

complaint

Mr B is unhappy with what Provident Personal Credit Limited ("Provident") has offered to do to put things right as a result of irresponsibly giving him a home credit loan.

background

Mr B complained about two home credit loans he took with Provident in March 2012 and August 2012. He said Provident shouldn't have given them to him. One of our adjudicators looked at the complaint. He thought Provident hadn't done anything wrong when it gave Mr B his first loan. But he also thought Provident shouldn't have given Mr B his second loan.

Provident agreed with our adjudicator's assessment. And in order to put things right, Provident said it would buy back the outstanding balance it sold on to a third party, remove the interest and charges and write off any amount remaining on the loan. In other words, it has agreed to write off what Mr B still owes for his loan. It also agreed to remove all reference to these loans from Mr B's credit file.

Mr B wasn't happy with this. He says Provident should also pay him compensation because these loans, and the ones he's had to take from other short-term lenders, destroyed his credit file and caused him distress.

As the parties couldn't agree on how Provident should put things right, the case was referred to 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've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Having carefully thought about everything provided, I think what Provident has agreed to do is fair and reasonable in the particular circumstances of Mr B's case. I'd like to explain why I think this.

why I don't think Provident did anything wrong when giving Mr B his first loan

Mr B took out a home credit loan for £500 in March 2012. This loan was to be repaid over a period of fifty weeks and the weekly repayment was £17.50. Before lending to Mr B, Provident needed to obtain sufficient information to make an informed decision about the loan. The exact steps a lender needs to take is for each lender to decide and the guidance and rules list a number of things each lender may wish to think about. Any checks need to be proportionate, based on things such as the amount being borrowed and the amount of the repayments.

Provident says it agreed to Mr B's application after he'd provided details of his weekly income and expenditure. It says the information Mr B provided showed that he'd be able to comfortably make the repayments he was committing to. And in these circumstances it was reasonable to lend. On the other hand, Mr B says Provident should've done more. And if it had done this then it would've seen he was the only wage earner, he was supporting a partner and two kids and so it was irresponsible to give him this loan.

I've carefully thought about what Mr B and Provident have said. The first thing for me to say is that Mr B's signed credit agreement does indicate that he was asked to provide details of his weekly income and a weekly breakdown of his expenditure. And the information Mr B provided Provident with did suggest that he would've been able to maintain the payments to this loan without suffering financial difficulty or any adverse consequences.

I accept that Mr B's actual circumstances may not have been reflected in the information he provided. But Provident could only make its decision based on the information it had available at the time. It didn't have Mr B's bank statements or any other evidence of Mr B's actual financial position. And given the relatively low weekly repayment as well as this being Mr B's first loan with Provident, I don't think proportionate checks would've extended into Provident asking Mr B to verify what he said at this stage.

Equally I'm only able to uphold a complaint where I can safely say that a lender has done something wrong. And, in this case, I don't think that Provident did anything wrong in deciding to give Mr B his first loan - it carried out a proportionate check even though what Mr B's now telling us suggests the information it might've been provided with was inaccurate.

Provident reasonably relied on the information it was provided with and given all the circumstances, I don't think that it was unreasonable for Provident to lend – especially as there wasn't anything obvious, in the information it had, to suggest the information Mr B provided was plainly inaccurate or that he wouldn't be able to repay what he was borrowing.

So overall I think the checks Provident carried out for Mr B's first loan were proportionate and it had no reason to doubt what Mr B most likely said about his finances at the time. As this is the case, I'm not upholding Mr B's complaint about his first loan. And this means that I don't think Provident needs to do anything to put things right for Mr B in relation to this loan.

why I think what Provident has agreed to do to put things right for Mr B's second loan is fair and reasonable in the circumstances of his case

Both Mr B and Provident are in agreement that Mr B shouldn't have been given his second loan. So I don't need to look at whether Provident's checks for loan two were proportionate and I only need decide whether what it has offered to do to put things right is fair.

Provident sold an outstanding balance to a third party well before Mr B complained. And it has agreed to buy back the outstanding debt from the third party in order to ensure Mr B doesn't pay any interest or charges for loan two. It has also said that it will write off any balance that remains once it has removed the interest and charges from the current outstanding total.

Finally, Provident has also agreed to remove all reference to this loan (as well as loan one) from Mr B's credit file. Mr B says this doesn't go far enough. He says Provident should also pay him compensation because these loans, and others he's had to take from other short-term lenders, destroyed his credit file and caused him distress.

At this point it might help for me to explain that where a business accepts (or we decide) it did something wrong, we'd expect the business to put the consumer in the position they would be in if that wrong hadn't taken place. And in an ideal world, we'd tell a business to put a consumer in the position they'd now be in if they hadn't been given the loan they shouldn't have.

But Mr B was given loan two and he used the funds. So it's simply not possible to put Mr B in the position he would be in if he hadn't been given this loans in the first place. And we have to look at what else we can do to put things right in a way that's fair to all parties. In reality it's the (increasing) interest and charges on these loans, on the complaints that are upheld, that's the main consequence of the business giving a consumer a loan it shouldn't have.

So where a business gave a consumer a loan that it shouldn't have, we'd expect it to put the consumer in the position they'd be in now if they hadn't paid any interest and charges on that loan. This means we'd normally expect a lender to refund the interest and charges added to any loan that shouldn't have been given. And if those interest and charges were paid also add 8% simple interest per year. The lender will normally also remove *adverse* information – rather than all reference to the loan - recorded on the consumer's credit file as a result of the interest and charges on those loans.

In this case Provident will end up writing off considerably more than the £472.00 in interest and charges that were due on loan two. As I understand it Mr B has made minimal payments to this loan. And he still owes quite a bit of the amount he was originally lent. It's also my understanding that some of the balance sold to the third party is made up of an outstanding amount due on loan one.

For the reasons I've already explained, I don't think that Provident did anything wrong in relation to loan one. So it didn't need to take any action in relation to the balance owing on that loan. Equally Provident has agreed to completely remove all reference to *both* loan one and loan two from Mr B's credit file. So what Provident has agreed to do, in this case, is significantly more than what we'd normally tell a lender to do where we uphold a complaint.

I've given a lot of thought to what Mr B's told us. The first thing to say is that we look at each case individually and on its own particular merits. So while we have a general approach to how we how we might tell a lender to put things right if it has given a loan its shouldn't have (such as here), we can tell it to do something different if there's a strong reason to say that's what would be fair and reasonable to do in the circumstances of that individual case.

Mr B says I should tell Provident to do something different here. He says Provident should pay him compensation. Although he's not said how much he thinks Provident should pay him. But I don't think that there's a strong enough argument for me to say that's what needs to be done in order to reach a fair outcome here. I appreciate Mr B might be in a position where it is more difficult for him to be able to obtain mainstream credit. And I really do sympathise with him. But I have to be fair to all parties.

Mr B made minimal payments to loan two. And this is the only loan which he shouldn't have been given. As this is the case, I can't really say that any further borrowing Mr B had to take elsewhere was as a direct result of Provident giving him a loan it shouldn't have. Mr B didn't repay loan two – so Mr B can't have borrowed further to repay this loan, or if he did he didn't use any funds he obtained to make the payments for loan two.

I accept that these loans have appeared on Mr B's credit file for some time. And it's possible that Mr B wouldn't have paid anything further to Provident or the third party anyway – due to how long it's been. But in the absence of a complaint from Mr B, I don't think that Provident should've written off the balance (especially as I don't think that it did anything wrong in relation to the first loan) or removed any adverse information from Mr B's credit file sooner than it has offered to. And I don't think the fact that Mr B might not have made any further payments anyway means that Provident is treating him unfairly by writing off the balance.

Overall and having carefully thought about what Mr B's said, I think what Provident has agreed to do is fair and reasonable in the circumstances of his particular case. So I don't think it needs to do anything more in order to put things right for Mr B.

my decision

For the reasons I've explained I think what Provident Personal Credit Limited has agreed to do is a fair way to put things right in this case. So I'm not asking it to do anything more, or anything different.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 14 June 2018.

Jeshen Narayanan
ombudsman