

## **complaint**

Mrs C complains that Provident Personal Credit Limited mis-sold her a number of home credit loans from 2009 to 2014.

## **background**

Mrs C took out 15 loans with Provident in 2009 and 2010. And a further two loans in 2014. In 2009 and 2010, the loans ranged from around £290 to £1,000 with weekly repayments ranging from around £9 to £32. And the two loans in 2014 were for £300 and £200 with weekly payments totalling £17.50.

Mrs C fell into arrears with the loans and payments stopped in August 2014. The remaining debt was sold to a third party in October 2015.

Mrs C says the loans were taken out in her name by her ex-partner. She says her previous relationship was abusive, and therefore she didn't feel in control of her finances.

Mrs C complained to Provident that the loans were unaffordable. She didn't complaint until December 2016 as this is when she became aware she could complain about affordability. Provident didn't uphold Mrs C's complaint. They said she complained too late about the loans taken out in 2009 and 2010 but they were satisfied they'd lent responsibly in 2014 based on what Mrs C had declared about her income.

Mrs C brought her complaint to our service. Following an initial jurisdiction view, Provident consented to us looking into all loans on the complaint but had limited information to provide from the 2009 and 2010 loans due to the time which had passed.

The adjudicator who looked at things didn't think Provident had lent irresponsibly. In summary, he said, the individual loan payments from 2009 and 2010 were around £10 per week. And while Mrs C had a number of defaults on her credit file at the time of taking out the loans, this didn't mean the loans were unaffordable. He also said her bank statements showed considerable amounts going in and out of her account and discretionary spending. And he recognised Mrs C had declared her weekly income as around £600 and outgoings of around £400 for the 2014 loans. So she had disposable income – especially for loan payments of £17.50.

Mrs C remained unhappy. She said the money going in and out of her bank account wasn't always hers as she was self-employed. And she was made bankrupt in 2009 and had a number of defaults and repossessions at the time too. While Mrs C recognised the individual weekly repayments were relatively low, she said because she had multiple loans she was paying around £180 a week back and had four children to support.

In January 2019, I issued a provisional decision. In it, I said;

*Mrs C has said due to the abusive relationship she was in, she was forced to take out these loans from Provident. While this must have been a really difficult time for Mrs C, I haven't seen anything to suggest Provident were made aware of this when she applied for the loans. And as the loans were taken out in her name, and repaid from her own bank account, I can't say Provident should have reasonably been aware of this. So I can't uphold her complaint on this point alone.*

*loans from 2009 and 2010*

*The 15 loans in 2009 and 2010 were as follows:*

<i>loan</i>	<i>amount borrowed</i>	<i>total interest applied</i>	<i>date issued</i>	<i>weekly repayments</i>
1	£500	£325	06/11/2009	£25
2	£1,000	£760	01/04/2010	£32
3	£500	£560	22/09/2010	£10
4	£500	£560	22/09/2010	£10
5	£500	£560	22/09/2010	£10
6	£500	£560	22/09/2010	£10
7	£500	£560	22/09/2010	£10
8	£299.32	£227.29	22/11/2010	£9.57
9	£300	£228	22/11/2010	£9.60
10	£300	£228	03/12/2010	£9.60
11	£300	£228	14/12/2010	£9.60
12	£299.23	£227.29	14/12/2010	£9.57
13	£500	£560	17/12/2010	£10
14	£500	£560	17/12/2010	£10
15	£500	£560	17/12/2010	£10

*A number of these loans were paid off early. However, as some of these loans overlapped each other, I've considered the total amount Mrs C would have had to pay back at any time and detailed this on the next table.*

<i>loans</i>	<i>Total weekly repayments</i>	<i>from</i>
1	£25	06/11/2009
2	£32	01/04/2010
3, 4, 5, 6 and 7	£50	22/09/2010
3, 4, 5, 8, 9, 10, 11, 12, 13, 14 and 15	£107.94	22/11/2010

*This shows that in just over a year, Mrs C's debt increased from £825 (£500 capital plus £325 interest) with £10 weekly repayments to £8,997 (£4,499 capital plus £4,499 interest) with £107.94 weekly repayments.*

*Provident explained their process for loans issued prior to July 2015. They said monthly refreshed and up to date Credit Bureau data was used to assess existing applications from January 2010. And they've explained that when customers enquired about further credit, it was the duty of the Provident agent to review repayments made to previous agreements and ensure these did not indicate the customer was already experiencing difficulties meeting repayments prior to completing an application.*

*Due to the time which has passed since the loans were taken out, I haven't seen what Mrs C told Provident about her income and expenditure (I&E) in 2009 or 2010. Provident have explained the onus would have been on Mrs C to declare her other debt, however as I haven't seen the I&E, I'm not aware what Mrs C said about her circumstances. Mrs C has provided us with her credit report from the time and her bank statements so I've reviewed these while considering the total weekly repayments.*

*While Mrs C's bank statements show a relatively high amount of incomings (although most came from benefits) and outgoings, she has said the money wasn't always hers. While I've no reason to doubt Mrs C, I don't think it's reasonable to say Provident should have been aware of that as it's unlikely she disclosed this to them at the time due to the circumstances with her ex-partner.*

*However, Mrs C's credit report shows some financial difficulties from the time she took out the loans with Provident in 2009 and 2010. The credit report shows a number of defaults and a number of arrears (six months and over) for some of her mortgage payments. While I appreciate Provident shouldn't base their sole decision on the state of a customer's credit report, I do think the existing financial commitments alongside the continual increase of debt with themselves is important to consider.*

*Provident have said the agent should review repayments made to previous agreements. While Mrs C paid off four existing Provident loans before taking out new ones, I think when the total amount of debt is considered, this is an indication of potential financial difficulty. And Provident haven't provided any evidence to show that it properly assessed Mrs C's circumstances with this in mind.*

*Based on what I've seen, I'm satisfied the first two loans were affordable for Mrs C. I say that because they were both relatively small amounts with small repayments which she seemed to be able to keep up with. And I find it reasonable that Provident wouldn't have been alarmed at two separate loan applications within five months of each other.*

*However, I'm not persuaded that the third and subsequent loans were affordable for Mrs C at the time they were taken out. That's because I haven't seen any further questions were asked despite Mrs C continuing to increase her debt. And I consider, based on the information I have available, that Provident shouldn't have approved further loans to Mrs C.*

*Having said that, as Mrs C did benefit from having the money, I think it is fair she pays it back. So while I agree Mrs C should repay the capital loan amounts, I don't think it's fair for her to have to pay the interest payments. I say that because, if Provident carried out sufficient and proportionate checks, I think, based on the circumstances, it's likely they wouldn't have decided to lend.*

*So I'm minded to ask Provident to repay Mrs C the total interest charge paid over the 12 loans. I will likely also require them to pay Mrs C interest on this amount at 8% per annum simple from the dates the loans were issued to the date they pay the amount due.*

*loans from 2014*

*The two loans in 2014 were as follows:*

<i>Loan</i>	<i>amount borrowed</i>	<i>total interest applied</i>	<i>date issued</i>	<i>weekly repayments</i>
<i>16</i>	<i>£200</i>	<i>£164</i>	<i>28/02/2014</i>	<i>£7</i>
<i>17</i>	<i>£300</i>	<i>£246</i>	<i>28/02/2014</i>	<i>£10.50</i>

*This shows that the total weekly repayments across both loans were £17.50. Provident have been able to provide me with the income and expenditure for both of these loans.*

*Mrs C declared her weekly income was £600 and her outgoings were around £400. Therefore, Mrs C declared she had a disposable income of around £200.*

*At the time of taking these loans out, a further five existing Provident loans had been settled in full. It appears, from the information Provident have provided that some other loans were written off in 2013. This is presumably because Mrs C was struggling to meet the repayments of the other loans.*

*Provident say there were clear options on the customer details form to record accurate costs for income, other income, mortgage/rent and other loan repayments. And it seems Mrs C declared her only other income was her mortgage. However, since making her complaint she says she had a number of other debts at this time too.*

*While I appreciate it was Mrs C's responsibility to give the correct information, I do think Provident, as a lender, also hold some responsibility to carry out proportionate checks when the information is inconsistent. I believe the information was inconsistent at this point, because Mrs C had six outstanding loans with Provident that they'd either written off or passed to a third party. Therefore, I find it reasonable that they should have been aware Mrs C likely had more outgoings than just her mortgage which she declared.*

*So based on the information Mrs C gave, I agree the loans were probably affordable. However, I don't think Provident carried out enough checks to satisfy themselves the information she gave was correct – and therefore enough to decide if the loans were affordable overall.*

*Therefore, I believe, like the loans from September 2010 onwards, the interest and charges should be repaid to Mrs C. I will likely also require Provident to pay Mrs C interest on this amount at 8% per annum simple from the dates the loans were issued to the date they pay the amount due.*

*overall*

*Overall, based on everything I've seen, I'm minded to uphold this complaint in part as I don't think Provident carried out proportionate checks to satisfy themselves of the affordability of the loans. I intend to require them to repay Mrs C the interest and charges on all loans issued from September 2010 to February 2014. And they should include interest on these amounts.*

*I'm aware some of the loans have been sold to a third party. I don't know whether Mrs C has repaid anything further to the third party. It seems reasonable that if Mrs C still owes some of the capital that she borrowed, that the refund due to her should be used to repay that debt. But to do so, Provident will need to take the loan back and reduce it to reflect just the capital that Mrs C borrowed. If Provident is unable or unwilling to do this, they must ensure the interest and charges, and any other interest and charges added by the third party, are waived.*

So in summary, I thought Provident should:

- refund all interest and charges that Mrs C has paid on all loans from September 2010 to February 2014,

- pay interest on those amounts at an annual rate of 8% simple from the date of each loan to the date of settlement<sup>1</sup>,
- if applicable, apply the refund to reduce any capital outstanding on the loans (with any credit balance being paid to Mrs C directly),
- write-off any unpaid interest and charges which are currently outstanding.

Provident accepted the provisional decision.

Mrs C responded to my provisional decision. She said the first two loans were unaffordable and she doesn't think she should have been given them. She said she was bankrupt at the time and bullied into taking the first two loans out.

### **my findings**

I've considered all the available evidence and arguments again to decide what's fair and reasonable in the circumstances of this complaint.

I've thought about what Mrs C has said regarding the first two loans. I haven't seen anything to show Provident were aware Mrs C was pressured into taking out the loans due to her personal relationship. And as explained in my provisional decision, I'm satisfied the first two loans were affordable for Mrs C. That's because they were both relatively small amounts with small repayments which she seemed to be able to keep up with. And I find it reasonable that Provident wouldn't have been alarmed at two separate loan applications within five months of each other.

I note Mrs C thinks the Provident advisor wouldn't have been interested in her personal and financial circumstances – she thinks they just wanted to sell the loan. But I can't fairly say that is the case. I think it's unlikely Mrs C declared the financial abuse she was suffering at the time of taking out of the loans – and that's because she continued to take a number of loans. I don't doubt it was a really difficult time for Mrs C – both financially and personally. But I need to be satisfied Provident would have known either the loans were unaffordable or Mrs C was pressured into taking them out. And based on what I've seen, I'm not.

Therefore, I consider the first two loans (November 2009 and April 2010) were affordable and I won't be asking Provident to repay the interest on these loans.

However, I require Provident to repay Mrs C the interest and charges on all loans issued from September 2010 to February 2014. And they should include interest on these amounts.

### **my final decision**

My final decision is that I uphold this complaint against Provident Personal Credit Limited.

Provident Personal Credit Limited must:

- refund all interest and charges that Mrs C has paid on all loans from September 2010 to February 2014,

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<sup>1</sup> HM Revenue & Customs requires Provident Personal Credit Limited to take off tax from this interest. Provident must give Mrs C a certificate showing how much tax it's taken off if she asks for one.

- pay interest on those amounts at an annual rate of 8% simple from the date of each loan to the date of settlement<sup>2</sup>,
- if applicable, apply the refund to reduce any capital outstanding on the loans (with any credit balance being paid to Mrs C directly),
- write-off any unpaid interest and charges which are currently outstanding.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 28 March 2019.

Hayley West  
**ombudsman**

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<sup>2</sup> HM Revenue & Customs requires Provident Personal Credit Limited to take off tax from this interest. Provident must give Mrs C a certificate showing how much tax it's taken off if she asks for one.