

## **complaint**

Mr M says Provident Personal Credit Limited (trading as Satsuma) unfairly applied an early settlement charge (ESC) when he wanted to repay a loan early.

## **background**

I sent both parties my provisional findings on this complaint on 16 March 2020. A copy of that decision is attached and forms part of this final decision.

I explained why I wasn't planning to uphold this complaint and asked both parties to let me know if there was anything they wanted to add. Satsuma didn't respond to my provisional decision; Mr M did, providing some additional information and making a number of additional points. Mr M said (in summary):

- He had actually wanted to settle his loan in June 2018, not May and had misremembered this due to the passage of time.
- He estimates he'd have saved around £153 if he'd settled his loan early in June but Satsuma disincentivised him by applying early repayment charges for 28 days.
- Satsuma didn't explain/justify the early repayment charges and lenders in this sector don't usually apply charges like this.
- Satsuma should at least refund the interest charged after 15 June, as he would've settled the loan on this date had he not been disincentivised to settle the loan early.

Mr M also provided some additional bank statements and spreadsheets. I can see Mr M has pointed out the date the spreadsheet was created and I accept what he has said about this.

## **my findings**

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

I've carefully considered Mr M's new points and the new evidence he has provided, along with everything previously provided. Having done so, my final decision is that this complaint should not be upheld. I understand this will be disappointing for Mr M but I hope he can understand why I reached this decision.

I've looked again at the contact notes Satsuma provided. They show Mr M called Satsuma on 10 May 2018 to discuss repaying the loan early and that he was provided with a quote including early settlement charges (which I previously found Satsuma were not entitled to apply). The notes suggested Mr M was confused by these charges and I can see an email was sent explaining the *Consumer Credit (Early Settlement) Regulations 2004* the following day.

There are no further contact notes until 6 September 2018 when Mr M apparently called to log a complaint about the early settlement figure. Mr M settled the loan he's complaining about on 7 August 2018 – about a month before his next contact with Satsuma.

These events took place a couple of years ago and it's understandable if memories fade over time. So whilst I've taken Mr M's recollections at face value, I find Satsuma's contact notes are persuasive in so far as they show Mr M only contacted Satsuma on one occasion about early settlement in May 2018.

I found this to be important in my provisional decision as it appeared to me that Mr M wasn't in a position to settle his loan early in May. So while Satsuma acted incorrectly by applying early settlement charges in Mr M's case, I didn't think this had caused him a loss as his only choice at that time appeared to be to repay the loan at its full term.

Although Mr M didn't contact Satsuma again about early settlement, it's possible that he, as he suggests, might have settled the loan early, at some other point, had Satsuma not given him incorrect information. Mr M's main contention is that the incorrect information given about early settlement disincentivised him from settling the loan early as the additional 28 days interest Satsuma said he'd have to pay made the interest he'd save by settling the loan early too little to be worthwhile.

I've reviewed the new bank statements Mr M provided and am still not persuaded that he'd likely have settled the loan early in June instead. I can see that Mr M made his contractual payment to Satsuma on 17 June 2018 and then borrowed a larger sum from another high-cost lender the following day. This suggests he thought (or he knew) he'd also suffer a shortfall in income that month too. If Mr M needed to borrow from another lender, despite only making his contractual monthly payment to Satsuma, it follows he'd have needed to borrow even more elsewhere if he'd settled his entire loan with Satsuma. This would likely offset any benefit from settling the Satsuma loan early and so I'm not persuaded Mr M would've followed this course of action.

So, as when I made my provisional decision, I'm still not persuaded there's evidence of a financial loss as a result of the incorrect settlement quote provided by Satsuma in May 2018 as, on balance, I don't think Mr M would've settled this loan early, had he been given the correct information by Satsuma.

### **my final decision**

For the reasons given above and in my provisional decision, I do not uphold this complaint against Provident Personal Credit Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 May 2020.

Matthew Bradford  
**Ombudsman**

## COPY OF PROVISIONAL DECISION

### complaint

Mr M says Provident Personal Credit Limited (trading as Satsuma) unfairly applied an early settlement charge (ESC) when he wanted to repay a loan early.

### background

Mr M took out a £900 loan with Satsuma on 21 April 2018. The loan had a contractual term of three months, with three equal payments of £422.80 due in each month and a total repayment amount of £1,328.40.

Satsuma's notes show Mr M enquired about settling the loan early on 10 May 2018, 19 days after it commenced. Satsuma provided Mr M with a settlement balance, including the ESC, of £1,131.16. Mr M wasn't happy with this and made a complaint, which Satsuma rejected.

An adjudicator considered Mr M's complaint about the ESC but didn't think it should be upheld. Mr M didn't agree with the adjudicator, so the complaint was passed to me to decide.

### 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 taken into account the law, good industry practice and any relevant regulations at the time.

I think there are two key issues to address in this complaint:

- was Satsuma entitled to apply an ESC? And if not;
- did Mr M suffer a financial loss as a result of Satsuma including an ESC in its settlement calculation?

#### was Satsuma entitled to apply an ESC?

Satsuma says that under the Consumer Credit (Early Settlement) Regulations 2004 it is allowed to charge a fee for early settlement. It also says the fee it charged Mr M was calculated in line with these regulations.

I do not doubt that regulations exist which permit Satsuma, in general terms, to charge additional interest for early settlement – so long as it does so fairly and in line with the relevant regulations. But I do not think Satsuma was fairly entitled to charge Mr M additional interest for early settlement, given the specific facts in his complaint.

Satsuma was obliged<sup>1</sup> to inform Mr M that he had the right to fully or partially settle his loan early. The exact wording isn't prescribed; the regulations simply say, "*A statement that the debtor has the right to repay the credit early at any time in full or partially*" should be included in a Standard European Consumer Credit Information (SECCI) document before the loan contract is entered in to.

This pre-contractual information would usually be mirrored in the loan agreement. I've not seen Mr M's SECCI document, so I don't know what was disclosed to him before he entered into the loan agreement with Satsuma – but I'll assume the relevant pre-contractual information was phrased similarly to the loan agreement.

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<sup>1</sup>The Consumer Credit (Disclosure of Information) Regulations 2010.

In addition to the above, Satsuma was obliged to include in the SECCI document information about how its compensation for early settlement (*i.e.* the additional interest) would be calculated. This same information would then normally also be found in the loan agreement.

So in short, if Satsuma wanted to fairly charge Mr M a settlement fee in line with the Consumer Credit (Early Settlement) Regulations 2004, I think it needed to disclose this to Mr M before he entered into the contract – and it also needed to set out this same information in the loan agreement.

I've read Mr M's loan agreement carefully and nowhere does it say that Satsuma was entitled to charge a fee for early settlement. Under the 'Early Repayment' heading it says:

*"You have the right at any time to make early repayment in full or in part. To do so, you should first give us notice. The payment should be made before the end of the period of 28 days, beginning with the day following the day that we receive your notice, or on or before any later date specified in your notice."*

So Mr M's loan agreement is silent on the issue of ESCs – and simply says Mr M had the right to repay the loan in full at any time. Given this, I think Mr M was entitled to repay his loan without the 28 days of additional interest Satsuma added to the early settlement figure.

I note that there is a contrast between this loan agreement and other loan agreements Mr M had with Satsuma. A later loan agreement says the following under the 'Early Repayment' heading:

*"You have the right at any time to make early repayment to settle the loan fully or in part. To do so, you should first give us notice. When you notify us that you want to settle your Satsuma Loan early, we will give you a settlement quote so you know how much you need to pay in total. This will be valid for 28 days. The amount you need to pay to settle your account will include interest calculated to cover this 28 day period in which the quote is valid. This amount is payable even where you settle the loan immediately. This is in accordance with the provisions of the Consumer Credit (Early Settlement) Regulations 2004."*

The loan agreement I am considering contains none of the text I've underlined above.

So I am currently planning to conclude Satsuma was not entitled to charge Mr M the ESC it included in his settlement figure on 10 May 2018.

*did Mr M suffer a financial loss as a result of Satsuma including an ESC in its calculations?*

Mr M didn't actually settle his loan early, so didn't pay the ESC. But Mr M says that, with the ESC included in the settlement balance, he didn't want to settle the loan early as there was little benefit, and so he paid the interest for the full three-month term.

Mr M may therefore have lost out financially because Satsuma provided a settlement figure which included an ESC it wasn't entitled to charge – causing Mr M to keep the loan for longer than he otherwise would have.

I therefore need to decide whether Mr M would still have settled the loan early had he been given a lower, correct settlement figure.

I think the £1,131.16 settlement figure quoted by Satsuma is not likely to be significantly higher than the correct figure, without the additional 28 days interest – I don't think the difference would be more than about 10%.

I asked Mr M to provide a bank statement for the relevant month, to see if he had the means to settle the loan early. I can see that Mr M received a salary payment of £1,700 on 17 May. This took his current account from near its overdraft limit into credit.

But by 11 June, Mr M's account was close to its overdraft limit again – and this was without making a substantial payment to Satsuma to settle the loan early. Mr M only sent me a redacted bank statement but from what I can see Mr M made multiple payments to other payday lenders in that month, which are unlikely to have been optional. If Mr M made a large payment to Satsuma to settle that loan, it's difficult to see how he could also have made all of these other payments without having to borrow again.

So from what I've seen so far, I'm not satisfied I have enough to conclude Mr M was actually in a position to settle the loan early. I accept he made the enquiry, but I don't think this is sufficient to conclude he had the means to make a payment to Satsuma of around £1,000. Given this, I don't think Mr M has lost out as a result of Satsuma's mistake.

**my provisional decision**

For the reasons given above I am not planning to uphold this complaint against Provident Personal Credit Limited.