

complaint

Mr R complains about four instalment loans that he took out with Provident Personal Credit Limited, trading as Satsuma Loans, ("SL"), which he said were unaffordable. The complaint is brought to this service on Mr R's behalf by a firm of solicitors. But for ease, I shall refer below to all actions being taken by Mr R.

background

Mr R was given four instalment loans by SL from April 2014 to October 2015. A summary of the loans taken out by Mr R is shown below:

Loan number	Date of loan	Repayment date	Loan amount	Repayment amounts
1.	5/4/14	28/7/14	£150	13 weekly repayments of £16.15
2.	11/8/14	21/9/15	£100	13 weekly repayments of £10.77
3.	15/8/15	29/9/15	£150	13 weekly repayments of £16.15
4.	14/10/15	Unpaid	£300	13 weekly repayments of £33.02

SL said that it had carried out a credit check before each loan and asked Mr R for details of his income and expenditure. And before Loans 3 and 4 SL also applied extra safeguards and buffers to Mr R's declared expenses to reflect the information it obtained from its credit check. It said that its credit checks didn't demonstrate that the loans weren't affordable or sustainable at the point of application.

our adjudicator's view

The adjudicator recommended that Loans 3 and 4 should be upheld. He said that Mr R had problems repaying Loan 2 and his overall pattern of borrowing suggested that he was reliant on short term loans.

SL agreed with the adjudicator's recommendations and offered to compensate Mr R in line with them. But Mr R rejected SL's offer. He asked for more time to supply further evidence which was granted. But no further evidence has been received.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr R and to SL on 3 October 2019. I summarise my findings:

As SL had agreed with the adjudicator's recommendations with regard to Loans 3 and 4, I said that I wouldn't investigate these loans.

I noted that when SL lent to Mr R 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 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 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 may 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 R 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 R's complaint.

I could see that SL had made a number of checks before it lent to Mr R. It had asked him for details of his income and expenditure. Mr R had declared his monthly income as £1,300 and his expenditure as £670 before Loans 1 and 2.

I also noted that SL had checked Mr R's credit file before agreeing to the loans. But SL hadn't provided this service with its credit checks.

Mr R had provided this service with a copy of his credit report. I could see there were numerous other short term loans shown on this report.

But I was also aware that when a lender carried out a credit check, the information it saw didn't usually provide the same level of detail that a consumer's credit report would and it wasn't necessarily up to date. A lender might only see a small portion of a borrower's credit file, or some data might be missing or anonymised. I was also aware that not all payday and short term lenders reported to the same credit reference agencies. So, this might have explained any differences between the information provided by SL's credit check and Mr R's actual situation.

I could see that Loan 1 was for £150 repayable by 13 weekly repayments of £16.15. I noted that Mr R's declared monthly disposable income was £630.

I thought that the checks SL carried out before agreeing Loan 1 were proportionate. The repayments that Mr R needed to make on Loan 1 were relatively modest compared to the income that he'd declared to SL. And I didn't think the repayments were so large that it was obvious they would've caused Mr R financial difficulty.

So given Mr R'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 R had 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 R.

But I noted from SL's notes that Mr R had missed repayments on Loan 1. He gave numerous reasons for these to SL. He'd said that he was going to pay his repayment with the proceeds of something he'd sold. He'd said that he had the cash but hadn't been able to get to the bank. He'd said that he was waiting for people to pay him. He'd also said that he thought payments would be taken automatically. He'd made promises to pay that weren't kept. Ultimately he'd repaid the loan almost three weeks late. I thought that behaviour might have caused SL serious concerns about Mr R's finances, especially in view of Mr R's relatively large disposable income

Mr R had borrowed £100 on Loan 2 two weeks after Loan 1 was repaid. I appreciated that SL had asked Mr R for his income and expenditure. His disposable income was again declared as £630. But I thought his unsatisfactory repayment history on Loan 1 was such that it wasn't reasonable for SL to rely on that information. I thought SL ought reasonably to have suspected that Mr R was likely having trouble managing his money and unlikely to be able to repay Loan 2 in a sustainable manner. So I thought it would have been proportionate for SL to have supplemented the information it held by asking Mr R some more detailed questions, such as whether he was borrowing from other short term lenders at the same time.

Had it done so, SL would have discovered that Mr R had at least six short term loans with other lenders which were repayable at the same time as Loan 2. I'd seen these on Mr R's credit report and bank statements. So I didn't think it was reasonable for SL to have given Loan 2 to Mr R.

Subject to any further representations by Mr R or SL my provisional decision was that

I intended to uphold this complaint in part. I intended to order SL to put things right as follows. I'd also included in my proposed redress the recommendations made by the adjudicator in relation to Loans 3 and 4 which SL had already agreed to.

putting things right – what SL needs to do

- with regard to Loans 2 to 4, refund all the interest and charges that Mr R has paid on these loans;
- pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
- remove all adverse entries about Loan 2 from Mr R's credit file;
- remove all entries about Loan 3 from Mr R's credit file; and
- remove all entries about Loan 4 from Mr R's credit file once it's been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr R 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 R didn't repay Loan 4 to SL. This debt was sold to a third party. I didn't know whether Mr R had repaid this debt to the third party.

It seemed reasonable that if Mr R still owed some of the capital he'd borrowed that the refund due to him should be used to reduce that debt. But I'd said that to do so, SL must first take the debt back into its own books and reduce it to reflect just the capital that Mr R borrowed less any repayments he had made. I'd said that if SL was unable, or unwilling, to do this it must ensure that its interest and charges, and any other interest and charges added by the third party, were refunded to Mr R so he could choose whether to use the compensation to settle his debt directly.

Although receipt of my provisional decision has been acknowledged by both parties, neither Mr R nor SL has provided a response to 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.

Given that Mr R and SL have given me nothing further to consider, 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 R some compensation as set out below.

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 Loans 2 to 4, refund all the interest and charges that Mr R has paid on these loans;
2. Pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
3. Remove all adverse entries about Loan 2 from Mr R's credit file;
4. Remove all entries about Loan 3 from Mr R's credit file; and
5. Remove all entries about Loan 4 from Mr R's credit file once it's been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr R 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 R didn't repay Loan 4 to SL. This debt has now been sold to a third party. I don't know whether Mr R has repaid this debt to the third party.

It seems reasonable that if Mr R still owes some of the capital he borrowed that the refund due to him should be used to reduce that debt. But to do so SL must first take the debt back into its own books and reduce it to reflect just the capital that Mr R borrowed less any repayments he has made. If SL is unable, or unwilling, to do this it must ensure that its interest and charges, and any other interest and charges added by the third party, are refunded to Mr R so he can choose whether to use the compensation to settle his debt directly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 5 December 2019.

Roslyn Rawson
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