

complaint

Mrs S complains that Provident Personal Credit Limited (trading as “Satsuma”) gave her loans she couldn’t afford to repay.

background

Mrs S took out 4 loans between 12 June 2015 and 12 April 2017, all due for repayment by instalments over a year.

Her 2nd loan was withdrawn after 11 days during the period she was able to cancel.

loan	start date	repaid	amount	repayment term	repayment amount
1	12/06/2015	14/06/2016	£400.00	52 weeks	14.62 per week
2	10/06/2016	Withdrawn 21/06/2016	£600.00	52 weeks	22.96 per week
3	15/07/2016	18/07/2017	£800.00	52 weeks	30.62 per week
4	12/04/2017	04/05/2018	£1,200.00	12 months	£199.20 per month

Mrs S said she didn’t know what her true income/ expenditure actually was at that time but if Satsuma had checked her financial situation it would’ve seen she was constantly taking out pay day loans to pay other pay day loans.

Our adjudicator recommended that the complaint should be upheld in part. He said he hadn’t seen enough to say it was unfair for Satsuma to provide loans 1-3 to Mrs S. But loan 4 shouldn’t have been lent as the pattern of Mrs S’s lending showed that this loan was unsustainable.

Satsuma disagreed, saying it carried out detailed checks, and made adjustments where necessary to information applicants provided, to ensure all loans were affordable. It didn’t agree with our adjudicator that sustained or sequential borrowing is of itself irresponsible or that it conclusively shows the customer is persistently reliant on borrowing.

The complaint came to me to decide. I issued a provisional decision.

what I said in my provisional decision

Here are some of the main things I said.

“Satsuma 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 S 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 Satsuma should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- *the lower a consumer'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).*

And, despite what Satsuma says about this, I think it's fair to say that there may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Satsuma was required to establish whether Mrs S could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define 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 S's complaint.

I haven't seen enough to make me think that Satsuma was wrong to give the first loan to Mrs S. She told Satsuma her declared disposable income was around £1400 per month. To be on the safe side, Satsuma says it adjusted this figure downwards when deciding whether to lend to Mrs S. Satsuma thought Mrs S could rely on having at least £1000 a month left to spend after paying her housing and living costs and meeting her other financial commitments she'd told it about. Taking this into account, and given that this was her first loan with Satsuma, looking at the amounts Mrs S needed to repay and what it appears she told Satsuma about her circumstances at the time, I don't think it would've been proportionate for Satsuma to ask her for (or verify) the amount of information that would be needed to show the lending was unsustainable. So I don't think Satsuma had any reason to think loan 1 wasn't affordable.

But I think by the time she applied for loan 2 Satsuma should've started to be concerned about whether this was borrowing that Mrs S could really afford to pay. I say this because she seems to have taken loan 2 around the time she'd finished paying for loan 1, it was for significantly more than her first loan and it would have committed her to another year's repayments. So I think that ought to have prompted Satsuma to question if it was any longer reasonable to base its lending decision on the information Mrs S was providing. I think it would have been proportionate for Satsuma to have taken steps to independently check the true state of Mrs S's finances.

In fact Mrs S cancelled this loan during the cancellation period so I'm not entirely sure she made any payments above returning the capital amount.

By July 2016 when Mrs S took out loan 3, just a few weeks after she'd cancelled the second loan she'd taken out, I think Satsuma should've reasonably been concerned that she was asking for another loan repayable over a year – and this time for twice the amount she'd first taken out two years or so earlier when Satsuma provided loan 1 (and for £200 more than the loan she'd just cancelled).

If Satsuma had looked in depth at her finances, as I think it by now ought to have done, it would have seen that Mrs S was repeatedly taking out other high cost short term borrowing with several other lenders around this time. This suggests to me that she wasn't managing to repay loans sustainably – more likely, she was using some of the money she was borrowing from Satsuma to help repay other loans that were due. So I don't think it was reasonable for Satsuma to conclude that it was likely Mrs S would be able to repay this, or any subsequent loan, in a way that was affordable for her in the long term.

I've also looked at the overall pattern of Satsuma's lending history with Mrs S, with a view to seeing if there was a point at which Satsuma should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Satsuma should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mrs S's case, I think that this point was reached by loan 4. I say this because:

- at this point, Satsuma ought to have realised Mrs S was not managing to repay her loans sustainably. Except for a few weeks gap after cancelling loan 2, by the time Mrs S asked for loan 4, she had already been continuously indebted to Satsuma for twenty two months. So a pattern of dependency on this type of credit was already emerging in respect of her lending. Satsuma ought to have realised it was more likely than not Mrs S was having to borrow further to cover the hole repaying her previous loan was leaving in her finances and that Mrs S's indebtedness was increasing unsustainably.*
- Satsuma should've seen that Mrs S wasn't making any real inroads into the amount she owed. The amounts borrowed had gone up each time. Loan 4 was for three times the amount she'd borrowed when she took out her first Satsuma loan and the biggest loan she'd taken.*
- And loan 4 was taken out before Mrs S had repaid loan 3 – this still had around three more months to run. By the time she was due to make the final repayment on loan 4 Mrs S would've been indebted to Satsuma for very nearly three years. So when she asked for loan 4, at this point Satsuma ought to have known that Mrs S was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need.*

I think that Mrs S lost out when Satsuma continued to provide loan 4 because:

- this loan had the effect of unfairly prolonging Mrs S's indebtedness by allowing her to take expensive credit over an extended period of time*
- the sheer length of time over which Mrs S borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans."*

what the parties said in response to my provisional decision

Neither Satsuma nor Mrs S has sent me any further information or commented on what I said in my provisional decision.

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 lending - including all of the relevant rules, guidance and good industry practice - on our website.

Having done so, and as no further comments have been received in response to my provisional decision, I still think it's fair to uphold this complaint for the reasons I explained in my provisional decision.

putting things right – what Satsuma needs to do

- refund all interest and charges Mrs S paid on loans 2, 3 and 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 and 3 from Mrs S's credit file
- the number of loans taken by loan 4 means any information recorded about it is adverse. So all entries about loan 4 should be removed from Mrs S's credit file.

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

my final decision

I partially uphold this complaint and direct Provident Personal Credit Limited (trading as "Satsuma") to pay Mrs S as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 9 January 2020.

Susan Webb
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