

complaint

Miss K complains Provident Personal Credit Limited issued her loans which were unaffordable. She wants to have the interest refunded.

background

Miss K tells us she took out eight loans with Provident between March 2008 and December 2014. She says she doesn't think Provident carried out sufficient checks. As if they had it would have shown various payday loans as well as a history of missed and/or late payments to other lenders.

Provident told us it had carried out checks which had indicated the loans were affordable. It said Miss K had been in employment and her disposable income showed the repayments were affordable.

The adjudicator recommended the complaint should be partly upheld. She found Miss K had taken out eight loans between 2008 and 2014. She said she advised Miss K we couldn't look at the first three loans from 2008 and 2009 as these were outside our jurisdiction - being more than six years ago.

She found three loans taken out in 2013 had been affordable - and gave a detailed explanation for her view. But in respect of the latest two loans - £400 and £500 - taken out in September 2014 and December 2014 - she thought these should not have been made.

She said two of the earlier loans hadn't been paid and Miss K had often missed weekly payments and gone months without paying. So this should have indicated she was struggling financially. She felt it would have been proportionate to carry out further checks. And if it had done Provident would have seen Miss K had taken loans from several payday lenders and was taking loans to pay earlier loans and important bills. So it was clear she couldn't afford the last two loans.

So she thought the interest on the Provident loans from 2014 should be refunded and the record removed from Miss K's credit file.

Provident accepted these findings but Miss K said she wanted an ombudsman to make a final decision as she felt the earlier loans were also unaffordable.

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 can see Miss K has been concerned about her financial situation over several years. And I'm sorry she's experienced some difficulties at various times during this period. I'd also like to say that I accept Miss K has tried to act responsibly and meet her commitments. And all the loans which were the subject of this complaint have been repaid - which is testimony to this.

I'm aware the adjudicator advised about time limits in which we can look into complaints. And I can see Miss K wanted us to go ahead and consider her complaint - even if it meant we couldn't deal with some of the earlier loans. So I want to confirm I'm only looking at the five Provident loans taken out in 2013 and 2014.

These amounted in total to £1,900 with individual amounts from £200 to £500. Weekly repayment figures were between £7 and £12.

In a very careful explanation, the adjudicator explained the rules on lending changed during the period of these loans. So the first three loans were made under different requirements to the later two loans. And the adjudicator set out the differences - so I'll not repeat them. This goes some way to explain why it's possible to reach a different view with regard to the later two loans.

All the loans were for relatively modest sums and repayable at what appeared a rate of weekly repayments within Miss K's disposable income. And when the first loan was granted in 2013 it had been some three and a half years since she'd asked Provident for a loan. Checks were carried out and I agree with the adjudicator that the loans appeared affordable. I'm aware Miss K said she'd not taken out further loans with Provident as she was still paying off an earlier loan - well beyond the set period. But when the first of the 2013 loans was made the earlier loan had been paid off and the new loan was for only £200. And when the second and third loans in that year were made the repayments fell within the disposable income figure.

I have also read a letter from Miss K and see the notes she's attached to the details of some of the income and expenditure checks. She feels some information was incorrect and/or fabricated. I'm not in a position to make a judgment on this - although I do note there is a signature in the box labelled "*Customer's signature*" relating to the two loans in October 2013. So if the information was incorrect I'd have expected a query to be raised at the time or soon after. And whilst Miss K has referred to her bank statements showing incorrect figures for rent - I'm not aware Provident had seen these. Nor under the rules at the time was it required to.

And as the adjudicator explained credit checks do not always contain identical information. That's because not all lenders report to all the credit reference agencies. And it's a common theme in complaints about affordability that the credit reference agency used by a lender doesn't necessarily show a customer's full credit history. We don't expect a lender to check with all the agencies - and so occasionally it's only in hindsight that a loan might seem unaffordable.

As Provident has accepted the adjudicator's view regarding the 2014 loans I needn't go into more detail.

So whilst I know this will come as a disappointment to Miss K I agree with the adjudicator's view and the detailed reasoning which led to it. I feel, in line with the requirements at the time, Provident was entitled to make the loans in 2013 based on the information it then had available. So I won't ask it to do anything about these.

And in respect of the later loans Provident has agreed to repay the interest on these loans together with added interest. Again I think that's a fair outcome.

my final decision

For the reasons given above I'm upholding this complaint - but only in part. I'm ordering Provident Personal Credit Limited to:

1. Refund interest on the two loans dated 12 September 2014 and 22 December 2014 and pay simple interest at 8% per year from the date of payment to the date of settlement.
2. Arrange to remove details of these loans from Miss K's credit file.

Provident should also supply - if Miss K requests - a certificate showing any tax deducted from the interest paid on any amount refunded so it can be reclaimed from HMRC if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 29 October 2018.

Stephen D. Ross
ombudsman