

complaint

Mr R complains that Provident Personal Credit Limited, trading as Satsuma Loans, lent to him irresponsibly.

Mr R is represented by a third party and it asks on Mr R's behalf for a refund of interest and charges, correction to his credit file and for any outstanding balance of the principal sums to be written off.

background

Using the information sent to us by Satsuma here is a brief table. Loan 1 may still be outstanding.

Loan	approved	term	amount	Instalment amount rounded	Planned repayment date
1	6 August 2017	12 months	£600	£99	10 August 2018 o/s
2	29 September 2017	12 months	£900	£149	28 September 2018 repaid on 27 February 2018

In May 2019 we were told that Loan 1 had an outstanding balance. That may still be the case.

One of our adjudicators looked at this complaint and thought that Satsuma ought to put things right for Loan 2. He said that Mr R had three other loans outstanding at the time that Loan 2 was approved, so Satsuma ought to have realised that Loan 2 was likely unaffordable.

Satsuma did not agree. It said that having reviewed its credit bureau search information when Loan 2 was approved there was *'no record of any payday loans for the customer held at the bureau'*. And it said usually its credit bureau searches may not reveal recent payday loan activity.

Our adjudicator sent a second opinion saying that Satsuma's points had not altered his view.

The complaint remained unresolved and so has been passed to me.

my findings

I have considered all the available evidence and arguments to decide what I consider to be fair and reasonable in the circumstances of this complaint. We have 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.

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 Mr R 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: where a customer's income is particularly low; where the repayments are particularly high; and/or where the frequency of the loans and the length of time over which a customer has been given loans need to be looked at: repeated refinancing could 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, although I do not think this applies to Mr R's circumstances.

I think that it is important for me to start by saying that Satsuma was required to establish whether Mr R could sustainably repay his 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 Consumer Credit Sourcebook ("CONC") defines 'sustainable' as being the ability to repay without undue difficulties. In particular the customer should be able to make repayments on time, while meeting other reasonable commitments, and 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 will not be able to make their repayments sustainably if they need to borrow further in order to do that.

I have carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr R's complaint.

For Loan 1, I would have expected Satsuma to have gathered information about his income and his expenditure before approving the loan. Satsuma has explained that it took Mr R's declared expenditure, added in the proposed loan repayment, and added a 'buffer' as a safeguard. In the illustrations below I have rounded the figures for ease of calculation.

For the first loan, Satsuma's calculations have been explained to me as: £1,450 (Mr R's declared expenditure) + £99 + £65 = £1,615. As Mr R's declared income was £1,842, and Satsuma says it verified that figure through a credit check, then Satsuma says Loan 1 was affordable. The amount left over would have been £227.

I do not think it needed to do more. I do not uphold Mr R's complaint for Loan 1.

Loan 2 was for a larger principal sum of £900 and applied for a few weeks after Loan 1 had been approved and Mr R was still repaying it. Mr R's indebtedness was going to have been extended for a further 12 months with Loan 2 and so I think that proportionate checks ought to have included a full financial review to satisfy itself that Mr R was able to afford both Loans 1 and 2 and be in a position to repay them sustainably.

The financial review ought to have included verification of Mr R's income, his regular financial commitments, his regular expenditure and any short term loan or high-cost debts he may have had.

Satsuma has not sent to us the credit search results it relies on but has told us that its search results did not show any payday loans. However, the loans to which our adjudicator has referred were open at the time that Mr R applied for Loan 2.

One was for 364 days with two repayments a month (about £54 each two weeks) from April 2017. The other was for just under a year from May 2017 and had scheduled monthly repayments of around £140. These may fall into a different category to 'payday' loans but still were high-cost short-term credit loans and likely would have registered on any searches.

So I think that had Satsuma carried out the proportionate checks I think it ought to have carried out for Loan 2, it's highly likely that it would have seen the extent of Mr R's indebtedness to other lenders and the level of his financial commitments each month for long periods of time would have been clear.

However, it is feasible that Mr R's declaration at the time he applied to Satsuma for Loan 2 that he had £800 of financial commitments expenditure each month included the repayments for these other loans outlined above. If that is the case then still I think that they are relevant when deciding on this complaint. Mr R's declaration that he was spending £800 a month on financial commitments (excluding housing costs) was a high figure relative to his monthly salary and so Satsuma was on notice about this high spend. And further, that despite this he already had a loan with Satsuma and was coming back to ask for more.

With the information Mr R had given it about his £800 financial commitments figure, plus Satsuma knowing that the combined repayments for Loans 1 and 2 would have been just under £250 a month, then this would have amounted to over £1,000 each month for credit repayments. This was a high proportion of his declared net income.

So I do not think that a responsible lender would have considered it appropriate to have lent a further £900 to Mr R in September 2017.

I uphold Mr R's complaint for Loan 2.

outstanding balance

At the time of writing, there may still be an outstanding balance on Loan 1. Mr R has requested through his representative that any outstanding balances are written off. As my decision relates to Loan 2 then I am not in a position to make any direction about any outstanding balance on Loan 1.

And in any event, it is not *usually* our approach to expect a business to write off outstanding principal sums as the recipient would have had the benefit of that sum at the time the loan was approved. It is only fair that it is repaid.

In Mr R's case, if an outstanding balance remains for Loan 1 then any redress due to him in relation to Loan 2 can be used by Satsuma to set-off against that balance. I refer to this in the next section.

putting things right – what Provident Personal Credit Limited needs to do

- refund all the interest and charges applied to Loan 2; and
- add interest at 8% per year simple interest* on the above refunded sums from the date they were paid, if they were, to the date of settlement;
- remove any adverse payment information recorded on Mr R's credit file as a result of the interest and charges on these loans;

Satsuma is entitled to set off any monies arising from the redress against any monies Mr R may owe it for the other loan.

If a third party owns any debt then in order to do the set off I have outlined above, Satsuma will need to repurchase that debt. If it does not do that then it cannot do the set off and the full amount due will be repayable to Mr R directly. And in those circumstances the third party will need to be directed by Satsuma to correct any adverse entries on Mr R's credit file, so far as it is able to do so.

*HM Revenue & Customs requires Satsuma to take off tax from this interest. It must give Mr R a certificate showing how much tax it's taken off if he asks for one. Any tax is to be removed before set-off.

my final decision

For the reasons given above, I am upholding Mr R's complaint in part. Satsuma should do as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 November 2019.

Rachael Williams
ombudsman