

## **complaint**

Mr R says that Provident Personal Credit Limited was irresponsible when it lent him money. He's also unhappy about Provident's failure to accurately update his credit file.

## **background**

Over the years Mr R has taken a number of loans with Provident. He was declared bankrupt in 2010. And in July 2011 the bankruptcy order was discharged.

Mr R complained to Provident about the loans he took and that it hadn't taken steps to accurately update his credit file after the bankruptcy order had been discharged. Provident didn't agree it had done anything wrong in respect of the loans. But it did agree that due to a system error his credit file hadn't been updated. So it agreed to amend the file to show a settlement date in May 2011 and to pay him £100 compensation for his inconvenience,

Mr R wasn't satisfied with the outcome of Provident's investigation so he brought his complaint to this Service. One of our adjudicators has already looked into the matter. He didn't look into the loans Mr R took before he was made bankrupt because he couldn't establish whether the trustee in bankruptcy still had an interest in Mr R's finances. The trustee has now confirmed that it doesn't have an interest in Mr R's complaints about the loans he took out after the bankruptcy order was discharged. Those are the loans I'm looking into.

Our adjudicator also noted that Provident had accepted that Mr R's credit file hadn't been correctly updated and it had offered to put things right. And it had paid him £100 for his inconvenience. Our adjudicator concluded that the offer of compensation was appropriate in the circumstances. But he thought that Provident hadn't done enough in relation to the loans Mr R took out from 2013 and recommended that it pay him some compensation.

Provident hadn't provided us with a response. So the complaint came to me for a decision, I issued a provisional decision a few weeks ago and invited the parties to let me have anything further they wanted me to consider. In my provisional decision I explained why I was broadly agreeing with our adjudicator but that I was also minded to uphold more of Mr R's complaint.

In response to my provisional decision Mr R asked our adjudicator for some clarification and accepts my conclusions. Provident has raised some more points and provided me with some additional evidence to consider. It has also told us that in response to our adjudicator's assessment it issued a cheque to Mr R.

## **my findings**

I've once again considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I'm not minded to change my provisional conclusions and will explain my reasons below. But first, this is what I said in my provisional decision:

*"Provident has explained how its loans were sold and structured. It seems that an agent was involved and that he attended at Mr R's home. For the loans after 2012 it was the same agent who was involved in each of Mr R's loans. I understand that once the application had been made and approved by Provident the repayments were made by the customer to the agent who would call weekly at the home of the customer.*

*As part of the loan application process Provident had to ensure it was lending responsibly so it had to check that the loans were affordable and could be repaid in a sustainable manner. There's no set list of what a lender should do to check affordability in every case but checks should be proportionate to things like the size of the loan, the repayments, what the lender knows about the consumer and what the consumer tells the lender about their circumstances.*

*Mr R took six loans from February 2012 as follows:*

	<i>Date loan taken</i>	<i>Amount borrowed</i>	<i>Repayment period</i>	<i>Repayment amount – per week</i>	<i>Stated income</i>	<i>Stated disposable income</i>
<i>Loan 1</i>	<i>February 2012</i>	<i>£500</i>	<i>52 weeks</i>	<i>£17.50</i>	<i>£278</i>	<i>£98</i>
<i>Loan 2</i>	<i>August 2012</i>	<i>£800</i>	<i>50 weeks</i>	<i>£28</i>	<i>£300</i>	<i>£75</i>
<i>Loan 3</i>	<i>January 2013</i>	<i>£1000</i>	<i>63 weeks</i>	<i>£30</i>	<i>£225</i>	<i>£75</i>
<i>Loan 4</i>	<i>June 2013</i>	<i>£200</i>	<i>32 weeks</i>	<i>£10</i>	<i>£325</i>	<i>£180</i>
<i>Loan 5</i>	<i>September 2013</i>	<i>£1600</i>	<i>84 weeks</i>	<i>£38.40</i>	<i>£350</i>	<i>£175</i>
<i>Loan 6</i>	<i>Same date in September 2013</i>	<i>£200</i>	<i>32 weeks</i>	<i>£10</i>	<i>£350</i>	<i>£175</i>

*Shortly after Mr R took out loans 5 and 6 on the date in September 2013 he began to fall behind with his payments. A repayment plan was put in place towards the end of 2013 and in April 2015 Provident accepted a reduced settlement figure from Mr R. The outstanding balance was reduced by £1,000.*

*I've carefully reviewed the documents completed by Mr R and the agent at the time each loan was taken out. From what I've seen it looks as though Provident did proportionate checks for Loan 1. Mr R had been out of his bankruptcy order for a few months and he hadn't borrowed recently from Provident. And it was aware of the amount of the repayments compared to Mr R's stated disposable income which is likely to have suggested that the loan would be affordable.*

*But a few months into loan 1 Mr R applied for another loan for a significantly increased amount. He still owed over £200 on loan 1. I think that at the time Mr R applied for loan 2 in August 2012, Provident should've carried out additional checks.*

*The paperwork completed each time a loan was taken shows that the agent noted Mr R's net weekly income and other income, together with his outgoings for "rent/mortgage", "all loan repayments" and "other regular outgoings". From these it seems that Mr R didn't pay rent or mortgage and the other outgoings weren't specified. And given Mr R's previous history – in particular his bankruptcy - I don't think that Provident should've relied on the fact that Mr R had repaid loan 1. After all it seems he did that with some of the capital from loan 2.*

*And the proportion of Mr R's disposable income which was now going to meet his loan repayments increased significantly compared to loan 1. For loans 2 and 3 his stated disposable income was £75 per week but repayments on his loans increased to £28 and £30 per week. And at the point Mr R took loan 4 his outstanding balance on loan 3 was still £1,250*

*I accept that loan 4 - in June 2013 - was a relatively small amount but the repayment of that together with loan 3 meant Mr R was now to repay £40 per week. But his stated income had increased by £100 to £325 per week and his disposable income increased from £75 to £180. There are no details on the form as to what had changed in Mr R's circumstances in the intervening 5 months.*

*Three months later Mr R took loans 5 and 6 totalling £1,800 – of which he used more than £1,000 to repay the outstanding balance on his previous loans. His new weekly repayment increased to £48.40. This was even more than his previous commitment. It seems he soon had difficulties in repaying that. And a repayment plan was put into place.*

*So whilst – as I mention above - I think that Provident did enough to check that the loan 1 would be affordable. I'm not satisfied it did enough in relation to the following 5 loans from August 2012.*

*And my conclusion is that Provident was irresponsible to make loans 2,3,4,5 and 6 to Mr R. I think it's important to remember that Mr R was dealing with an agent, in person, when he arranged his loans. It doesn't seem to me that enough was done to assess whether the credit was likely to be sustainable – and in particular I don't think Provident took reasonable steps to ensure that the information provided on the credit applications was complete and correct. The amount Mr R was borrowing was increasing and the terms for repayment were extending. I can see that the income fluctuated between £225 and £350 per week. But I note that from mid 2013 - according to Mr R - his disposable income increased significantly. I don't think Provident did enough to ensure that Mr R wasn't reliant on loans which were unsustainable.*

*So I'm currently minded to uphold Mr R's complaint in relation to the loans taken from August 2012.*

*I've also thought about Mr R's complaint about Provident's failure to correct his credit file. I acknowledge that it's possible that this impacted Mr R's ability to obtain credit. But the fact that he had been bankrupt in 2010/2011 would also have had a significant impact on lenders' decisions to provide him with credit. I understand that the credit file has now been corrected. So in these circumstances I think that £100 compensation is reasonable and I don't require Provident to pay Mr R anything more in respect of this issue".*

In its response to my provisional decision, Provident says that the industry guidance allowed a lender to rely on the information given to it by a customer unless it had reasons to suspect it wasn't true. And Provident relies on the fact that Mr R made monthly payments on his active loans and that it wasn't until after loans 5 and 6 that he began to repay reduced amounts. It has shown me that Mr R contacted it in January 2015 to confirm that he was having problems in making payments due to changes in his family circumstances.

I accept that the customer does have a responsibility to provide the lender with accurate information about their circumstances. But I mentioned in my provisional decision that it was the same agent who dealt with Mr R throughout the period concerned. So it was likely that he was aware of Mr R's circumstances – in particular that he was a retired man who had - in the not too distant past - been bankrupt. However it doesn't seem that Provident's agent enquired further about the fluctuations in Mr R's financial circumstances. In light of the pattern of lending and the increasing sums required for repayment, I remain of the view that Provident didn't do enough to check that the last five loans were affordable for Mr R.

Provident also tells me that it wasn't required to carry out credit checks and to delve into a customer's wider financial circumstances through their full credit file. It goes on to say that it would be "unfair" of it to ever have such stringent checks when these loans were granted. But as Provident is aware, it was required to carry out *proportionate* checks. What those may be are for the lender to decide and may vary from customer to customer and/or from loan to loan. And I don't think Provident did enough when Mr R continued to apply for credit. So it seems to me that Provident was unfair when it continued to lend to him without adequately checking that he could afford to repay the loans.

Provident also draws my attention to an assessment carried out by a different one of our adjudicators. I have noted this but we assess each complaint on its individual merits and that is what I've done in Mr R's case.

### **putting things right**

I require Provident Personal Credit Limited to:

- refund to Mr R all interest and charges he paid in respect of the five loans he took from August 2012 to September 2013. To each of those sums it must add 8%\* simple interest a year, from the date Mr R paid them to the date the refund is paid to him: and
- remove any adverse entries relating to these loans from Mr R's credit file.

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

I mentioned in my provisional decision that Mr R hadn't fully repaid the amount of money he borrowed because he and Provident agreed a reduced settlement in April 2015. So I think it's fair to reflect this. Provident may deduct the amount by which it reduced Mr R's outstanding balance, from the compensation I require it to pay Mr R.

Since I issued my provisional decision Provident has also explained that it sent a cheque to Mr R for around £1,024 in accordance with our adjudicator's assessment. Mr R tells us he hasn't received a cheque from Provident. So to be clear, the total payable by Provident to Mr R is to be calculated as I have outlined above. Only payments which have been cashed by Mr R (and credited to his account) may be deducted from the final calculation.

### **my final decision**

For the reasons I explain above and in my provisional decision, I uphold Mr R's complaint in part. And I require Provident Personal Credit Limited to pay him compensation and remove all adverse entries relating to the five loans he took from August 2012 to September 2013 from Mr R's credit file as outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 7 November 2016.

EJ Forbes  
**ombudsman**