

complaint

Mr H complains that Provident Personal Credit Limited (trading as Satsuma) gave him a loan irresponsibly.

background

The background to this complaint was set out in the provisional decision that I issued in November 2019. An extract from this is attached and forms part of this final decision, so I will not repeat that information here.

In my provisional decision I set out why I thought the complaint should be upheld. I invited both parties to let me have any further comments and evidence.

my findings

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

Satsuma has responded to confirm that it agrees with my provisional decision and proposed redress.

Mr H has also responded and, whilst welcoming the outcome of my provisional decision, asks that the following points be taken into consideration:

1. as the loan was repaid soon after it'd been provided, very little interest was paid and no additional fees were charged;
2. he doesn't believe that the remedial actions proposed in my provisional decision will serve to hurt Satsuma financially, or to stop it from acting similarly in future;
3. Satsuma's affordability calculations indicated that Mr H had monthly disposable income of only £319 – which Mr H considers to be insufficient for him to live upon.

I concur that the value of the financial redress proposed in my provisional decision is likely to be relatively modest – but this is a reflection of the very short period of time that the loan was outstanding.

To reiterate what I stated in my provisional decision, any questions about censure or penalties against financial services businesses would fall to be considered by the regulator, the Financial Conduct Authority. The remit of the Financial Ombudsman Service is to resolve disputes and, where a financial services business has done something wrong, to ensure that it puts things right for the consumer. It is not empowered to consider, or apply, punitive remedies against a financial institution.

I proposed upholding Mr H's complaint as I felt that the loan repayments represented a significant proportion of his income. So, in essence, I agree with his last point.

Having considered again the particular circumstances of this complaint I see no basis for departing from the conclusions that I reached in my provisional decision.

my final decision

My final decision is that I uphold this complaint and require Provident Personal Credit Limited (trading as Satsuma) to put things right as follows:

- refund the interest and charges Mr H paid on the loan;

- pay interest on the refunds at 8% simple* per year from the dates of payment to the date of settlement;
- remove any adverse information about the loan from Mr H's credit file.

*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.

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

Richard France
ombudsman

EXTRACT FROM PROVISIONAL DECISION

Background

This complaint relates to an instalment loan of £1,000 repayable over 12 months given to Mr H by Satsuma. The complaint has been brought by Mr H's father on his behalf but, for ease, I shall refer in this decision simply to Mr H.

The loan was granted in August 2018 and was repaid by Mr H's father less than one week after it was drawn, and within the 'right to withdraw' period. Mr H had been suffering from serious mental health problems which impacted upon his ability to make rational decisions. Upon learning of the loan, Mr H's father repaid it on his son's behalf.

Mr H contends that Satsuma didn't undertake adequate checks before providing the loan and that, if it had, it would've seen that the loan was unaffordable. Also, he believes that Satsuma should've been aware of his mental state and recognised that he wasn't in a position to make informed decisions. He has requested that £1,000 be paid back to him, and that Satsuma should be fined and censured for its behaviour.

Satsuma believes that it did carry out sufficient checks and had satisfied itself that the loan was affordable to Mr H.

Because both parties have not agreed, the complaint has been passed to me for 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. 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.

Satsuma needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr H could repay the loan 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 think less thorough checks might be reasonable and proportionate. But certain factors might point to the fact that Satsuma should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- 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).

I think it's important for me to start by saying that Satsuma was required to establish whether Mr H could sustainably repay his loan – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow that this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments.

So it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr H's complaint.

Satsuma has told us that, before lending, it asked Mr H for details of his income and expenditure. Mr H told Satsuma that his net monthly income was £650 and his monthly expenditure was £25. Repayments to the loan were £166 per month over 12 months.

Satsuma also carried out credit checks, including verification of Mr H's income, but I haven't seen the results of these checks. It then applied a 'safeguard buffer' adjustment to his declared expenditure to reflect its view that this had been understated. In the light of these checks Satsuma considered the loan to be affordable.

Having considered carefully the circumstances here I don't see any reason why Satsuma ought to have been aware of Mr H's mental condition at this time. But, Mr H has told us that he had not worked since May 2018 and that, at the time of the loan, his only income was an Employment and Support Allowance of less than £650 per month. I think that, given the term of the loan coupled with Mr H's low income, the repayments of £166 per month over a year represented a significant proportion of his income. In these circumstances I don't think that Satsuma should've agreed to provide the loan.

Putting things right – proposed redress

I plan to instruct Satsuma to:

- refund the interest and charges Mr H paid on the loan;
- pay interest on the refunds at 8% simple* per year from the dates of payment to the date of settlement;
- remove any adverse information about the loan from Mr H's credit file.

*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.

Mr H has suggested that the £1,000 he paid to Satsuma in repayment of the loan principal be given back to him on the basis the loan should never have been provided in the first place. But Mr H has confirmed that the proceeds of Satsuma's loan were used by him to pay off other everyday expenses and bills. As he has had the benefit of these funds I can see no justification for asking Satsuma to refund the principal loan repayment to him.

Also, Mr H asked that Satsuma be fined and censured for its actions. Whilst I am of the opinion that Satsuma wasn't right to give this loan to Mr H, I consider the redress set out above to be appropriate. Any question about a lender's activities leading to fines and censure is beyond the remit of this service and would fall to be considered by the regulator (in this case the Financial Conduct Authority)

