

complaint

Mrs M complains that Provident Personal Credit Limited is holding her liable for repayment of a £150 loan which she says she did not apply for.

background

Mrs M says that her daughter applied for the loan, in her name, and used a current account that was also in her name to receive the loan monies from Provident. Mrs M says she did not use that account – it had been set up previously for a purpose that no longer existed – and the debit card was in a cupboard. Mrs M notes that her daughter's email address and a mobile phone number she believes her daughter used were given, to apply for the loan.

She says her daughter then obtained the card and accessed the loan monies - as she knew the personal identification number ("PIN") – the same day as they were transferred in.

Provident said that it had insufficient evidence to consider that Mrs M had been the victim of fraud. This was despite Mrs M having reported the fraud to the police and to the bank that the current account was with. Provident was concerned that the bank simply allowed the account to be closed and did not treat the matter as fraud, as it said that there was no financial loss suffered.

Provident maintains that Mrs M should repay the loan monies that it sent to her account and were removed although two other lenders, who transferred loan monies on the same day and which were also withdrawn, have written off sums owing to them.

Our adjudicator was satisfied that Mrs M did not apply for the loan from Provident and that it was her daughter that did so. He recommended that the amount outstanding on the loan be written off and that it should remove any adverse information recorded on Mrs M's credit file.

Provident has asked that the complaint be reviewed by an ombudsman. It has said that there is insufficient evidence of fraud having taken place; the bank has not investigated the claim and is not treating the matter as fraud. It questions what evidence there is of who withdrew the money and refers to the statement that there is no financial loss. It asks why Mrs M did not repay the loan monies if she did not apply for them.

Provident also says that even if the daughter did commit fraud, no consideration has been given to whether Mrs M was negligent in not protecting the security of her account.

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 understand why Mrs M's bank has not undertaken a fraud investigation in respect of what happened with her current account. In relation to that account, and Mrs M's relationship with the bank, there is no financial loss. On the face of it, funds that were not Mrs M's went into the account and someone other than Mrs M removed them.

The account has suffered no loss and Mrs M hasn't either in the context of her relationship with the bank. Of course, there is loss in the wider circumstances, and that is because Mrs M is being asked to repay the loan monies to provident and she disputes she should because she says she has never benefitted from them. That is the matter I therefore have to decide.

And given what I have said, I do not consider it material, to the matter to be decided, that the account is closed – I understand why the bank would suggest its closure given the fraud reported on it; nor does it matter if Mrs M was negligent with the security of her account – this complaint doesn't concern whether the bank should reimburse Mrs M, to then repay Provident – it concerns whether Provident can hold her liable for repayment of the lending.

Provident has asked why Mrs M didn't repay the loan monies if she didn't apply for the loan and didn't take the funds from her account. But, of course, her evidence is that her daughter impersonated her to take the loan and accessed the funds from her mother's account.

And, on balance, I think it's more likely than not that it wasn't Mrs M who applied for the loan; and there is inadequate evidence for me to conclude that she benefitted from the funds.

The email address provided to Provident was that of her daughter and the mobile phone numbers were not Mrs M's. All other information provided to Provident was information that her daughter would be able to provide and Mrs M has also given a persuasive explanation of how her daughter was able to access funds from her current account.

Mrs M has also shown that she had fairly significant funds available to her at the time, meaning she would not need to borrow £150 from Provident.

I can't know for certain what happened here and, where evidence is inconclusive, or contradictory, I have to reach a decision on the balance of probabilities; that is, what I consider is most likely to have happened, given the evidence available and the wider surrounding circumstances.

As I say, on balance, I do not consider it safe to conclude that Mrs M took the loan from Provident and should therefore be required to repay that lending.

my final decision

My final decision is that Provident Personal Credit Limited should write off the amount outstanding on the loan, not pursue her further for its repayment, and remove any adverse information recorded on Mrs M's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 18 September 2015.

Ray Neighbour
ombudsman