Responses to Legal Questions from Debt Camel and Generic Questions from Scheme Creditors

Debt Camel Question 1

1. *What uphold rate is Provident expecting in the Scheme? I would like to see the modelling that was done to assess this number. Basically, I do not believe their "10%" figure - it can only be right if they are expecting a very low claim rate or that they will uphold a lot lower percentage than FOS did. In either case this is information that customers should have had before voting on the Scheme as without it they have no way of assessing how likely their claim is to be upheld - it turns the Scheme into a lottery. I can't see they can claim this is commercially confidential.*

Response from McCarthy Denning

We note that you would like to see the modelling that was done to ascertain what uphold rate Provident is expecting in the Scheme. The Customer Advocate has requested this from Provident, and Provident have informed us that it is not willing to share the detailed model. However, Provident have informed us that the model has been independently reviewed by the skilled person appointed by the FCA, and that suggestions made by the skilled person and FCA on the assessment criteria have been taken on board.

As described in the CA Report of 6 July 2021, paragraph 13.2 of Part D of the Explanatory Statement states that "*Based on information currently available, our best reasonable estimate is that valid claims will receive a cash payment of somewhere between 5% and 10% of the full amount of the net claim*." On this basis, it is right to acknowledge that the Company has not stated that the dividend will be 10%; rather it has given an indicative range of between 5 and 10%. We have been informed by Provident that the illustrative example in the Explanatory Statement uses 10% as the dividend rate because this was within the best estimate range but also made the mathematical calculations easier to follow for customers. The above estimate is based on an expected response rate to the Scheme of between 10% and 30% which has been seen in other similar schemes.

The 5 to 10% indicative range remained Provident's best reasonable estimate when it published the Supplementary Explanatory Statement dated 21 June 2021 (see paragraph 25).

Debt Camel Question 2

2. *What alternatives or variations on the Scheme could PFG have proposed that would give customers more? The FCA's suggestion of expanding Vanquis & Moneybarn more slowly, a rights issue, whatever. Are there any legal problems with PFG choosing to bail out a limited co subsidiary instead of putting it into administration? I am not asking if Provident were legally obliged to offer more, but what the problems would be had they wanted to do so. If they had come to you and said "Jon, we did wrong and in order to protect the reputation of the Group we want to give customers a billion, how do you suggest we structure this?" what would you have said?*

Response from McCarthy Denning

We are aware that the FCA has suggested in the past that PFG could attempt to raise funds for an additional contribution using a rights issue or by expanding Vanquis and Moneybarn more slowly.

PFG is under no legal obligation to fund the Scheme. The legal issue for PFG is that its directors owe various duties to PFG, including a duty to act in a way which is most likely to promote the success of PFG for the benefit of its shareholders. Ultimately, it is for PFG to weigh the interests of its shareholders and other stakeholders against the reputational damage it might suffer as a result of not ~~it~~ providing more money to meet the redress claims. We have been informed by Provident that the shareholders PFG has spoken to would not support an equity issue by PFG for the purposes of making a larger contribution to the Scheme.

Although it is a purely hypothetical enquiry, without PFG contributing additional funds to the Scheme it is difficult to envisage any variation to the Scheme which would result in Scheme Creditors receiving a greater sum.

***Debt Camel Question* 3**

3. *How was the figure of £50m decided to be fair? The supplementary Explan doesn't seem to move things any further forward with getting an answer to this. Why 50 and not 10 or 500m? There appears to be some decision that PFG has to make some contribution it is not legally obliged to but no justification why this amount is reasonable.*

Response from McCarthy denning

As set out above, PFG is not legally obliged to contribute to the Scheme. That being so, it is a matter for PFG’s directors to determine what contribution to make to the Scheme weighing up the interests of their shareholders and other relevant factors. Upon making this determination, it is for the Scheme Creditors to consider whether they agree that the proposal is fair. If they do (by voting in favour of the Scheme), then it can proceed, subject of course to obtaining sanction from the Court. If they do not, and vote against the Scheme, it will not proceed any further.

We have raised your query with the Company and it has pointed to paragraphs 13 to 15 of the Supplementary Explanatory Statement under the heading "*Why is PFG providing the £50 million Compensation Fund?*" as the explanation for why £50 million was determined to be the appropriate amount to contribute to the Scheme, rather than more. The Company also states in the Supplementary Explanatory Statement that "*PFG continue to believe that the Scheme is fair because, in the Scheme, customers with valid compensation claims have the right to share in the £50 million compensation fund that PFG will provide to the Scheme. This will not happen without the Scheme*."

Debt* Camel *Question 4

4. *Will the proposed Scheme prevent a private criminal prosecution being brought for breach of s49 of the Consumer Credit Act against CCD, PFG, or any of their respective directors and senior management, past or present?*

Response from McCarthy Denning

The Scheme Rules provide that the Scheme Creditors release the Company (Provident SPV Limited), PPC and Greenwood from all "Scheme Claims". The Rules provide that Scheme Claims are Redress Claims for unaffordable lending and FOS Claims. We have reviewed the Scheme to consider what constitutes a Redress Claim. We have concluded that the Scheme does not release any party from a criminal liability.

We have raised your query with Clifford Chance, the legal advisers in respect of the Scheme, and they have confirmed that they agree with this view.

Creditor Complaints / Questions

Creditor Complaint / Question 1

The complaint is about the Provident Financial Group and their decision to separate out a failing business [from] a profitable one and to then entrench themselves so as to hold no responsibility for their failings.

**Note: The above is an extract from a series of emails which has been summarised for ease of reference*

Response from the Customer Advocate

Provident Financial plc is the ultimate shareholder of a number of companies. As is common with groups of companies, each company is, as a legal matter, a separate entity. This means that the business of one company can be brought to an end even though the business of another company in the same group is continuing. Accordingly, PPC's business is, and always has been, separate from the other companies in the group.

PPC's business has been loss making for a number of years. PPC's losses have increased from approximately £44,200,000 for the year ended 31 December 2019 to approximately £123,200,000 for the year ended 31 December 2020 (a year later). There are a number of reasons for this and they are set out in detail on pages 20 onwards of the Explanatory Statement available here https://scheme.providentpersonalcredit.com/Provident%20SPV%20Limited%20-%20Section%20I%20-%20Explanatory%20Statement%20-%20New.pdf

PFG has fully supported PPC during this loss making time. However, PFG is a separate company and has no legal obligation to do so. In fact, PFG and its directors have a legal duty to act in a way which is most likely to promote the success of PFG for the benefit of PFG's shareholders (while having regard to a number of factors including the desirability of PFG maintaining a reputation for high standards of business conduct). These same obligations apply to every other company in the group (including Vanquis).

PFG has determined that, having regard to its own responsibilities, it cannot continue to fund the escalating losses of PPC. Whilst PFG have said that they regret that this will result in creditors receiving less money than they are owed, PPC has made it clear that, if PFG withdraws support for PPC, the only other alternative for PPC is to enter into an insolvency proceeding and in an insolvency proceeding, customers are not expected to receive any payment from the Company.

Creditor Complaint / Question 2

I received a loan from Glo in 2015 and Satsuma of 2019. I made good friends with someone at work. He started borrowing in my name and forced me to agree. The Loan was approved so quickly and funds paid within hours without any affordability checks or additional checks. I know the whole point of the scheme is unaffordable lending and compensating customers but all I really want is the credit files either corrected or removed so I can move on.

**Note: The above is an extract from a longer email which has been summarised for ease of reference*

Response from the Customer Advocate

It is correct that the Scheme compensates customers for their valid claims for unaffordable lending by Provident, Glo, Satsuma or Greenwood. You are encouraged to submit a claim before the deadline set in the Scheme in order to see if you qualify for compensation.

The Scheme does not compensate customers for the actions of other people. You will need to take your own separate legal advice or seek advice from citizens advice bureau if you wish to understand if you have a claim against other people for the loans that you took out.

The Scheme does not include any provision requiring the Company to correct customers' credit files. However, I have spoken with the Company and they have informed me that they have agreed with the FCA that they would follow the approach that Financial Ombudsman Service has requested where a customer claim is upheld. The same approach will be applied to claims made in the Scheme. This is as follows:

(i) If the compensation is higher than the amount owed by the customer, the credit referencing agency data shall show that the loan is settled and closed. If there are any negative markers on the account, these shall be removed; and

(ii) If the compensation is lower than the amount owed by the customer, the credit referencing agency data shall be changed to the new amount owed and all adverse information shall be removed (i.e. the data shall be reset). Following the data reset, if the customer continues to make payments on time, the data will show the payments made. However, if the customer do not make payment it will then show missed payments going forward.

You are encouraged to submit a claim before the deadline set in the Scheme in order to see if you qualify for compensation and therefore to determine if updates can be made to your credit referencing agency data.