Financial Ombudsman Service

complaint

Mr K says Provident Personal Credit Limited lent to him irresponsibly. He says he couldn't afford the loan repayments and he struggled to repay them. He says the loans ran concurrently because he needed to reborrow again to repay the loan he already had. His credit reports would've shown significant debt problems.

background

This complaint is about 18 home collected credit loans Provident provided to Mr K between August 2007 and June 2017. I've included a table at the end of this decision that shows some of the information that Provident has provided about the lending.

The first adjudicator that looked at this complaint didn't uphold it. In time the complaint was passed to an ombudsman who issued a provisional decision about some of the lending. The ombudsman's decision was that, despite the lack of information, much of the loans should be upheld. Provident didn't agree with the ombudsman's provisional decision

After obtaining some further information the complaint was looked at again by a second adjudicator. This adjudicator partially upheld the complaint. She thought Provident wasn't wrong to have approved loans 1 to 3. But she thought that it was evident that the lending pattern had become harmful by loan 4 and so Provident shouldn't have approved any loans after this time.

Mr K agreed with the adjudicator's opinion. Provident didn't respond and so the complaint has been passed to me.

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 high cost credit - 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 K 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 customer'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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines 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 K's complaint. I've decided to uphold Mr K's complaint in part and have explained why below.

Mr K accepted our adjudicator's opinion about loans 1 to 3. Because of this I don't think there is any ongoing disagreement about these loans. So I won't be making a decision about this lending. But they were part of the borrowing relationship Mr K had with Provident. So they are something I will take into account when considering the other loans he took.

I haven't recreated individual, proportionate affordability checks for loans 4 to 18 because I don't think that it is necessary to do so. I've looked at the overall pattern of Provident's lending history with Mr K, 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. And so Provident should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr K's case, I think that this point was reached by loan 4. I say this because:

- Mr K had had been indebted to Provident for 16 months. At this point Provident ought to have realised Mr K was not managing to repay his loans sustainably as he had been debt for a significant amount of time and there was no indication that this would change;
- Mr K's first loan was for £350 and loan 4 was for £500. This further shows this point Provident ought to have known that Mr K was likely to need high cost credit for some time. This turned out the be the case;
- from loan 4 onwards Mr K was provided with a new loan to settle the one he already had. There were no breaks in the lending. This again indicates he had an ongoing need for money and he was unable to repay his loans sustainably.
- Mr K wasn't making any real inroads to the amount he owed Provident. Loan 18 was taken out just under 10 years after Mr K's first. And it was for a larger amount. Mr K had paid large amounts of interest to, in effect, service a debt to Provident over an extended period.

I think that Mr K lost out because Provident continued to provide borrowing from loan 4 onwards because:

- these loans had the effect of unfairly prolonging Mr K's indebtedness by allowing him to take expensive credit over an extended period of time.
- the length of time over which Mr K borrowed was likely to have had negative implications on his 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 4 to 18 and Provident should put things right.

putting things right – what Provident needs to do

- refund all interest and charges Mr K paid on loans 4 to 18;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement*;
- the number of loans taken from loan 4 onwards means any information recorded about them is adverse. So all entries about loans 4 to 18 should be removed from Mr K's credit file.

*HM Revenue & Customs requires Provident to take off tax from this interest. Provident must give Mr K a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons I've explained, I partly uphold Mr K's complaint.

Provident Personal Credit Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K to accept or reject my decision before 1 July 2020.

Andy Burlinson
ombudsman

some information about Mr K's lending

loan number	date started	amount borrowed	term (weeks)	weekly payments	date ended
1	11/08/2007	£350	55	£11	14/06/2008
2	12/04/2008	£100	56	£3	23/12/2008
3	14/06/2008	£350	56	£11	24/11/2009
4	19/12/2008	£500	57	£15	08/09/2010
5	11/08/2010	£700	50	£25	16/07/2013
6	04/06/2013	£200	63	£12	03/12/2013
7	06/06/2013	£400	63	£6	03/12/2013
8	02/12/2013	£400	63	£12	22/07/2014
9	02/12/2013	£500	110	£10	12/05/2015
10	02/12/2013	£500	110	£10	17/01/2015
11	18/07/2014	£800	63	£24	12/05/2015
12	10/11/2014	£500	84	£12	04/02/2017
13	23/01/2015	£500	110	£10	04/02/2017
14	23/01/2015	£500	110	£10	04/02/2017
15	08/05/2015	£1,000	110	£20	04/02/2017
16	08/05/2015	£500	63	£15	04/02/2017
17	07/04/2017	£2,500	78	£65	01/02/2018
18	22/06/2017	£650	104	£15	01/02/2018