complaint

Miss T complains that Provident Personal Credit Limited failed to make proper checks about affordability of a loan it made to her and failed to identify that she was in financial difficulty.

background

In 2012 Miss T took out a £400 loan from Provident through home credit, and was due to pay it back (with interest) in weekly instalments in just over a year. However at the time she already had a significant amount of other debt which she had been struggling to repay.

Our adjudicator recommended that the complaint was upheld. He said that at the time Miss T was given the loan she had two other accounts which had defaulted and was already in a debt management plan to pay off a number of creditors. Provident had obtained information on her income and expenditure, which appeared to show she had nearly £600 a week of disposable income. Although Miss T might have provided some incorrect figures, he thought the agent should have questioned why, if the figures were correct, she would need the loan. He thought that should have raised the need for further checks which would have revealed the actual position and her poor credit record. He thought Provident should refund all interest and charges on the loan, pay her £100 in compensation and remove any information about the loan from her credit record.

Provident disagreed. It said that although Miss T had missed payments in late 2012, she had maintained them from February 2013 to August 2014. She had had a cooling off period when applying for the loan but had not complained until 2015. Based on the information Provident had been required to check at the time of the loan, there was no reason to decline the credit. Although Miss T had appeared to have a high surplus income, she was still entitled to apply for credit, and based on the information she gave she could afford the repayments. It asked to see our evidence about Miss T's financial situation: which we provided.

my provisional decision

After considering all the evidence I issued a provisional decision to both parties on 2 March 2016. I summarise my findings.

The checks businesses need to carry out to see if loans are affordable vary depending on the size of the loan. So for a comparatively small loan (in this case £400 with payments of less than £13 a week), Provident was not obliged to do much checking. And, unless there was something else to alert it to an issue, it was entitled to rely on the information that Miss T gave about her disposable income.

The information Miss T gave on the loan application she signed showed she had a total income of £700 a week and outgoings of only £105. That certainly made the loan seem affordable. But information she gave to the organisation running her debt management plan, both before and after the loan application, showed an income of no more than £415 a week, and outgoings of at least £329 - before she made any payment under the plan. In February 2012 she was paying £82 a month under the plan: whereas on the loan application she said she paid only a total of £5 a week on loan repayments.

I could understand why the adjudicator thought Provident might have queried why Miss T needed the loan if she had so much disposable income. But actually she could still have needed a loan in that situation – for example, if some large unexpected expense (perhaps a large bill for repair or replacement of an essential item) had arisen. So I did not see it as something which should necessarily have caused real doubts about the information she gave. Nor was I aware of any other reason why Provident should have done more checks on this particular loan.

I felt that Miss T had a responsibility to provide accurate information about her financial situation on the application form. If she had done so, I could not see that she would have been offered the loan.

So subject to any further comments or evidence from either party, my provisional decision was not to uphold the complaint.

Provident did not respond to the provisional decision.

Miss T disagreed with my view. She said that the reason the income shown on the form was so high was because she had been told to put down the household income, so it included her partner's income as well as her own. The figure was correct.

my findings

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

On reflection I can see that Miss T might have thought it was right to include her partner's income as well as her own on the loan application form, particularly given its wording. That could explain why the income is more than she told the debt management organisation.

But that does not explain why the outgoings she listed were so much less than those she had given for her debt management plan. If she was going to include her partner's income on the loan application, then she had to expect to include her partner's outgoings. I would therefore have expected the outgoings figure on the loan application to be no less (and probably significantly more) than the figure used for the debt management plan. But on the loan application she showed outgoings of only £105 and on the debt management plan documents outgoings of at least £329.

So it still seems to me that the figures Miss T gave on the loan application did not give an accurate picture to enable Provident to assess the affordability of the loan. It was her responsibility to give accurate figures. Based on the figures she gave the loan appeared affordable, and I cannot see that I have grounds to criticise Provident for making the loan.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss T to accept or reject my decision before 9 May 2016.

Hilary Bainbridge

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