

complaint

Mr H complains about the short term loans he took out with Provident Personal Credit Limited trading as Satsuma Loans. Mr H says that it failed to perform an appropriate creditworthiness assessment as it was required to do under FCA regulations. Mr H says if it had done this it would've seen that he had a large amount of current debt and that he wasn't able to afford these loans.

A default has been registered against some of the loans which has meant that Mr H is unable to get credit at a reasonable cost elsewhere. This is causing him significant stress.

background

Our adjudicator thought the complaint shouldn't be upheld. Mr H disagreed with the adjudicator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr H's complaint should be upheld in part. A copy of the background to the complaint and my provisional findings are attached and form part of this final decision.

Satsuma responded and agreed with my provisional decision. It made an offer settle the complaint in line with what I'd said.

Mr H didn't agree with my provisional decision. He said that:

- he wasn't able to repay the outstanding balance that remained on his loans; and
- as Satsuma had lent irresponsibly any interest and charges he paid should be returned to him; and
- the outstanding amounts - for loans 4 and 5 - should be 'written off' and he should receive the compensation directly rather than it being used to reduce the amount he owes to Satsuma; and
- his credit file should be amended to remove all the 'late payment' markers for all of the lending

my findings

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

Mr H essentially says that because I've decided that it was irresponsible for Satsuma to approve loan 5 then he should receive the interest and capital back for loans 4 and 5. And any outstanding balance on these loans should be 'written off'. So Mr H thinks he should receive the compensation in full.

Firstly, I still don't think Satsuma was incorrect to approve loan 4. So I'm not making any award in respect of this loan.

And I still think Satsuma shouldn't have approved loan 5 for the same reasons I outlined in my provisional decision. The purpose of the compensation should be to put Mr H back in the position he would be in had Satsuma not lent irresponsibly. So Mr H should be compensated for any interest and charges he paid, as he shouldn't have paid them. And if he hasn't repaid any of the lending then this should be repaid to the lender. This is because it shouldn't have lent to Mr H, so he wouldn't have received this money.

The compensation I am awarding does this as it refunds the interest and fees paid, plus interest, to Mr H for loan 5. It uses the refunded interest and fees to repay some of the amount outstanding on loan 5. I think this is fair and it puts Mr H, largely, back in the position he would be in had he not taken loan 5.

It follows from the above that Satsuma should remove the negative entries on Mr H's credit file about loan 5 but not loan 4.

And I would remind Satsuma of its responsibility to treat Mr H positively and sympathetically in respect of any money he may owe to it going forward.

what Satsuma should do to put things right

To put things right for Mr H, Satsuma should:

- refund all the interest and charges applied as a result of loan 5*; and
- add interest at 8% per year simple on the above interest and charges from the date they were paid, if they were, to the date of settlement†; and
- remove any adverse information recorded on Mr H's credit file about loan 5

*If there is still an outstanding balance on loan 5, Satsuma should remove any interest and charges from this balance and treat any payments made as if they were payments towards the capital.

If, after doing this Mr H has already paid enough to repay the principal then any overpayment should be refunded to him with 8% simple interest from the date of payment to the date of settlement.

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

my final decision

For the reasons I've explained, I partly uphold Mr H'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 Mr H to accept or reject my decision before 5 March 2019.

Andy Burlinson
ombudsman

extract from my provisional decision

Mr H took out 5 instalment loans between June 2015 and November 2017. Some of the information Satsuma has given us is shown in the table below:

loan number	date started	amount borrowed	term	scheduled repayments	dated ended
1	07/06/2015	£200.00	52 weeks	£7.31 weekly	13/04/2016
2	13/07/2016	£100.00	13 weeks	£11.01 weekly	13/10/2016
3	13/07/2017	£100.00	3 months	£49.20 monthly	24/08/2017
4	04/09/2017	£250.00	12 months	£41.40 monthly	outstanding
5	01/11/2017	£545.00	12 months	£91.30 monthly	outstanding

Satsuma has looked at Mr H's complaint and said that it shouldn't be upheld. It said that it did appropriate checks for all of the lending. And these checks showed that the loan repayments were affordable. The information it had provided to credit reference agencies was correct given that Mr H has not fully repaid two of the loans.

One of our adjudicators looked at what Mr H and Satsuma said. He thought Mr H's complaint shouldn't be upheld. He thought that Satsuma had made proportionate checks for loans 1 to 4. So he thought that Satsuma's decisions to lend were reasonable.

He didn't think that Satsuma had made proportionate checks for loan 5. But he thought if it had then it still would've lent to Mr H. It would still have seen that the loans were affordable had it made better checks.

Mr H didn't agree with our adjudicator. He said that:

- it was clear from his credit file that he had other payday loans when he took the loans from Satsuma; and
- Satsuma should've made better checks, in line with the regulations, and it would've seen that he had other debt, and financial problems, and not lent to him; and
- all of the loans weren't affordable

So as no agreement's been reached the complaint's been passed to me to me to issue a decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

Having done so, I've provisionally decided to partially uphold Mr H's complaint. Having reviewed the evidence I have available I think Satsuma was wrong to have given Mr H loan 5. I'll explain why.

Before lending money to a consumer a lender should take proportionate steps to understand whether the consumer will be able to repay what they're borrowing in a sustainable manner. A lender should gather enough information for it to be able to make an informed decision on the lending. The lending shouldn't adversely impact a consumer's financial situation.

The guidance and rules themselves didn't set out compulsory checks. But they are clear that any checks needed to be proportionate and could take into account a number of different things. This could include how much was being lent, the size of the repayments and what the lender found out about the consumer.

So I've firstly looked at whether Satsuma performed proportionate checks. If I think that the checks were proportionate then it usually would've been reasonable for it to lend. But if Satsuma didn't do proportionate checks I've looked at whether it would've been apparent to it that the loan repayments were affordable had it done better checks. Satsuma should put things right if it's likely to have then found that the loan repayments were unaffordable.

Satsuma says it looked at:

- Mr H's regular income, expenses and other loans before it lent each time. This showed that Mr H had a monthly disposable income of between £290 and £835; and.
- credit reference agency data and compared this with what Mr H had declared. It reduced Mr H's disposable income before approving loans 4 and 5 because of the information it received from the reference agencies

And based on what it saw from this it thought it reasonable to lend to Mr H.

why I think Satsuma's checks for loans 1 to 3 were proportionate

For loan 1 Mr H needed to repay around £7 a week over 52 weeks. This isn't a large amount to repay, even over this longer term. So I don't think it would've led Satsuma to think that Mr H was in financial difficulty, at this point of the lending relationship.

Mr H repaid loan 1 and there was a three months gap between loans 1 and 2. For loan two Mr H needed to repay just over £11 a week but this was over a much shorter period of 13 weeks. So I think it was reasonable for Satsuma to say that this loan was affordable.

There was a gap of around 9 months between loans 2 and 3 so it would be reasonable for Satsuma to assume that Mr H's financial situation may have improved. And the repayments were much the same as loan 2.

I've seen a record of the information Mr H provided when he completed his loan applications. Mr H said he had at least £290 a month left over from his income after his normal expenditure for loan 1 and for loans 2 and 3 he had over £500. And I can see that Satsuma did some checks to determine if this information was reasonable.

And I haven't seen any further information that shows its likely Satsuma was made aware of any financial problems Mr H might've been having. Or anything that would've prompted it to investigate his circumstances further.

Mr H says his credit files show that he had other Payday loans and financial problems. Having looked at his credit reports he's provided, and the other information, I can see that he did have some other short term commitments. But I don't think it would be reasonable for me to say that Satsuma would've seen this, given the checks it should've done.

So I don't think further checks were needed given the proportion of the amount being borrowed in relation to what Mr H declared as his monthly disposable income. So I think Satsuma's decisions to lend for loans 1 to 3 were reasonable and I'm not upholding Mr H's complaint about them.

why I don't think Satsuma's checks were proportionate for loans 4 and 5

I've carefully thought about what Satsuma and Mr H have provided and what both sides have said.

Loan 4 was approved almost straight away after loan 3 was repaid and the amount borrowed was the highest so far. The repayment term was also long at over 12 months. And Mr H borrowed a much larger amount for loan 5 when he hadn't fully repaid loan 4. This meant that the total monthly amount he would need to repay was around £130 per month. Which was a substantial increase on the £7 a week he repaid for loan 1.

I think this should've been a good indication to Satsuma at that time that Mr H may have some financial problems. Satsuma should've also become concerned about whether it knew enough about Mr H's true financial situation.

So for loan 4 I think that it would've been proportionate to find out about Mr H's normal monthly living costs and financial commitments including any existing short-term lending. And for loan 5 I think that Satsuma also needed to verify this information to get an accurate picture of Mr H's finances. In order to make sure he was in position to make the repayments sustainably.

I don't think Satsuma did this here. So I need to think about what Satsuma would've seen if it had carried out proportionate checks.

what I think proportionate checks would most likely have shown

Mr H has provided some information about his financial circumstances which includes his bank statements and information about his other short term lending. I accept that this isn't exactly what Satsuma would've seen at the time. But I think it would've found out similar information if it had made proportionate checks, so I think it's reasonable to rely on it.

For loan 4 Satsuma recorded Mr H's income as being just over £1,800 and his regular expenditure was just under £1,300. So Satsuma recorded that Mr H had a disposable income of just under £550.

Satsuma should've found out if Mr H had any other short term lending before approving this loan. Having looked the information provided, I can't see that he did have significant other short term borrowing to repay when Satsuma approved loan 4.

So I think if Satsuma had made further checks it would've reasonably concluded that Mr H had enough left over to make the repayments for this loan. So I don't think that proportionate checks would've stopped Satsuma from giving loan 4 to Mr H in these circumstances.

Before approving loan 5 Satsuma recorded Mr H's disposable income as being around the same level as loan 4. And I haven't been provided with any information that shows this was materially incorrect.

But the information it saw on Mr H's credit reports led to it reducing his disposable income by around £300 to just over £200. And Mr H did have other short term loans. I can see that he had around £500 outstanding with another lender at the time Satsuma approved loan 5. This means that the commitments he already had were greater than his income.

I think that Satsuma would've found out this information if it had made proportionate checks. And I think Satsuma would've seen Mr H wouldn't have been able repay the loan 5 in a sustainable way. So I think that Satsuma shouldn't have given loan 5 to Mr H and I think he's lost out as a result of this. I'm upholding Mr H's complaint about loan 5.

I am planning to require Satsuma to remove any adverse information recorded on Mr H's credit file about loan 5. But I think the information recorded about loan 4 is likely to be correct as Mr H hasn't been able to repay this loan.