 3 onwards, Provident provided Mr M a new loan often within a day or so days of settling a previous one – the longest gap was only four months
- Mr M wasn't making any real inroads to the amount he owed Provident. By loan 4, Mr M's borrowing had increased to £1500, and this was the case for later loans until it increased further to £2000 for loans 8 and 9. This means, by the start of the final loan, Mr M had been borrowing from Provident for 53 months. In effect, Mr M had paid large amounts of interest to service a debt to Provident over an extended period.

I think that Mr M lost out because Provident continued to provide borrowing from loan 3 onwards because:

- these loans had the effect of unfairly prolonging Mr M's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time.
- the number of loans and the length of time over which Mr M borrowed were likely to have had negative implications on Mr M's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So I'm upholding the complaint about loans 3 and afterwards, up to and including loan 9 and Provident should put things right.

putting things right – what Provident needs to do

I understand that Mr M's last loan is outstanding.

If Provident has sold the outstanding debt it should buy it back, if Provident is able to do so, and then take the following steps. If it is not able to buy the debt back it should liaise with the new debt owner to achieve the results outlined below.

A) Provident should add together the total of the repayments made by Mr M towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Provident has already refunded.

B) Provident should calculate 8% simple interest* on the individual payments made by Mr M which were considered as part of "A", calculated from the date Mr M originally made the payments, to the date the complaint is settled.

C) Provident should remove all interest, fees and charges from the balance on loan 9 (which is still outstanding), and treat any repayments made by Mr M as though they had been repayments of the principal on all outstanding loans. If this results in Mr M having made overpayments then Provident should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Provident should then refund the amounts calculated in "A" and "B" and move to step "E".

D) If there is still an outstanding balance then the amounts calculated in “A” and “B” should be used to repay any balance remaining on outstanding loans (and any principal Provident has already written-off). If this results in a surplus then the surplus should be paid to Mr M. However if there is still an outstanding balance then Provident should try to agree an affordable repayment plan with Mr M. Provident shouldn't pursue outstanding balances made up of principal Provident has already written-off.

E) The overall pattern of Mr M's borrowing for loans upholding at step 3 including refinances/top-ups means any information recorded about them is adverse, so Provident should remove these loans entirely from Mr M's credit file. Provident do not have to remove loan 9 from Mr M's credit file until this has been repaid, but Provident should still remove any adverse information recorded about this loan.

† HM Revenue & Customs requires Provident to take off tax from this interest. Provident must give Mr M 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 partially upholding Mr M's complaint. Provident Personal Credit Limited should pay Mr M compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 December 2019.

Timothy Bailey
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