

complaint

Mrs L says Provident Personal Credit Limited lent to her irresponsibly. Mrs L says the affordability assessment Provident did was vague and it didn't find out that she couldn't afford to repay the loans. She also says that Provident wasn't sympathetic when she was in financial difficulty.

background

This complaint is about four home credit loans Provident provided to Mrs L between May 2015 and April 2016.

loan number	date started	amount borrowed	term (weeks)	date ended
1	18/05/2015	£750	52	14/03/2016
2	15/09/2015	£600	52	06/04/2016
3	31/03/2016	£1,000	63	25/01/2017
4	07/04/2016	£500	63	25/01/2017

Provident says that its sales documentation shows Mrs L couldn't afford the repayments to loan 2. So it has offered to refund the interest and charges she paid to this loan. Mrs L hasn't accepted this offer.

One of our adjudicator's partially upheld the complaint. As far as I can see Provident hasn't fully responded to the adjudicator's opinion so the complaint has 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 short-term and high cost 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 Mrs L 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 the 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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator 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 Mrs L's complaint. I've decided to uphold Mrs L's complaint in part and have explained why below.

Mrs L didn't disagree with our adjudicator's opinion about loan 1. And she hasn't disagreed with the offer made in respect of loan 2. Because of this I don't think there is any ongoing disagreement about these loans. So I won't be making a decision about loan 1, and I agree with the offer made about loan 2. But these loans were part of the borrowing relationship Mrs L had with Provident. So they are something I will take into account when considering the other loans she took.

As our adjudicator explained, a proportionate check for loans 3 and 4 would most likely have shown that Mrs L was having problems managing her money. She had told Provident that she was paying around £1,000 a month to other creditors. This was significant when compared to her declared income of around £1,500 a month. So Provident should have, at the very least, found out what her other liabilities were.

If it had done this it would've seen that she owed a large amount to other creditors such as credit cards and other high cost loan providers. And she was in arrears on a number of these accounts and one of them was in default.

So I don't think it was reasonable for Provident to lend on the basis that Mrs L would be likely to sustainably repay her lending. She was clearly struggling to pay the outgoings she already had. And Provident should've found out about this. So I'm upholding Mrs L's complaint about loans 3 and 4.

putting things right – what Provident needs to do

- refund all interest and charges Mrs L paid on loans 2 to 4;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement*;
- remove any negative information about loans 2 to 4 from Mrs L's credit file;

If Mrs L still owes Provident any of the principal balance she borrowed on loans 3 and 4 then, instead of the above compensation for these loans, Provident should remove all the interest and charges applied to the outstanding balance. Provident should then re-work the account as if all payments made by Mrs L went to towards the principal. But importantly, Provident needs to make sure that Mrs L doesn't repay more than the principal amount borrowed.

If after doing this Mrs L hasn't repaid the principal she borrowed Provident can deduct this from the remainder of the compensation. If, Mrs L has already paid enough to repay the principal then any overpayment should be refunded to her with 8% simple* interest from the date of payment to the date of settlement.

And if Provident no longer owns this debt, and it wants to make a deduction due to the amount owed, then it should buy it back. If it doesn't then it isn't entitled to make any deductions for it from the amount it needs to pay Mrs L.

*HM Revenue & Customs requires Provident to take off tax from this interest. Provident must give Mrs L a certificate showing how much tax it's taken off if she asks for one.

my final decision

For the reasons I've explained, I partly uphold Mrs L's complaint.

Provident Personal Credit Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs L to accept or reject my decision before 19 October 2019.

Andy Burlinson
ombudsman