

complaint

Mr P complains that Provident Personal Credit Limited lent him money irresponsibly.

background

The background to this complaint and my provisional findings are set out in my provisional decision dated 19 July 2017 – a copy is attached and this forms part of my final decision. In my provisional decision I explained what I'd decided about this complaint and what I intended to do. The parties were each sent a copy of my provisional findings and asked for their comments.

Provident has nothing to add but Mr P says, in summary,

- Provident didn't check income or ask to see a payslip after the first loan. And it should have asked for a detailed breakdown of all of his expenditure - it was wrong to rely on a rough "guesstimate"
- Provident should have questioned the information Mr P provided and carried out additional checks given his history of repeatedly re-financing loans, missed payments and the fact someone with his disposable income needed these loans at all;
- if Provident had done proper checks it would have realised Mr P couldn't afford to meet repayments in a sustainable way - he was borrowing from family, gambling, and overdrawn with a poor credit history;
- the fact Mr P had good repayment history with Provident doesn't mean he wasn't struggling – he juggled money to meet Provident payments and avoid penalties and increased interest;
- Provident didn't follow new rules limiting the number of times a doorstep loan can be refinanced in 2010 and didn't comply with an obligation to refer customers to a comparison website set up in 2008. And it should have to make additional checks after providing a customer with certain number of loans or loans over a specific amount;
- Provident knew Mr P in financial trouble and vulnerable so it was wrong to make home visits which put him under pressure to borrow more - when it's against the law to call without written permission;
- the local agent never offered a repayment plan when Mr P told her he was having difficulties, just more loans. And she altered information to ensure applications would be approved, even signing some herself; and
- Provident used harsh debt collection methods and harassed and intimidated Mr P with phone calls and visits when he fell behind with payments.

my findings

I've re-considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr P raised the last two issues above in his response to my provisional decision. I don't think it's fair or reasonable for me to look into those at this late stage in the complaint. So, I'm leaving it to Mr P to decide if he wants to put these concerns to Provident. And, if he's dissatisfied with the response, he may be able to bring another complaint to this service.

Mr P has provided a very detailed response to my provisional findings. He asked if he could speak to me before I made my final decision and we've discussed his submissions in some detail. I hope Mr P will understand if I don't address every single point he's made again here. I propose instead to concentrate on what I consider is key to the complaint.

Mr P has explained he applied for these loans out because of his desperate financial situation. He thinks it was wrong of the Provident agent to call at his home without invitation as this increased the pressure to borrow. I understand Mr P was in a difficult situation. And I can see having the agent visit him at home probably made it seem easier to take out a loan than if he'd had to approach a bank or other lender.

But Mr P signed a declaration on his loan applications to say he consented to the agent calling. I've seen no evidence to suggest he complained about the agent's visits at the time or asked her not to call again. And I am not persuaded I can fairly find Mr P was subjected to an unreasonable level of pressure to borrow this money solely on the grounds the loans were taken out at his home.

I think the crux of the matter here is that Mr P believes Provident should have done a great deal more to assess his financial situation before lending. I can see Mr P was under financial pressure throughout his dealings with Provident. But, I can only uphold this complaint if I'm satisfied Provident should reasonably have known he was in difficulties.

Mr P has referred me to some guidance and regulations that don't apply to the sort of credit Provident provides. I think he understands that I can only hold Provident to the standards relevant to the type of loan he took out – which is home credit not payday lending.

As I've explained in my provisional decision, Provident was required to take reasonable and proportionate steps to satisfy itself that Mr P was likely to be able to repay the money he borrowed sustainably. But it wasn't obliged to do any one check in particular. Nor was it required to decline to lend or do additional checks after providing a certain number of loans or lending up to a particular amount.

I've set out in my provisional findings why I think Provident carried out sufficient checks before Mr P asked for his ninth loan. I appreciate Mr P feels Provident should have done more and I've considered what he's said carefully. But, I haven't seen any further evidence that changes my mind.

I have said Provident should probably have taken a closer look at Mr P's finances before providing the ninth loan. I understand Mr P feels that Provident is bound to have seen some red flags if it had done so. And I can see why he says this, with the benefit of hindsight. He's told me he was borrowing from family, gambling and struggling to meet repayments at this time. I don't doubt what Mr P says. But, I've got to consider what Provident is likely to have seen at that time if it had reviewed his circumstances in a bit more detail.

I accept some of Mr P's bank statements show he was gambling. I can see he made some fairly large bets at times, but Mr P seems to have had some sizeable wins too. He had several accounts at this time. I think Mr P would probably have shown Provident the most favourable statements to try and ensure his loan applications would be accepted. But, even if Provident had seen the statements I've seen, I can't say that means it should reasonably have considered Mr P's gambling was a problem and refused to lend. So I can't fairly uphold Mr P's complaint on this basis.

As I've explained in my provisional findings, on balance, I think Mr P would probably have been able to supply enough evidence to satisfy Provident that his disposable income was much as he'd declared in each of the loan applications. I'm not persuaded Provident is likely to have realised Mr P was borrowing from family to meet repayments - even if it had done more extensive checks. And I don't think it should reasonably have considered overpayments might be a sign Mr P was struggling. Taking everything into account, I can't fairly conclude it was wrong of Provident to lend.

I realise this decision is likely to come as a disappointment to Mr P - I know it's not the outcome he wanted. I want to assure Mr P that I've re-considered all of the evidence and thought about his response to my provisional decision very carefully. But, for the reasons I've explained, I'm not satisfied there are enough grounds here for me to depart from my provisional conclusions and I'm unable to uphold this complaint.

my final decision

My decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 10 November 2017.

Claire Jackson
ombudsman

copy provisional decision

complaint

Mr P complains that Provident Personal Credit Limited lent him money irresponsibly.

background

Mr P took out 14 loans with Provident between 2006 and 2011. He says he was in financial difficulty throughout this time. He had significant debts and didn't have enough spare money to afford the loan repayments. He thinks Provident would have realised that if it had carried out proper affordability checks so it was wrong to lend him the money.

Provident says Mr P had a good repayment history until his last two loans. And an unforeseeable change in his circumstances is likely to have caused the problems he experienced then. It considers all of the loans looked affordable when they were taken out - on information Mr P provided. And it was entitled to rely on that, at the relevant time.

Our adjudicator has explained that we can't look at the first loan because of our rules. She's considered Mr P's loans from July 2007 onwards. She notes he generally paid fortnightly, or every three weeks - in amounts that exceeded the weekly contractual rate. But he began making lower and less frequent, payments during the tenth loan. She thinks Provident should have realised there might be an affordability issue at this point and done more checks - and it was wrong to lend again. She recommends Provident should refund interest and charges on loans taken out from 24 October 2011 onwards plus interest and rectify Mr P's credit file.

Mr P doesn't agree. He thinks Provident didn't do enough checks when he took out his first loan in 2006 and it never asked him to verify his income after that. He borrowed from Provident without a break from 2006 until the last loan in 2011 - often taking out a new loan to pay off an existing one. He believes Provident would have seen defaults and realised he was in a debt management plan if it had checked his credit history. Or it could have looked at bank statements which would have shown he was unemployed when he took out the earlier loans - and heavily in debt making token payments only to other creditors. He wants Provident to provide a refund from his fourth loan, at the latest.

Provident says the only reason our adjudicator recommends the complaint should be upheld is Mr P's repayment history. And it's not fair to expect Provident to consider failing to overpay might be a sign of financial difficulties. It says Mr P only missed 11 payments in all between 2008 and 2011 - and only two during the course of the tenth loan. And his disposable income suggests payments were affordable to afford repayments. It accepts he struggled to repay the last loan but considers that doesn't mean the lending was irresponsible as Mr P's financial situation changed after the loan was granted.

my provisional findings

I've considered all the evidence and arguments available so far to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities - in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.

I think it might be helpful if I set out below a summary of the loans Mr P got from Provident that I've considered:

1. 7/7/07 £1,000 repay £1,650 at £30pwk over 55 weeks
2. 2/2/08 £300 repay £504 at £9pw over 56 weeks
3. 12/7/08 £1,000 repay £1,680 at £30pw over 56 weeks

4. 6/3/09 £600 repay £1,026 at £18pw for 57 weeks
5. 25/7/09 £1,200 repay £1,850 at £60pw for 31 weeks
6. 15/10/09 £300 repay £525 at £10.50pw over 50 weeks
7. 23/12/09 £1,000 repay £1,750 at 35pw over 50 weeks
8. 23/12/09 £1,000 repay £1,750 at £35pw over 50 weeks
9. 7/7/10 £2,500 repay £4,860 at £60pw over 81 weeks
10. 26/1/11 £300 repay £525 at £10.50pw over 50 weeks
11. 24/10/11 £1,000 repay £1,750 at £35 for 50 weeks
12. 30/12/11 £2,000 repay £3,888 at £48pw over 81 weeks
13. 30/12/11 £500 repay £972 at £12pw over 81 weeks

From what I've seen loans one to three are no longer in dispute. But Mr P says from loan four he thinks Provident should have been doing more checks than it did. So I've looked at the events leading up to loan four and what happened subsequently.

The Office of Fair Trading published guidance on irresponsible lending in March 2010. It says a lender should take reasonable steps to ensure a borrower is likely to be able to pay back credit in a sustainable way. But it doesn't require lenders to look at credit files or bank statements – or do any one check in particular. It says lenders are entitled to rely on the information a borrower provides – unless it has reason to think that might not be correct. And self certification is acceptable in certain circumstances.

This guidance was published after Mr P got the first 8 loans. But I think the guidance simply formalised what was already considered to be good industry practice. So I don't think Provident did anything wrong when it gave Mr P these loans. And I don't think it's reasonable to hold Provident to a higher standard of checks than the 2010 guidance requires.

Provident says it would have asked Mr P about his income and expenses (I&E) before each loan was granted. He confirmed he had enough disposable income to meet the repayments – and said he wasn't in (or considering) a debt management plan.

I've seen an I&E declaration Mr P provided in July 2007. Mr P told Provident he earned about £450 a month and spent about £200, so he had about £250 to spare. Mr P says now that's not true. He was unemployed at the time and had to agree token repayments with several other creditors because of financial problems. He thinks Provident would have known that if it had asked for some verification of the figures declared. But I don't think Provident had reason to question what Mr P said on the information it had at the time it gave Mr P the first eight loans.

Mr P applied for his ninth loan in July 2010. He borrowed £2,500, agreed to pay back nearly £5,000 and it looks as if his weekly repayment doubled. This was a significant increase on Mr P's earlier borrowing – and it required him to make repayments over a longer term of 81 weeks. So I think it's arguable that Provident should have done some more checks before agreeing to this loan. But, the fact that Provident didn't do these checks isn't enough for me to conclude the lending was irresponsible. I have to consider what Provident is likely to have done if it had obtained some more information about Mr P's situation.

I accept Provident didn't have to carry out any one check in particular. But I think it would have been reasonable for Provident to have verified Mr P's income in some way. I'm satisfied Mr P was working with a regular income of about £1,500 a month at this stage. And it looks as if he sometimes undertook casual work to make some extra money. I can see he earned another £400 in June 2010 in this way. So, on balance, I think Mr P is likely to have been able to evidence he had enough coming in - if Provident had requested proof of income.

Mr P says Provident would have realised he was in difficulty if it had looked at his credit file because he had defaults and a debt management plan in place at the time. Looking at Mr P's current credit file (which I accept may not show the same information as Provident would have seen if it had looked in 2010) I can't see any adverse information that's likely to have resulted in this loan being declined. I

understand Mr P was repaying a substantial loan he'd taken out abroad around this time. But that wouldn't have shown up on Mr P's credit file here. So I'm not satisfied that Provident is likely to have had cause for concern even if it had looked at his credit file at this stage.

I have thought about whether Provident should reasonably have asked to see Mr P's bank statements. But, having considered all of the circumstances, I am not persuaded I can fairly find that it should. I say this because I think Mr P is likely to have satisfied Provident that he had the income he declared – if it had asked. And it wouldn't have seen anything worrying on a credit check. And, looking at Mr P's other I&E declarations, I suspect he would probably have been able to provide satisfactory information about his outgoings as well - if he had been asked at the time. So I can't safely conclude that Provident was irresponsible to provide loan 9.

Mr P applied for loan 10 (£300) about six months later. This increased his weekly repayments by £10. Mr P had been maintaining his repayments on loan 9. And, for much the same reasons as I've given above in respect of that loan, I'm not satisfied it was irresponsible of Provident to provide this loan either.

Mr P applied for loan 11 for £1,000 in October 2011. Mr P had repaid loan 10 and about three quarters of the much larger loan 9 at this stage. I'm not persuaded he underpaid in respect of those loans. From the evidence I've seen, Mr P paid an average of about £82 a week over the previous 31 weeks when his weekly repayment was £70. And I accept Provident was entitled to take this into account when it assessed affordability.

I've seen I&E details Mr P provided at the time. He told Provident he was single with no dependants. The weekly outgoings declared aren't much different to the expenditure set out in a budget planner Mr P completed for a third party a few years earlier. I don't think they look unreasonable and the income seems consistent with Mr P's actual earnings at the time. Mr P told Provident he could afford this loan. I'm satisfied he had some responsibility to provide accurate information about his finances when Provident asked for it. And I'm not persuaded I can't fairly find it was irresponsible to Provident to grant loan 11 either.

Mr P applied for loans 12 and 13 on the same day, just two months after he took out loan 11. This increased his borrowing but the extended term meant Mr P wouldn't pay more than he had been for loan 11. Mr P told Provident he had £365 a week spare so I think the loans looked affordable. I can see Mr P's outgoings were reduced from those he declared on his last loan. But he seems to have changed jobs around this time so I can't fairly find Provident had reason to question this.

I've looked at some of Mr P's bank statements. His income at this point looks similar to the amount he declared to Provident. I can't see evidence of all of the expenditure set out in his earlier budget plan - but Mr P says some of this would have been paid in cash, so I'm not suggesting those payments didn't have to be made. But, even if I accept Mr P's outgoings were more than he declared to Provident, I haven't seen enough evidence for me to fairly find that Provident should have reasonably thought these loans might be unaffordable.

Mr P seems to have maintained his repayments on the last two loans for more than six months after he took them out. Provident says he told it later that employment issues were the cause of subsequent money problems. I can't say Provident should reasonably have foreseen this. So I can't fairly find it was irresponsible to provide the last two loans, in all of the circumstances here.

I realise this provisional decision will come as a disappointment to Mr P and I am sorry about that. My findings are provisional at this stage. So I invite both parties to think about what I've said and let me have any further information or comments by 21 August 2017. Then I'll re-consider all of the evidence and make my final decision.

my provisional decision

For the reasons I've given above, and subject to any further submissions that I may receive from Mr P or Provident by 21 August 2017, my provisional decision is I don't intend to uphold this complaint.