Financial Ombudsman Service

complaint

Mr G complains that Provident Personal Credit Limited trading as Satsuma Loans was irresponsible when it provided a number of loans to him.

background

This complaint is about seven short-term high-cost instalment loans Satsuma provided to Mr G between September 2014 and June 2015. I've prepared the table below from some of the information Satsuma has given us about Mr G's loans.

loan number	date taken	principal amount	term	weekly /monthly repayments	date repaid
1	04/09/14	£200	26 weeks	£12.92 per week	27/02/15
2	11/03/15	£130	13 weeks	£14.00 per week	27/04/15
3	28/04/15	£300	3 months	£140.00 per month	30/06/15
4	17/05/15	£400	6 months	£113.33 per month	outstanding balance
5	03/06/15	£350	26 weeks	£22.88 per week	outstanding balance
6	06/06/15	£400	30 weeks	£23.08 per week	outstanding balance
7	09/06/15	£400	21 weeks	£30.18 per week	outstanding balance

In its final response letter, Satsuma agreed to uphold Mr G's complaint about Loan 7. It offered to write-off the outstanding balance and remove the entry about this loan from Mr G's credit file.

Our adjudicator upheld Mr G's complaint and thought the loans from Loans 4 onwards shouldn't have been given. As the complaint hasn't been resolved yet it's been passed to me for a final decision. If Mr G accepts my decision it will be binding on the parties.

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.

Satsuma needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should've carried out proportionate checks to make sure Mr G 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 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 Mr G. 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);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

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

I think that it is important for me point out that Satsuma was required to establish whether Mr G could sustainably repay his loans – 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 this is the case. This is because the relevant regulations define sustainable as being without undue difficulties. 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. And 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 G's complaint.

Our adjudicator thought that Satsuma couldn't fairly be said to have done anything wrong when it provided Loans 1, 2 and 3. And Mr G has accepted her view on this. Given, what Satsuma did check, how early it was in the lending relationship and the amounts borrowed (and to be repaid) and that Loans 1 and 2 were both repaid before Mr G took the next loan, I'm also not persuaded that Satsuma can be said to have acted irresponsibly when it provided these loans. So I'm not upholding Mr G's complaint about those.

However at the point Mr G applied for Loan 4 - the highest amount yet at £400 - I think Satsuma should've been alert to the risk that he wasn't using these loans for their intended purpose of plugging a temporary gap in his finances. And that he wasn't in a position to repay them in a sustainable way.

It had been over eight months since Mr G began borrowing from Satsuma in September 2014. But there had only been 13 days when he hadn't been in debt to it. Furthermore, Loan 4 was taken whilst Loan 3 was still outstanding. Mr G hadn't yet made any repayments on Loan 3 at the point Satsuma approved Loan 4. The whole balance was still outstanding. And this meant that he was due to repay over £253 per month to Satsuma for the two loans.

Before Mr G repaid either Loans 3 or 4 he was approved for Loan 5. This was repayable weekly but over a calendar month it worked out to be almost £100. So June's repayments on Loans 3, 4 and 5 were going to be somewhere in the region of £350. This was substantially more than he'd been due to repay each month on Loan 1 – somewhere in the region of £55 per month. But his declared income and outgoings hadn't changed significantly over that period. From what I can see it looks as though he declared that he had an overall slightly lower disposable income at the point he took Loan 5.

In light of all this I think that Satsuma should've realised that it was unlikely Mr G would be able to make repayments on Loans 4 and 5 in a sustainable way. Indeed if it had done what I consider to be proportionate checks it would've noted that Mr G was not only in debt to it but to numerous other short term lenders. He also had high cost credit cards, other high cost loans such as a log-book loan and was in a debt management plan. I can also see what appear to be a significant number of gambling transactions on Mr G's banks statements. All of this information would likely have become apparent to Satsuma had it done proportionate checks. And it would've been clear to Satsuma that Mr G wouldn't be able to repay these loans sustainably.

However Satsuma went on to provide another two loans. Loans 6 and 7 were both for £400. This meant that Mr G had borrowed £1,150 from Satsuma through three loans over a six-day period. And he still hadn't repaid Loans 3 and 4. (Loan 3 was eventually settled at the end of June 2015, although Loans 4, 5, 6 and 7 weren't repaid as intended).

I've thought about the overall pattern of lending. In nine months Mr G had taken seven loans for generally increasing amounts. He hadn't cleared some of his earlier loans. So I think that when Mr G asked for his sixth loan Satsuma ought to have realised it was more likely than not that Mr G was having to borrow further to cover the hole in his finances caused by him having to repay earlier credit – and this wasn't sustainable and was causing him harm. The effect was to unfairly prolong Mr G's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time. Additionally the number of loans and the length of time over which Mr G was borrowing from Satsuma was likely to have had negative implications on his ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, in summary, I'm also upholding Mr G's complaint about Loans 4 onwards and Satsuma should put things right.

putting things right

Our usual approach - where things have gone wrong - is to try to put a consumer back in the position they would've been otherwise. This isn't straightforward where consumers have had the benefit of capital advances - as in this case. Satsuma has already agreed to write-off the outstanding balance on Loan 7. And, I think a write off of the whole balance on Loan 7 is right and fair thing to do in the circumstances of this complaint - which I've already outlined above. This loan should never have been given - and Satsuma agrees. What's more, I think it's likely that Mr G's difficulties were severely aggravated as a result of him being given Loan 7. And it wasn't likely that he'd ever be in a position to repay this loan in full (interest or capital) given what else he owed to Satsuma. At that point Mr G hadn't yet repaid any of the previous four loans and this took the total amount of capital on these five live loans to somewhere in the region of £1,850. So I agree with Satsuma's decision to write off the whole balance on Loan 7.

So now I'll turn to how Satsuma should put things right as regards the other loans which I think shouldn't have been given (Loans 4, 5 and 6).

I understand that there may be outstanding balances on Loans 4, 5 and 6. But I also understand that a third party debt collector has been in touch with Mr G so the current situation as regards what - if anything - is still owed, is unclear. From what Mr G tells us it seems that he has made repayments on Loans 4, 5 and 6. But he hasn't yet repaid the capital sums originally borrowed. If Satsuma has sold the outstanding debts it should buy them back if it's able to do so and then take the following steps. If Satsuma is not able to buy the debts back then it should liaise with the new debt owner to achieve the results outlined below.

I require Satsuma to do the following in respect of Loans 4, 5 and 6:

A) It should add together the total of the repayments made by Mr G towards interest, fees and charges on all upheld loans without an outstanding balance

B) It should calculate 8% simple interest* on the individual payments made by Mr G which were considered as part of A), calculated from the date Mr G originally made the payments, to the date the complaint is settled.

C) It should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr G as though they had been repayments towards the principal on all outstanding loans. If this results in Mr G having made overpayments on any of the outstanding loans then Satsuma should add 8% simple interest* to those overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. If there are no other upheld loans with outstanding balances then Satsuma should refund this sum together with the amounts calculated in A) and B) and move to step E)

D) If there is still an outstanding balance on any of the loans being upheld after all interest, fees and charges from the balance have been removed, and any repayments made by Mr G have been treated as though they had been repayments of the principal then the amounts calculated in A), B) and C) may be used to repay any balance remaining on those outstanding loans. If this results in a surplus then the surplus should be paid to Mr G. However if there is still an outstanding balance then Satsuma should try to agree an affordable repayment plan with Mr G

*HM Revenue & Customs requires Satsuma to deduct tax from this interest. It should give Mr G a certificate showing how much tax it has deducted, if he asks for one.

E) Satsuma should remove any negative information about Loans 4 and 5 from Mr G's credit file. The number of loans taken from Loan 6 onwards means any information recorded about them is adverse. So, all entries about Loans 6 and 7 should be removed from Mr G's credit file.

my final decision

For the reasons given above, I'm partially upholding Mr G's complaint. Provident Personal Credit Limited should put things right in the way I've explained.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 22 September 2019.

EJ Forbes
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