

complaint

Mr D is unhappy Provident Personal Credit Limited, trading as Satsuma Loans ("Provident") intends to use the compensation it's offered him following a complaint about five instalment loans to reduce the amount he owes on the account.

background

Mr D initially complained about five instalment loans Provident provided to him between July 2014 and September 2016. Our adjudicator upheld Mr D's complaint in part and thought loans 3 to 5 shouldn't have been given. Provident agreed with what our adjudicator had said and made an offer for loans 3 to 5.

Loan 5 has not been paid in full and so has an outstanding balance. So Provident calculated the compensation for loans 3 to 5 and said it would be used to reduce the outstanding balance for loan 5. Mr D didn't agree with this.

He said he wasn't aware that loan 5 was still outstanding – he thought it had been paid and closed as he hadn't heard from Provident. He also said that the compensation for loans 3 to 5 should be paid to him directly and a payment plan put in place to repay loan 5. Our adjudicator told Mr D that it's fair and reasonable for Provident to use the compensation to reduce the outstanding balance on loan 5.

As Mr D remains unhappy, the complaint has now been passed to me to decide.

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.

Firstly, Provident has agreed with our adjudicator's assessment about loans 3 to 5 about irresponsible lending, and Mr D hasn't disagreed with our adjudicator's assessment about the same. So I only need decide whether or not what Provident has offered to do to put things right is fair. Having done so, I think what Provident has proposed to do is fair. I know this will come as a disappointment to Mr D, so I would like to take this opportunity to explain why.

At this point it might help for me to explain that when a business accepts (or we decide) it shouldn't have given a loan to a consumer, we'd expect it to put the consumer in the position they'd be in now if they hadn't had to pay any interest and charges on that loan. A business will usually refund the interest and charges added to the loan – and also add 8% simple interest per year where the consumer paid the interest and charges.

Provident has worked out that the interest and charges – plus 8% simple interest – for loans 3 to 5 to be £382.13. It says that it won't be paying this to Mr D. Instead it plans to use this amount to reduce the amount Mr D still owes on loan 5. An outstanding balance of £243.81 will remain payable for Mr D to pay.

The ombudsman service's approach on this is that a refund is only due to be paid to a consumer if and when they have repaid more than the principal sum borrowed. So with

this complaint, we don't think it would be fair or reasonable to pay a refund when an outstanding principal balance is due even on loans which Mr D has been able to repay.

Provident has evidenced that loan 5 has an outstanding balance that has not been paid back. So until this amount has been paid back, Provident is still out of pocket for this money.

I've thought about this carefully and I have to be fair to both parties here. And I don't think that it would be fair and reasonable for me to tell Provident to pay Mr D the compensation directly. I haven't seen anything else to suggest that the compensation should be paid to Mr D directly. So it seems fair that one amount should be set against the other.

So overall I think what Provident has offered to do is fair and I'm not going to ask it to pay Mr D any money.

my final decision

For the reasons set out above, I don't uphold Mr D's complaint. I think what Provident Personal Credit Limited agreed to do to put things right for Mr D is fair. So I don't think it needs to do anymore.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 5 March 2020

Sonia Hussain
ombudsman