

The complaint

Mrs G complains that Provident Personal Credit Limited trading as Satsuma Loans (Satsuma) unfairly defaulted a loan account during the COVID-19 Pandemic and while she was held up abroad.

In order to put things right, Mrs G has asked for the default to be removed from her credit file.

What happened

The default recorded on Mrs G's credit file relates to a loan that Mrs G was advanced by Satsuma on 27 November 2019. She borrowed £1,000 to be repaid by 12 monthly repayments of £166.

I can see from the statement of account provided by Satsuma that Mrs G made her contracted payments for January and February 2020. There are then no further payments until December 2020, when she paid £50. In January 2021, Mrs G paid £40 before making monthly repayments through a repayment plan of £30 in February, March and April 2021. Payments then stopped and restarted at a rate of £100 per month from July 2021 until December 2021 when the outstanding balance was written off.

From the statement of account, Mrs G had some problems repaying this loan, and Satsuma defaulted her account in May 2021.

However, it seems Satsuma was on notice fairly early that Mrs G was out of the country and was stuck there as a result of the COVID-19 pandemic. I can see a call note which details this and so Satsuma was aware of the situation at least by 10 April 2020.

A call note dated 28 May 2020 re-stated that Mrs G was still stuck aboard due to the borders being closed as a result of the pandemic. But she told Satsuma she had a flight booked at the start of June 2020 and would be back at work from the start of July 2020.

Satsuma says due to the arrears on the account then it proceeded to issue a default notice on 20 July 2020.

On 27 July 2020, Mrs G spoke to Satsuma and confirmed she was now back in the country, and at work. At this point in time, Satsuma reinstated the contractual repayments of £166 per month.

However, as can be seen from the statement the next payment due on 26 August 2020 wasn't made.

There was then no further contact (according to the notes supplied by Satsuma) until 10 December 2020, when Mrs G spoke to Satsuma about the arrears. She provided some further information about her financial difficulties and how she was in arrears with other priority bills. It's clear, based on what she said, that Mrs G's financial problems were being caused by the COVID-19 pandemic. Mrs G then made a payment of £50 to Satsuma and the

call note says she would call back the following day to set up a payment plan and to complete income and expenditure details.

The next phone call was 26 January 2021, Mrs G called and made a payment of £40 towards the balance and set up a three month reduced repayment plan of £30 each month. The notes also says "*customer advised may call next week to complete I&E [income and expenditure]...*"

Satsuma says at the end of the three-month payment period, Mrs G was expected to go back to normal contractual repayment – so £166 per month. However, as no income and expenditure form were completed (in order to extend the repayment plan) Satsuma attempted to collect a payment of £166 on 10 May 2021. When this failed, Satsuma says it emailed and texted Mrs G about this. As no response was received the account was then marked as being defaulted on Mrs G's credit file.

Satsuma says that a decision was made in December 2021 to write off the balance that was owed and it says Mrs G's credit file was updated to show the account was partially settled.

Mrs G then made a new complaint about what had happened, and Satsuma issued its final response letter on this matter on 15 July 2021. In it, Satsuma gave a brief overview of the events that led up to Mrs G's account being defaulted. However, it said that it hadn't done anything wrong and therefore wouldn't be removing the default from her credit file.

Unhappy with this response, Mrs G referred her complaint to the Financial Ombudsman Service.

Our adjudicator considered the complaint and he said it shouldn't be upheld. She provided a brief overview of what happened. But she explained, that as payments weren't made between March 2020 and December 2020, this led to the account being sufficiently in arrears for the account to be defaulted and the monthly repayments Mrs G was making weren't sufficient. Overall, she didn't think Satsuma had made an error. Satsuma didn't respond to the adjudicator's assessment.

Mrs G didn't agree with the adjudicator's recommendation because she said that some of her reasons weren't taken into account and the communication from Satsuma was inaccurate.

Later on, Mrs G sent in another email that contained further points that she wanted considered.

- Payments couldn't be made towards the loan due to the pandemic.
- When Mrs G contacted Satsuma it offered to help and was happy to accept £30 per month towards the balance.
- Mrs G says she didn't receive any confirmation that the £30 monthly payment was for only three months and she didn't know that after that she'd need to return to contractual repayments.
- Mrs G didn't know that she was to complete an income and expenditure form and this wasn't emailed to her.
- Mrs G confirmed that after she received a letter from a third-party collection company, she arranged to make monthly repayments of £100.
- Even though Mrs G made her three-monthly payments of £30 these have been shown as late payments on her credit file.
- After December 2021 the balance should be updated as partially settled and not defaulted.

As no agreement has been reached, the case has been passed to me for a decision.

What I've decided – and why

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

To begin with, there was further information that I wished to receive from Satsuma before issuing the decision. This information was confirmation and evidence of the contact it had with Mrs G such as a record of text messages and emails. This information wasn't initially given to the Financial Ombudsman Service. Satsuma provided details of the telephone conversations that took place between it and Mrs G.

However, this information hasn't been supplied. This is likely due to the current position of Satsuma. While, it would've been useful to have had the information that was requested I am now having to make a decision based on the information that Satsuma and Mrs G have already provided. Therefore, this decision is based on what I think is most likely to have happened in this case. This is because nothing further can be provided in relation to the notes and it isn't fair to Mrs G to delay the issuing of this decision any further.

Pandemic support

Due to the COVID-19 pandemic, in April 2020 the industry regulator – the Financial Conduct Authority (FCA) released guidance to lenders – such as Satsuma as to how it ought to deal with consumers who were having problems directly related to the pandemic.

Based on the call note between Mrs G and Satsuma in April and May 2020 it is clear that the non-repayment of the account was solely down to the fact Mrs G was stuck abroad and the wider issues caused by the COVID-19 pandemic.

As part of the support offered by the FCA, this included for example payment holidays and during this time no adverse credit file data would be recorded with the credit reference agencies.

Looking at the credit file, there doesn't appear to have been any late payment markers or arrears added to the credit reference agency – at least initially when Satsuma was aware of what was going on.

Ideally, it would've been useful if Satsuma could've confirmed what action, if any it provided to Mrs G under the COVID-19 guidance. However, Satsuma's notes do show that on 26 May 2020 a "*breathing space review*" note has been added. So, it's likely, some form of COVID-19 support was provided to Mrs G.

So I think, its likely although, I can't be sure as the information isn't available, that Satsuma did assist Mrs G with COVID support and this may explain why, there isn't any adverse information reported to the credit reference agencies initially. I don't think this was an unreasonable course of action to take.

Recording a default

When thinking about whether Satsuma ought to have placed a default on Mrs G's credit file, I've considered the guidance issued by the Information Commissioner's Office (ICO). The ICO is the body created which deals with an individual's data, and it has released a document called "*Principles for the Reporting of Arrears, Arrangements and Defaults at*

Credit Reference Agencies". It is entirely reasonable to rely on this, because in my view, it constitutes good industry practice.

Principle 3 of the guidance is entitled *"If you offer or make a reduced payment, how it is reported will depend on whether it is agreed with the lender."*

It goes on to say:

Should a temporary reduction in the payment amount be jointly agreed between you and your lender, this 'arrangement' will be recorded at the CRAs.

and

If your lender agrees to give you a temporary arrangement, but you fail to make the agreed payment against the new terms, they may still file a default (see Principle 4 below) as soon as a payment is missed, as long as you were at least 3 months in arrears on the original agreement.

In principle 4, the ICO says:

4. If you fall into arrears on your account, or you do not keep to the revised terms of an arrangement, a default may be recorded to show that the relationship has broken down.

As a general guide, this may occur when you are 3 months in arrears, and normally by the time you are 6 months in arrears.

Principle 4 also provides reasons for when a default **should not** be recorded.

A default should not be filed:

- *If you make a payment, in time, that fully meets the terms set out in the default notice*
- *If jointly with the lender an agreement is reached for an arrangement and you keep to the terms of that arrangement*
- *If the amount outstanding is solely made up of fees or charges*
- *If a lender is given evidence that a customer is deceased (for example a verifiable death certificate, probate or letter of administration)*

So, the ICO, is clear, all the time that had Mrs G stuck to her repayment plan a default wouldn't be recorded on her credit file – although adverse information would still be reported about such a plan. This adverse information could be shown as missed payments markers which would be correct – because although Mrs G was making payments under a plan she was paying less than the contractual amount. But as long as the account was sufficiently in arrears, then Satsuma could, if any repayment plan wasn't adhered to then proceed to default the account.

Again, I will reiterate, that there is some information missing that I think would be useful. For example, I know Mrs G spoke to Satsuma in July 2020 when she returned from abroad. She was clear, in this contact, that she was back at work and Satsuma reinstated the payments of £166. However, as I know from the statement of account, the payment in August 2020 wasn't taken, but no further contact appears to have been made.

Now, its entirely possible, given what Satsuma says in the final response letter, that there was attempted contact, after all it says *"also called you 29 times, sent eight texts and*

emailed you four times between 10 January 2020 until 28 August 2020 . However, no evidence, has been provided about this contact. So, I repeat here that the decision is based on what I can see in the information provided and what I think is most likely to have happened and finally what I consider to be fair and reasonable.

Mrs G, from the statement of account, hadn't made any repayments from February 2020, so even taking into account the help and support potentially offered by the FCA as part of its COVID-19 support package, Mrs G's account was clearly in arrears as no payments had been made. Allowing for any repayment holiday, the account would've been at least three months in arrears – which is the amount of time the ICO says is the minimum amount required before a default can be recorded with the credit reference agencies. Therefore, on 20 July 2020 a default notice was dispatched to the address that Satsuma would've held for Mrs G.

Mrs G has said this wasn't received by her. But in cases such as this, the onus is on Satsuma to show the default notice was sent. I have no reason to doubt the system note that it has provided which shows one being generated and dispatched. So, on balance, I think it is more likely than not that Satsuma did generate and send Mrs G a default notice in July 2020.

It is of course possible, that Mrs G didn't receive a copy of the notice – I have no way of knowing for sure. But it's worth saying that Satsuma only has to provide evidence of the notice being sent, not that the notice was actually received. And given this was at the start of the pandemic it is entirely possible the notice wasn't delivered. But that wouldn't be an error on the part of Satsuma.

As I've said above, Mrs G contacted Satsuma around a week later to provide an update about her situation and to confirm she was back in the country. Payments were reinstated and Mrs G, as part of this call even asked for a settlement figure. This may have been enough to stop the default being applied at this point in time.

Although, what isn't clear is why, when no payment was made in August 2020 why the default wasn't applied to Mrs G's credit file at this point. This is especially so, given that there wasn't any further contact (as far as the evidence suggests) between the parties. It is entirely possible at this point though, that Satsuma didn't want to default the account given the COVID-19 pandemic was ongoing. But I can't say for sure.

But what I can say is that there was no contact (based on the evidence) until 10 December 2020, when there was a call where Mrs G provided further information about her financial difficulties. She also agreed to pay £50 – Satsuma's notes are clear that this is just a token payment. Satsuma, has noted, that Mrs G would call back the next day to go through an income and expenditure form. However, Satsuma didn't hear again from Mrs G until 26 January 2021. It isn't clear why she didn't call back the next day, as the note suggests she would.

On the January 2021 call, a repayment plan was set up. Mrs G and the notes from Satsuma both agree, that a plan for £30 per month was put in place and I can see these repayments reflected in the statement of account.

However, Mrs G says she was never told or made aware that repayments would return to the contractual amount of £166 at the end of the three months or there was a need to complete income and expenditure forms.

As I've said above, information isn't going to be available, that means I can't listen to the calls. But, I have no reason to doubt, what the call note says, indeed, taking the call notes of

10 December 2020 into account, it looks like on three separate occasions Mrs G was informed about the need to complete an income and expenditure form. Of course, it's possible, Mrs G wasn't aware of the implications of not completing one, but I can't agree that she wasn't told, given the content of the notes, that one was needed.

In addition, I don't know and can't be sure what if any paperwork was sent to Mrs G about the terms of her repayment plan.

After the three month repayment plan, Satsuma has said on 10 May 2021, it tried to collect the contracted amount of £166 – which would be consistent with what it said was agreed to and consistent with the payment schedule of the repayment plan that I've seen.

This payment wasn't successful, I don't know why, but I don't need to speculate in order to reach a fair outcome. It is worth saying that Mrs G didn't contact Satsuma for another six weeks – until the end of June 2021. At which point, under Mrs G's understanding (that she was due to pay £30 per month) she'd have missed two payments of £30 each.

So, looking at the ICO guidance and what has happened in this case, clearly, Mrs G's account was sufficiently in arrears to be defaulted. No contractual payment had been made since February 2020, no payments at all between March and November 2020 and then only, reduced payments.

Clearly, Mrs G's account was at least three months in arrears. As I've already mentioned I'm satisfied a default notice was issued. So, the conditions have therefore been met for a default to be recorded with the credit reference agencies.

Mrs G, clearly feels strongly, about what she was told on the phone about the £30 payment plan, but I have no way of knowing, for sure what was she told, I only have the system notes provided by Satsuma. But all the time she made the repayments, this would explain why the default wasn't recorded at this point in time (between December 2020 and April 2021).

However, once the final £30 payment was made, and there was no further contact, Satsuma was entitled to try and collect the full contractual repayment of £166 – when this failed the account was at this point;

- sufficiently in arrears,
- a notice of default had been issued,
- there had been a breakdown in communication, given after the failed May 2021 payment, Satsuma didn't hear from Mrs G for a number of weeks and
- Mrs G wasn't in a position to return to normal contractual repayments.

Also, thinking about what the ICO guidance says about when an account shouldn't be default, Mrs G's circumstances don't fit any of the possible options, so it was therefore reasonable for Satsuma to default the account.

So, while I know Mrs G will be disappointed by the decision, I do think it was reasonable for Satsuma to record the default notice when it did, and in my view it has done this in line with the ICO principles. This means I can't ask Satsuma to make a correction to her credit file.

My final decision

For the reasons I've explained above, I'm not upholding Mrs G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 20 October 2022.

Robert Walker
Ombudsman