Financial Ombudsman Service

complaint

Mr P complains about six instalment loans that he took out with Provident Personal Credit Limited, trading as Satsuma Loans, ("SL"), which he said were unaffordable.

background

Mr P was given six instalment loans by SL from November 2016 to May 2018. A summary of the loans taken out by Mr P is shown below:

Loan number	Date of loan	Repayment date	Loan amount	Number of monthly repayments	Highest repayment amount
1.	29/11/16	28/2/17	£200	3	£98.40
2.	23/2/17	1/6/17	£800	3	£393.60
3.	26/5/17	1/4/18	£600	10	£120
4.	7/8/17	29/10/18	£1,000	12	£166
5.	28/1/18	28/11/18	£300	9	£66.60
6.	3/5/18	Unpaid?	£700	12	£116.20

SL said that it had carried out a credit check before each loan and asked Mr P for details of his income and expenditure. SL also applied extra safeguards and buffers to Mr P's declared expenses to reflect the information it obtained from its credit and internal checks. Taking these into account SL said that the loans were affordable and left Mr P with a comfortable disposable income.

our adjudicator's view

The adjudicator recommended that Loan 6 should be upheld. He said that by Loan 6, Mr P's overall pattern of borrowing suggested that Mr P was persistently reliant on short term loans.

SL disagreed and said that it appeared from reviewing the adjudicator's view that the adjudicator had only considered the number of loans obtained by Mr P. But it didn't feel that sustained or sequential borrowing was of itself irresponsible or conclusive that Mr P was persistently reliant on borrowing. SL said that it performed individual checks before every loan and it disagreed that the number of loans alone was sufficient. SL considered the sustainability of the loans and believed that the adjudicator hadn't considered Mr P's individual circumstances.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr P and to SL on 21 November 2019. I summarise my findings:

I'd noted that when SL lent to Mr P the regulator was the Financial Conduct Authority (FCA) and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC). The CONC contained guidance for lenders about responsible lending.

I said that SL needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this meant that it should have carried out proportionate checks to make sure Mr P 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 thought less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that SL should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors included:

- the *lower* a customer'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 had been given loans (reflecting the risk that repeated refinancing might signal that the borrowing had become, or was becoming, unsustainable).

There might even come a point where the lending history and pattern of lending itself clearly demonstrated that the lending was unsustainable.

I thought it was important to say that SL was required to establish whether Mr P could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

I explained that the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it didn't automatically follow this was the case. This was because the CONC defined sustainable as being without undue difficulties and in particular the consumer should be able to make repayments, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it followed that a lender should realise, or it ought fairly and reasonably to realise, that a borrower wouldn't be able to make their repayments sustainably if they were unlikely to be able to make their repayments without borrowing further.

I'd carefully considered all of the arguments, evidence and information provided in this context and what this all meant for Mr P's complaint.

SL had made a number of checks before it lent to Mr P. It had asked him for details of his income and expenditure. Mr P declared his monthly income as £4,200 and his expenditure as £1,600 before all the loans. And SL had increased Mr P's declared expenditure in its assessments of all the loans to reflect what it had seen in its credit checks and internal models.

I also noted that SL had checked Mr P's credit file before agreeing to the loans and it had provided this service with a summary of its checks. The checks showed no bankruptcy or individual voluntary arrangements, no debt management plans and no county court judgements before all the loans.

Mr P had provided this service with a copy of his credit report and I referred to this in my decision.

I could see that Loan 1 was for £200 repayable by 3 monthly repayments, with a highest repayment of £98.40. I'd noted that Mr P's disposable income after SL had applied its safeguards and buffers was £1,381.75. SL's credit checks showed that he had no accounts in arrears, although a new credit account had just been opened. Nevertheless, I thought that the checks SL had carried out before agreeing Loan 1 were proportionate. The repayments that Mr P needed to make on Loan 1 were very modest compared to his disposable income as adjusted by SL.

So given Mr P's repayment amounts, what was apparent about his circumstances at the time, and that this was his first loan with the lender, I didn't think it would've been proportionate for SL to have asked him for the amount of information that would have been needed to show the lending was unsustainable.

And there wasn't anything in the information Mr P provided or the information SL should've been aware of, which meant it would've been proportionate to start verifying what he was saying. So I didn't think SL was wrong to give Loan 1 to Mr P.

There was one repayment remaining on Loan 1 when Mr P took out Loan 2. The loan amount had significantly increased to £800 repayable by three monthly payments with a highest repayment of £393.60. SL said that Mr P had a disposable income of £1,629 before Loan 2 after its safeguards and buffers had been applied to Mr P's expenses. SL's credit checks showed that he had no accounts in arrears, although a new credit account had just been opened. Nevertheless, I thought that the checks SL had carried out before agreeing Loan 2 were proportionate. The total repayments that Mr P needed to make on Loans 1 and 2 were still relatively modest compared to his adjusted disposable income. And I didn't think the repayments were so large that it was obvious they would've caused Mr P financial difficulty.

So given Mr P's repayment amounts, and what was apparent about his circumstances at the time, I didn't think it would've been proportionate for SL to have asked him for the amount of information that would have been needed to show the lending was unsustainable.

And there wasn't anything in the information Mr P provided or the information SL should've been aware of, which meant it would've been proportionate to start verifying what he was saying. So I didn't think SL was wrong to give Loan 2 to Mr P.

There was one repayment remaining on Loan 2 when Mr P took out Loan 3. The loan amount had decreased to £600 repayable by ten monthly payments with a highest repayment of £120. SL said that Mr P had a disposable income of around £1,434 before Loan 3 after its safeguards and buffers had been applied to Mr P's expenses. SL's credit checks showed that he had one payment in arrears in the previous six months. Nevertheless, I thought that the checks SL carried out before agreeing Loan 3 were proportionate. The total repayments that Mr P needed to make on Loans 2 and 3 were still relatively modest compared to his adjusted disposable income. And I didn't think the repayments were so large that it was obvious they would've caused Mr P financial difficulty.

Loan 3 was still outstanding when Mr P borrowed Loan 4. Loan 4 was Mr P's fourth loan in around eight months without any break in his borrowing. And the loan amount had substantially increased to £1,000. SL's credit checks again showed that he had one payment in arrears in the previous six months. I thought all this might have caused SL some concerns about Mr P's finances. Loan 4 was to be repaid by 12 monthly repayments with a highest repayment of £166. So he was also committing to making his repayments over a longer period than previously as well as paying most of the repayments on Loan 3 around the same time. I could also see that SL had again added an additional amount of around £886.71 of safeguards and buffers to Mr P's declared expenses. Of this amount, financial commitments had accounted for £763.71. So for the fourth loan running, it was aware that Mr P wasn't declaring all his financial commitments.

I appreciated that SL had asked Mr P for his income and expenditure. And I'd noted that it had calculated that Mr P's disposable income was £1,713.29 after it had applied its safeguards. But I thought the pattern and increasing amount of Mr P's borrowing with repayments over a long period were such that it wasn't reasonable for SL to rely on that information. So I thought this should have prompted SL to do some additional checks such as asking Mr P for more information about his other short term borrowing commitments.

I'd looked at Mr P's credit report and bank statements to see what proportionate checks might have shown. I'd seen only one other short term loan repayable at the same time as Loans 3 and 4. So I couldn't safely say that SL shouldn't have given Loan 4 to Mr P.

Loan 5 was taken out whilst Loans 3 and 4 were still outstanding. Loan 5 was for £300 with nine monthly repayments of £66.60 which would have needed to be made around the same time as the rest of the repayments on Loans 3 and 4. And Mr P was again committing to repaying Loan 5 over a long period. I could also see that SL had added an additional amount of around £1,478.84 of safeguards and buffers to Mr P's declared expenses. This was the highest adjustment SL had made to Mr P's expenses for all his loans. I thought by the time of Loan 5 SL should have been more than concerned that Mr P still wasn't declaring all his commitments. And I thought SL ought to have asked why a person with an apparent high level of disposable income was coming back to it for a £300 loan whilst two of his previous loans with SL were still outstanding.

Loan 5 was Mr P's fifth loan in 14 months with no gaps between loans. I thought by the time of Loan 5 SL ought reasonably to have suspected that Mr P was likely having trouble managing his money. So I thought it would have been proportionate for SL to have gathered a more comprehensive view of Mr P's circumstances and sought some independent verification of this.

Had it done so, SL would have discovered that Mr P had two short term loans with other lenders which together with Loans 3 and 4 would be repayable at the same time as Loan 5. I'd seen these on Mr P's credit report and bank statements. I thought it would have been clear to SL if it had made proportionate checks that Mr P was facing significant problems managing his money and unlikely to be able to repay Loan 5 in a sustainable manner. So I didn't think it was reasonable for SL to have given Loan 5 to Mr P.

I'd looked at the overall pattern of SL's lending with Mr P to see if there was a point at which SL should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so SL should have realised that it shouldn't have provided any further loans. Given the particular circumstances of Mr P's case, I thought that this point was reached by Loan 6. I said this because:

- By Loan 6, Mr P had been borrowing from SL for around 17 months without a break.
- Mr P still had two other loans outstanding with SL when he took out Loan 6.
- The loan amount had increased to £700. Mr P wasn't making any real inroads to the amounts he owed SL and by approving this loan, SL was extending Mr P's indebtedness by a further year. This meant that he was still being allowed by SL to take expensive credit intended for short-term use over an extended period of time.
- By the time of Loan 6, the number of loans was likely to have had negative implications on Mr P's ability to access mainstream credit and so had kept him in the market for these high-cost loans.

I'd noted that SL had said that the adjudicator's view hadn't considered Mr P's individual circumstances and had only considered the number of loans Mr P had obtained. I'd taken SL's response to the adjudicator's view into account in reaching my decision. I'd also reassured SL that I'd taken Mr P's circumstances into account. But I hadn't recreated affordability assessments of the loans in dispute. This was because I thought the number of loans and the pattern of lending here were of concern.

I'd also thought that when a consumer borrowed numerous loans over a long period of time, it was most likely that the loans weren't being used for their intended purpose of temporary cash flow problems. As SL knew, the FCA had made it clear in a recent letter to CEOs of high cost lending firms that "a high volume of relending…..might be symptomatic of unsustainable lending patterns". And I thought that was the case here.

So I intended to uphold Mr P's complaint about Loans 5 and 6. I said that my redress was drafted on the basis that Loan 6 hadn't been repaid. The most recent loan information I'd seen showed that. I said it would be helpful if SL could provide up to date information on the balance for Loan 6 in its response to this decision.

Subject to any further representations by Mr P or SL my provisional decision was that I intended to uphold this complaint in part. I intended to order SL to:

- with regard to Loan 5, refund all the interest and charges that Mr P has paid on this loan;

- pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;

- with regard to Loan 6, refund all the interest and charges that Mr P has paid on this loan;

- pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;

- write off any unpaid interest and charges from Loan 6;

- apply the refunds referred to above to reduce any capital outstanding on Loan 6 and pay any balance to Mr P;

- remove all adverse entries about Loan 5 from Mr P's credit file;

- remove all entries about Loan 6 from Mr P's credit file when it has been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr P a certificate showing how much tax it's taken off if he asks for one. If SL intends to apply the refunds to reduce any outstanding capital balances, it must do so after deducting the tax.

Mr P responded to my provisional decision to say that he agreed with the decision and that Loan 6 had been repaid according to his records.

SL responded to my provisional decision to say that it accepted my proposals. It didn't comment on whether Loan 6 had been repaid.

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.

Given that both Mr P and SL have accepted my provisional decision, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I uphold part of the complaint and require SL to pay Mr P some compensation and to take the steps set out below. As SL hasn't confirmed that Loan 6 has been repaid, my award is the same as the redress set out in my provisional decision.

my final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order Provident Personal Credit Limited, trading as Satsuma Loans, to:

1. With regard to Loan 5, refund all the interest and charges that Mr P has paid on this loan;
2. Pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
3. With regard to Loan 6, refund all the interest and charges that Mr P has paid on this loan;
4. Pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
5. Write off any unpaid interest and charges from Loan 6;
6. Apply the refunds referred to above to reduce any capital outstanding on Loan 6 and pay any balance to Mr P;
7. Remove all adverse entries about Loan 5 from Mr P's credit file; and
8. Remove all entries about Loan 6 from Mr P's credit file when it has been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr P a certificate showing how much tax it's taken off if he asks for one. If SL intends to apply the refunds to reduce any outstanding capital balances, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 January 2020.

Roslyn Rawson
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