Financial Ombudsman Service

complaint

Mr G complains that Provident Personal Credit Limited lent to him irresponsibly.

background

Mr G took out a total of three loans with Provident in 2016. All three loans were repayable by a number of weekly instalments.

Loan no.	Amount	Date borrowed	Weekly instalment	No. of weekly instalments
1	£500	29.01.16	£32.50	23
2	£650	16.06.16	£32.50	32
3	£2,400	15.12.16	£62.40	78

Mr G says he was in financial difficulty when he applied for the loans. He says he was given further loans even though he'd missed payments. And he says he had a poor credit history. He believes that if Provident had carried out proper affordability checks, it wouldn't have lent to him.

Our adjudicator didn't recommend that the complaint should be upheld. In summary, she thought that on the basis of the information that Provident had, it would have looked as if Mr G could afford the loans. And she thought the checks Provident had carried out were proportionate.

Mr G didn't agree with the adjudicator's view. So the complaint's 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 irresponsible and unaffordable lending - 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 that Mr G 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 a 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.

It's important for me to start by saying that Provident was required to establish whether Mr G could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the FCA's Consumer Credit Sourcebook ("CONC") 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 G's complaint.

Provident carried out a number of checks before it lent to Mr G. It asked him for details of his regular monthly income and expenditure. And it carried out a credit check before making the loans.

Provident was entitled to rely on the information Mr G provided in the absence of anything to suggest it might be unreliable. And on the basis of the figures that Mr G gave Provident, I'm satisfied that it would have appeared that he'd be able to afford the weekly loan repayments comfortably for all three loans.

It's true that Mr G had some defaults on his credit file when he applied for the loans. But those had been recorded a few years before. And I think it was reasonable of Provident not to view them as an indication that Mr G was struggling financially when he applied for the loans.

I've considered Mr G's payment history with Provident. Although he'd been late with a couple of repayments on loan 1, he'd brought his account up to date quickly, and he was up to date with his payments on loan 1 when he applied for loan 2. Taking everything into account, I think that the checks Provident carried out before making loans 1 and 2 were proportionate. And based on the information it had, I don't think Provident was wrong to agree to those loans.

Mr G was up to date with his payments on loan 2 when he applied for loan 3. But I've borne in mind that he'd missed two consecutive payments on loan 2 more than once, and had ended up paying three instalments in one go on those occasions. And he'd missed a single payment and doubled up the following week a few times.

Loan 3 was for significantly more than the two previous loans, and Mr G needed to sustain repayments for around 18 months. I think that this, coupled with Mr G's repayment history with Provident, should have alerted it to the possibility that it couldn't safely rely on the information that Mr G was providing about his finances. And I think it should have been concerned that Mr G wasn't borrowing sustainably. So I think Provident should have taken steps at that point to verify Mr G's true financial position independently.

I've looked at Mr G's bank statements to see what it's likely Provident would have discovered if it had carried out what I consider to be proportionate checks. Having done so, I'm satisfied that they don't contain anything which I think should have indicated to Provident that Mr G was experiencing financial difficulty, or that he was unlikely to be able to make his repayments on loan 3 in a sustainable manner.

So taking everything into account, even if Provident had looked into Mr G's financial position as thoroughly as I think it should have done, I don't think it would have been wrong to give loan 3 to Mr G.

I'm sorry to disappoint Mr G, but it follows that I'm unable to uphold his complaint.

my final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 24 February 2020.

Juliet Collins
ombudsman