

complaint

Mrs W complains that it was irresponsible for Provident Personal Credit Limited to have made three loans to her and that the loans were unaffordable for her.

background

Mrs W entered into three fixed sum loan agreements with Provident Personal Credit between August 2009 and September 2010. The first loan was made in August 2009 for £200 with weekly repayments of £7. The second loan was made in February 2010 for £400 with weekly repayments of £14. And the third loan was made in September 2010 for £600 with weekly repayments of £21. Mrs W complained to Provident Personal Credit in November 2017 that the loans had been made to her irresponsibly. She wasn't satisfied with its response so complained to this service.

The investigator didn't recommend that this complaint should be upheld. She said that the loans were taken out over six years ago so Provident Personal Credit doesn't have information from that time to show what affordability checks it carried out before it approved the loans. And she reviewed Mrs W's bank statements for 2010 and 2011. But she didn't think that it would be fair to say that Provident Personal Credit didn't carry out proper affordability checks based on the bank statements as it could've had other information to show that Mrs W could afford the loans. And before the second and third loans were made, she said that Mrs W was making the required weekly repayments – so she said that the statements don't show that it lent to Mrs W when she was struggling to pay off her existing loans. So she concluded that she didn't have enough evidence to show that Provident Personal Credit didn't carry out proper affordability checks before it lent to Mrs W.

Mrs W has asked for her complaint to be considered by an ombudsman.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mrs W and to Provident Personal Credit on 14 September 2018. In my provisional decision I said as follows:

“The loans were made to Mrs W more than six years ago so Provident Personal Credit says that it isn't required to hold information about the loans and that it only has minimal information relating to Mrs W and her account. And it says the account was transferred to its collections team in May 2011 and was then sold to a third party in January 2014. But in January 2014 there were balances outstanding on both the second and third loans so it should've had information about the loans at that time – and would've been expected to keep it for at least six years from then. So I consider that Provident Personal Credit should be able to provide details of the information on which it relied when making an affordability assessment about the second and third loans.

The first loan was made to Mrs W in August 2009 for £200 and was repaid in February 2010 when the second loan was made to Mrs W. And although Mrs W hadn't made every payment on time, she'd made overpayments in some weeks so was broadly on schedule to repay the loan on time. So I'm not persuaded that there's enough evidence to show that the first loan was unaffordable for Mrs W – or that it shouldn't have made that loan to her.

The second loan was made to Mrs W in February 2010 and was for £400 - £130 of which was used to repay the first loan. Again Mrs W hadn't made every payment on time, but she'd made overpayments in some weeks so was broadly on schedule to repay the loan on time. And in September 2010, when the third loan was taken out, the outstanding balance on the second loan was £332. And I'm not persuaded that there's enough evidence to show that the second loan was unaffordable for Mrs W – or that it shouldn't have made that loan to her.

When the third loan was taken out, Mrs W's outstanding balance on the second loan was £332 – but that balance wasn't repaid. So Mrs W then owed £332 under the second loan and £1,092 of capital and interest on the third loan. And her weekly repayments were £14 for the second loan and another £21 for the second loan – a total of £35 each week. So in little more than a year her debt to Provident Personal Credit had increased from £350 (£200 capital and £150 interest under the first loan) with weekly repayments of £7 to £1,424 with weekly repayments of £35. Mrs W's bank statements show that her income came mostly from benefits and that her expenditure exceeded the benefits that she received. And Provident Personal Credit hasn't provided any evidence to show that it properly assessed whether the third loan was affordable for Mrs W. I'm not persuaded that there's enough evidence to show that the third loan was affordable for Mrs W at the time that it was taken out – and I consider that Provident Personal Credit shouldn't have made that loan to her.

So I find that it would be fair and reasonable in these circumstances for Provident Personal Credit to: refund all interest and charges that Mrs W has paid on the third loan (with interest). Mrs W wasn't able to fully repay that loan but she did make some repayments before the loan was sold to a third party. And I don't know whether she's repaid anything further to the third party. It seems reasonable that if Mrs W still owes some of the capital that she borrowed, that the refund due to her should be used to repay that debt. But to do so, Provident Personal Credit must first take the loan back into its own books and reduce it to reflect just the capital that Mrs W borrowed. If Provident Personal Credit is unable or unwilling to do this, it must ensure that its interest and charges, and any other interest and charges added by the third party, are refunded.”

Subject to any further representations by Mrs W or Provident Personal Credit, my provisional decision was that I was minded to uphold this complaint in part.

Provident Personal Credit and Mrs W have both responded to my provisional decision. Provident Personal Credit says, in summary, that the third party has confirmed that Mrs W didn't make any payments towards the sold debt and that the debt has been written-off so no further payments are required. And it says that the total payments received prior to the sale of the debt were less than the capital borrowed so Mrs W hasn't paid any interest on the second and third loans and there's no interest to refund. It also says that it's not sharing any data towards Mrs W's credit file and that it will contact the third party to ensure that any data that it's sharing is removed.

Mrs W says that the first loan shouldn't have been made to her and that Provident Personal Credit kept giving loans to her that weren't affordable for her. And she says that lenders keep getting away with making loans that are 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.

For the reasons set out in my provisional decision, I'm not persuaded that there's enough evidence to show that the first or second loans were unaffordable for Mrs W – or that Provident Personal Credit shouldn't have made those loans to her. But I'm not persuaded that there's enough evidence to show that the third loan was affordable for Mrs W at the time that it was taken out – and I consider that Provident Personal Credit shouldn't have made that loan to her. Provident Personal Credit says that Mrs W didn't pay any interest on the third loan and that the third party has written off the debt. So it says that there's no interest on that loan to refund.

Provident Personal Credit has agreed to ensure that no adverse information about the third loan is recorded on Mrs W's credit file. And I consider that to be fair and reasonable in the circumstances.

my decision

For the reasons set out above, my decision is that I uphold Mrs W's complaint in part. And I order Provident Personal Credit Limited to ensure that no adverse information about the third loan is recorded on Mrs W's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 20 December 2018.

Jarrold Hastings
ombudsman