

complaint

Mr G has complained that Provident Personal Credit Limited (“Provident”) has advanced him money through several loans that he couldn’t afford to pay.

background

Mr G took out eight loans with Provident. They were as follows:

loan	amount	duration	weekly payments
June 2009	£500	31 weeks	£25.00
January 2010	£700	50 weeks	£24.50
October 2010	£800	50 weeks	£28.00
February 2011	£300	50 weeks	£10.50
June 2011	£1,000	50 weeks	£35.00
February 2012	£600	50 weeks	£21.00
February 2012	£600	50 weeks	£21.00
August 2012	£1,000	60 weeks	£30.00

In May 2017 Mr G complained to Provident to say he didn’t think it had done everything it should’ve done to work out if the loans were affordable for him. He said it didn’t properly check his income, outgoings or credit history to make sure he was able to pay.

Provident has said that, in deciding whether to lend, it carried out several checks to make sure Mr G could afford the repayments. And it only agreed to lend as Mr G passed all of these checks.

Mr G says he wasn’t able to afford the repayments as he’d taken out more credit that he was able to pay back. And he said Provident kept lending him more, even though he’s defaulted on loans before.

One of our adjudicators looked into the complaint, but didn’t think it was one that should be upheld. She thought we didn’t have the power to consider the first of the four loans as Mr G had waited too long to complain to Provident. And for the last four loans, she didn’t think Provident had lent Mr G money irresponsibly - she thought that Provident had looked into the things it should’ve done before lending.

But Mr G didn’t agree. He said the loans were unaffordable and he’d had other complaints made against ‘payday’ lenders upheld. So the complaint was passed to me for a decision.

In December 2017 I issued a provisional decision on Mr G’s complaint. I explained that I’d considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Our adjudicator thought the sale of the first four loans Mr G took out with Provident weren’t ones this service was able to consider, as he’d brought his complaint too late. Mr G told this service he didn’t want to continue his complaint about these four loans, so I didn’t need to consider the point any further.

I noted that when deciding to lend to Mr G, Provident should’ve carried out sufficient checks to understand whether he would’ve been able to sustainably repay what was borrowed, so Provident needed to think whether the commitment of taking out the credit would adversely

affect Mr G's financial situation. But the checks should be proportionate to all of the circumstances at the time. And if I didn't think the right checks were carried out, I wouldn't just uphold the complaint – I'd then have to think about whether Provident should've still agreed to lend if the right checks were carried out or if it should've realised the loan was unaffordable.

I said that I couldn't see that Provident used checks with credit reference agencies when Mr G took out his first loan, but some data was used when deciding to lend alongside the later loans.

On the application for the fifth loan, taken out in June 2011, there was some information about Mr G's income and expenditure. He said his income was around £400 a week after tax, that he spent £40 on rent or mortgage and £45 on other loan repayments, so he had a disposable income of £315. But as this was Mr G's fifth loan, I didn't think it was proportionate for Provident to simply rely on what it was being told by Mr G. And I thought it needed to take steps to start verifying, at least some of, the information being provided.

Equally, I didn't think the information provided took into account all of Mr G's living expenses, for example food or travel. And, having looked at his bank statements, I thought at the time Mr G was spending more than £45 a week on paying off other debt. Similarly, for the sixth and seventh loans (taken out on the same day) Mr G's disposable income was given as £358 and it was £353 with the last loan. But I didn't think these figures were accurate either.

I'd also seen that by the time Mr G took out his fifth loan he'd defaulted on other debts and missed some payments due to Provident, so I thought it needed to undertake more detailed affordability checks into Mr G's financial circumstances than it did.

I looked at Mr G's bank statements from early 2011 onwards. At the time he took out his fifth loan he had a number of different creditors and I saw he was also spending a significant proportion of his income gambling. He was using his overdraft facility, but when his wages were paid in, he came out of his overdraft. On balance, I thought Mr G was able to service all of his debt at the time. So I thought it was likely Mr G would've still been able to take out the fifth loan if Provident had carried out proper checks.

Mr G took out the sixth and seventh loans on the same day, borrowing £1,200 in total. But that was around four weeks' worth of his declared disposable income, so I thought Provident should've done more checks to find out why he was borrowing this amount over 50 weeks. I thought that, if it had done, it would've seen that Mr G was much more heavily indebted. He was significantly overdrawn in two current accounts he held and a large proportion of his outgoings were being used to service debt. I thought at this point onwards Mr G was in clear financial difficulties as his income didn't cover his outgoings.

I accepted Mr G should've provided accurate information about his finances to Provident. But where a consumer is continually borrowing from a lender, I thought it was proportionate for it to carry out more checks on later applications. If Provident had done this, I thought it would've realised Mr G's disposable income wasn't enough to cover the cost of the last three loans. Having considered all of the evidence I didn't think these loans were affordable. I thought Mr G would've found it difficult to repay them alongside his other loans and without increasing his indebtedness, which is what happened. So I thought Mr G should be refunded all interest charged on his loans dated February and August 2012.

Mr G said he agreed with my provisional decision.

Provident responded to my provisional decision to say it was prepared to pay compensation as I set out.

my findings

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

As neither Mr G nor Provident have given me any new information they'd like me to think about and Provident agree to pay compensation, I can't see any reason to change my provisional conclusions.

my final decision

For the reasons set out above, I uphold Mr G's complaint against Provident Personal Credit Limited in part. Provident Personal Credit Limited should:

- refund all interest and charges applied to Mr G's loans dated February and August 2012; and
- pay simple interest at rate of 8% per annum on each such amount from the date Mr G paid it to the date Provident Personal Credit Limited refunds it. HM Revenue & Customs requires Provident Personal Credit Limited to take off tax from this interest. It must give Mr G a certificate showing how much tax it's taken off if he asks for one.
- remove any information relating to these loans from Mr G's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 12 February 2018.

Mark Hutchings
ombudsman