

## complaint

Miss D complains that Provident Personal Credit Limited, trading as Provident, provided her with loans that were unaffordable. She also complains about Provident's debt collection practices and her financial difficulties.

## background

Miss D took out seven instalment loans from Provident between September 2013 and July 2017 as follows:-

Loan number	Date of Loan	Loan amount	Weekly repayment amounts	Date loan repaid
1.	3/9/2013	£100	£5 x 32	24/12/2013
2.	19/12/2013	£500	£15 x 63	27/8/2014
3.	26/8/2014	£600	£18 x 63	17/11/2015
4.	27/4/2015	£300	£9 x 63	18/12/2015
5.	3/12/2015	£700	£21 x 63	14/9/2016
6.	12/9/2016	£800	£19.20 x 84	26/7/17
7.	24/7/17	£1,200	£27.60 x 104	Unpaid

Miss D said that her complaint was about Loans 3 to 7. She said that these loans were granted irresponsibly and that they sent her into a debt spiral that she couldn't escape from. As soon as she managed to repay a loan, she was forced to take out another loan to cover her weekly payments on the recommendation of Provident's agent. All the loans other than Loan 7 have been repaid.

Miss D is also unhappy about Provident's debt collection practices and treatment of her financial difficulties. She said:

*"Provident agents have harassed me every evening calling for money I simply have not got.... I have constant text messages and phone calls to my mobile phone whilst I'm trying to sleep throughout the day. I have a history of depression and can feel myself slipping into a dark place where I can see no light."*

Provident said that its agent confirmed Miss D's employment details, and documented details of Miss D's income and expenses. Miss D completed and signed paper application forms for Loans 1 to 4. Provident said that Loans 5 onwards were completed by its agent on a lending app. It combined Miss D's details with credit reference agency data and Miss D's previous lending history. With regard to expenses on Loans 5 to 7, Provident said there would have been a discussion between the agent and Miss D about her outgoings.

### *our investigator's view*

The investigator didn't recommend that the complaint should be upheld. She had asked Miss D for her bank statements to confirm her expenditure but Miss D said that she didn't have these and couldn't afford to pay for them. The investigator said that without evidence to suggest that the expenditure amounts Miss D had provided to Provident were incorrect, she couldn't say that Provident shouldn't have lent to Miss D. The investigator didn't think that the expenditure figures provided by Miss D to Provident looked unreasonable. The investigator also noted that Miss D was now suffering financial difficulties. She noted that Miss D had offered a weekly payment of £5 towards her debt with Provident and said that

she thought that Provident should consider this.

Miss D disagreed and said that Loans 3 onwards were irresponsibly lent. She was paying £392 rent per month and £110 council tax and earned between £800 and £950. She said that her payslips weren't checked. She said that she had received tax credits but these had stopped and she then had to repay tax credit overpayments.

Provident agreed to set up a repayment plan in line with Miss D's offer of £5 per week. It noted that the investigator had earlier suggested that Provident shouldn't add further interest and charges to the debt and that it should reduce the interest it had applied by 50%. But Provident said that interest was added to the loans from the outset and no further interest or charges were added. It also didn't agree to reduce the interest it had applied.

#### *my provisional decision*

After considering all the evidence, I issued a provisional decision on this complaint to Miss D and to Provident on 17 December 2018. I summarise my findings:

I noted that there were two aspects of Miss D's complaint – affordability of the loans and Provident's debt collection practices including treatment of her financial difficulties. I said that I would treat each separately.

Where the evidence was incomplete, inconclusive, or contradictory (as some of it was here), I reached my decision on the balance of probabilities – in other words, what I considered was most likely to have happened in light of the available evidence and the wider circumstances.

#### *affordability of the loans*

I explained that Provident was required to lend responsibly. It needed to make checks to see whether Miss D could afford to pay back each loan before it lent to her. Those checks needed to be proportionate to things such as the amount Miss D was borrowing, the length of the loan agreement and her lending history, but there was no set list of checks Provident had to do.

Provident had told us about the checks it did before lending to Miss D. It said it used credit bureau data before giving her each loan. And it had asked Miss D for details of her normal income and expenditure. I hadn't seen any information about the credit checks, but I had seen details of the income and expenditure figures provided to Provident.

I noted that Miss D wasn't complaining about Loans 1 and 2. But I said that I'd take these loans into account in deciding whether Provident's checks were proportionate as there was a continuous chain of loans which suggested that Miss D might have been reliant on Provident's loans. Loan 2 was granted immediately after Loan 1 had been repaid, and Loan 3 was granted immediately after Loan 2 was repaid. I'd also noted that Miss D missed repayments and on occasion paid reduced repayments on both Loans 1 and 2 and I thought her repayment history should have been considered when assessing affordability and the checks to be made.

#### *Loan 3*

When Miss D applied for Loan 3 in August 2014, she completed a paper application form

which she'd signed. I'd seen a copy of this and noted that Miss D had told Provident that she was earning a net weekly income of £285. And she'd said her weekly regular expenditure was £185. So it appeared that Miss D had £100 left over each week that she could use to make her repayments. Miss D needed to repay £18 each week on Loan 3. I could see that the repayments were relatively modest compared to the weekly disposable income of £100 Miss D had declared to Provident. But I thought by this time, Provident should have been concerned that Miss D appeared to be reliant on its loans and about the increasing amount of Miss D's borrowing, especially in view of the missed repayments on Loans 1 and 2. And considering that the loan repayments needed to be made over 63 weeks, I thought it would have been proportionate for Provident to have asked Miss D some more detailed questions at this point, such as whether she was borrowing from short term lenders at the same time. So, overall, I didn't think that Provident's checks were proportionate for Loan 3.

#### *Loan 4*

Miss D applied for Loan 4 before Loan 3 was repaid and the total loan repayments had increased to £27 per week. Miss D again completed and signed a paper application form. I'd seen a copy of this and noted that Miss D told Provident that she was earning a net weekly income of £278 and that she'd also received other income of £20 per week. And she'd said her weekly expenditure was £180. So it appeared that Miss D had £118 left over each week that she could use to make her repayments. I could see again that the repayments were relatively modest compared to the weekly disposable income of £118 Miss D had declared to Provident. But again I thought that Provident should have been concerned about the frequency of Miss D's borrowing, and the increased repayment amounts when she had already missed some repayments on Loan 3. And as the loan repayments needed to be made over 63 weeks, I again thought it would have been proportionate for Provident to have asked Miss D some more detailed questions at this point, such as whether she was borrowing from short term lenders. So, overall, I didn't think that Provident's checks were proportionate for Loan 4.

#### *Loan 5*

Miss D applied for Loan 5 around the same time as Loan 4 was repaid. The loan amount had increased to £700. Provident's application process had also changed so that information was provided by Miss D to Provident's agent who then entered the information on a "lenders app".

Provident said that the information provided by Miss D showed that she had a total monthly income of £1,385.60 and regular monthly outgoings of £324.75. So it said that she had a total disposable income of £1,060.85. I'd noted that there was nothing recorded in the information provided by Provident regarding rent, council tax or other financial commitments. I could also see that Miss D's outgoings had reduced substantially when compared to the outgoings information provided before Loans 3 and 4 and I thought Provident might have been concerned about that. I'd also noted that Miss D had missed repayments on Loan 4. And I thought Miss D's loans were being taken sufficiently regularly to suggest that she was reliant on them. So I'd thought all this should have prompted Provident to be more concerned about Miss D's financial situation. And I thought Provident should have looked in much more depth at her true financial situation to assess the affordability of its lending. It could've done this in a number of ways. I'd noted that it had asked for evidence of Miss D's income but I also thought it could have asked for evidence of Miss D's expenditure such as bills, or it could've looked at things like her bank statements.

### *Loan 6*

Loan 6 was taken out at the same time as Loan 5 was repaid and was for the increased amount of £800. The loan term had substantially increased to 84 weeks. I thought this might have suggested that Miss D was struggling to manage her finances and that Provident should have again been concerned that Miss D was needing to borrow immediately after Loan 5 was repaid. I also couldn't see that Provident had asked for details of Miss D's rent and council tax or evidence of her income and other outgoings before Loan 6. So again, I thought it should have been clear to Provident that it couldn't rely on the information Miss D had provided about her financial situation. And I thought it would have been reasonable to expect Provident to enquire further into Miss D's financial situation at this time.

### *Loan 7*

Loan 7 was taken out at the same time as Loan 6 was repaid and was for the substantially increased amount of £1,200 and the loan term had significantly increased to 104 weeks. I thought Provident should again have been concerned that Miss D was borrowing frequently from it and appeared to be reliant on Provident's loans. So, I didn't think it had made proportionate checks for Loan 7 and again I thought it would have been proportionate for Provident to have looked at Miss D's financial situation in much more depth here.

Although I didn't think the checks Provident made for Loans 3 to 7 were sufficient, that in itself didn't mean that Miss D's complaint about these should succeed. I also needed to see whether what I considered to be proportionate checks would have shown Provident that Miss D couldn't sustainably afford the loans.

For Loans 3 and 4, as I'd said above, I thought Provident needed to supplement the information Miss D had provided by asking her if she had short term loans. To find out what, if any, outstanding short term commitments Miss D had, I'd asked the investigator to obtain copies of Miss D's bank statements.

I'd reviewed Miss D's bank statements for each of the months before she took out Loans 3 and 4. But I couldn't see that Miss D had taken out any short term loans in those months. So whilst I didn't think Provident had carried out proportionate checks before giving Loans 3 and 4, I also didn't think that carrying out better checks would've uncovered anything that would've stopped it from giving Loans 3 and 4 to Miss D. So, I didn't intend to uphold Miss D's complaint about Loans 3 and 4.

With regard to Loans 5 to 7, as I'd said above, I thought Provident should have been independently checking what Miss D was earning and spending each month. So I'd tried to do this by looking at Miss D's bank statements for the month before each of those loans, to see what better checks would have suggested to Provident. The bank statements might not have shown Provident everything it would've seen by carrying out proportionate checks. But I'd said that the bank statements were the best indication of Miss D's ability to afford the loans at the time they were approved. So I didn't think it was unreasonable to rely on these.

For the month before Loan 5, Miss D's statements showed her monthly income was around £1,284 but her normal living costs and regular financial commitments amounted to around £890. She hadn't taken out any short term loans in that period. Whilst I didn't think Provident had carried out proportionate checks before giving Loan 5, I also didn't think that carrying out better checks would've uncovered anything that would've stopped Provident from giving Loan 5 to Miss D. It could have seen, as I had, the transactions going through Miss D's

account. And, I didn't think these were sufficient to suggest that Loan 5 wasn't sustainable as the monthly repayment for Loan 5 was around £91. So, I didn't uphold Miss D's complaint about Loan 5.

And I thought the picture was similar for Loan 6. Miss D's income was slightly lower at around nearly £1,284 and the loan repayment amount was around £83. Miss D's normal living costs and regular financial commitments amounted to around £816. So, I also didn't think I could conclude here that Loan 6 wasn't sustainable.

By the time of Loan 7, Miss D's statements showed that her regular income had reduced to £1,045. But the transactions on her bank statements showed that her normal living costs and regular financial commitments amounted to around £826. There was no short term lending in that period. Nevertheless, as the loan repayment was £119.60, I'd thought if Provident had done what I considered to be proportionate checks here, that these would have suggested that Loan 7 was sustainable.

In summary I didn't think the checks Provident had made before Loans 3 to 7 were proportionate. But if Provident had carried out what I considered to be proportionate checks, I didn't think it would have concluded that the loans weren't sustainable. So, I didn't intend to uphold this aspect of Miss D's complaint.

#### *debt collection and financial difficulties*

I noted that Miss D was unhappy about Provident's debt collection practices. As I needed more information about these, I asked the investigator to ask Miss D for details of the dates of the calls and texts she'd received, and copies of the texts if she had them. I'd also asked the investigator to ask Miss D how Provident responded to her when she'd told them she had financial difficulties. I also wanted to know if Miss D had any evidence of her mental health issues such as letters from the hospital.

I'd also asked the investigator to ask Provident if it would be able to supply us with a copy of its contact records with Miss D and for its comments on what Miss D had said about its debt collection practices.

Miss D responded to say that she didn't have any details of the calls or texts, but she would ask her phone company if these could be retrieved. She'd said that she had lots of calling cards from Provident which she'd received through her door on a daily basis. She had been on medication a number of times but was unable to provide medical evidence due to lack of funds.

Miss D had around four weeks to supply further information to us. She'd provided photos of a number of calling cards from Provident which were put through her door. The cards didn't show a date or time. But as Miss D's loans were home credit loans with repayments for the loans collected weekly from Miss D at her address, I didn't think it was unreasonable for Provident to leave calling cards when Miss D wasn't available. I'd noted that in total 472 weekly collections were to be made by Provident over the period of the loans. So I didn't think the number of cards shown by Miss D's photos was unreasonable over this period. I'd noted that the cards showed a phone number to be called with a request for a message to be left to rearrange a visit if the call wasn't answered. I didn't find the wording of the cards to be inappropriate. Miss D hadn't provided us with any further information about the calls and texts.

Provident had responded to say that Miss D's complaint about debt collection wasn't mentioned in her formal complaint to it dated 23 November 2017. It noted that the complaint did say that Miss D was struggling to repay the loan and that she'd offered to repay £5 per week. She had also asked for some of the interest to be removed. As a result of this, Provident said it had wanted to ensure Miss D was provided with the relevant support she might need and it offered her assistance from its Customer Care Team, along with requesting its local office to discuss a repayment plan to assist Miss D. I'd noted that Provident had agreed a repayment plan of £5 per week for the balance due which I thought was reasonable.

Provident had also provided this service with details of the dates of calls made by its local office and a summary of voice recordings made at the times of visits to Miss D. These showed where it had spoken to Miss D and the purpose of the contact. There were five phone calls between January and October 2016 to discuss arrears which I didn't think was unreasonable. There were also records of seven visits between July 2017 and February 2018 where repayments were collected or Miss D wasn't available. Whilst I didn't think that all visits were shown in the information provided by Provident (as I could see from the loan accounts that there were numerous weekly visits to collect repayments), I didn't think that the purposes of the visits shown in the summary were inappropriate.

I appreciated that it was unsettling for Miss D to receive phone calls about arrears and calling cards, and I didn't underestimate her strength of feeling. But in the absence of information from Miss D about the number of calls received, I didn't find the information about the number of calls provided by Provident to be unreasonable. And the calling cards I had seen were written in appropriate language and they simply requested a phone call to rearrange a visit.

I appreciated that Miss D would be very disappointed with the decision I'd come to. But, for the reasons explained above, and on the balance of probabilities, I couldn't see that Provident had acted inappropriately here and I didn't intend to uphold this aspect of her complaint.

I also said that if Miss D continues to be worried about being in financial difficulty, I would urge her to contact Provident about this. I reminded Provident of its duty to treat cases of financial difficulty positively and sympathetically.

Subject to any further representations by Miss D or Provident my provisional decision was that I didn't intend to uphold Miss D's complaint.

Miss D responded to say that Provident hadn't contacted her with regards to accepting her lower monthly offer. She also said that just because the calling cards were undated, it didn't mean they weren't from the time when Provident was harassing her for money when she'd told them she was suffering financial hardship. Miss D also said that her mental health had affected her work but she had no medical records.

Provident hasn't provided any further comments.

### **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 note that Miss D said that Provident hadn't contacted her about accepting her lower monthly offer. But I can see that Provident has agreed to a repayment plan of £5 per week. And I would urge Miss D to contact Provident about this or if she is continuing to suffer financial difficulties.

I also note Miss D's comments about the calling cards being undated. But as I've said above, on balance, I didn't think that the calling cards were inappropriate.

I'm also sorry to hear about Miss D's health difficulties. But without medical evidence I can do no more about this.

So, after considering the points made by Miss D, I'm not persuaded to change my findings from those set out in my provisional decision. I realise this isn't the answer Miss D hoped for and I'm sorry to read of her distress. I remind Provident of its continuing obligations to treat Miss D positively and sympathetically in respect of the outstanding debt.

### **my final decision**

My decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 4 February 2019.

Roslyn Rawson  
**ombudsman**