

complaint

Mr K complains that Provident Personal Credit Limited, trading as Satsuma, lent to him in an irresponsible manner.

background

Satsuma gave Mr K 11 instalment loans between December 2013 and May 2018. The loans ranged from £200 to £1,000 and were repayable in weekly instalments ranging from 26 to 52 weeks. Mr K repaid loans one to eight but loans nine to 11 remain outstanding. A summary of Mr K's borrowing from Satsuma is shown as an appendix to this decision.

Mr K says that he couldn't afford to repay the loans whilst meeting his essential living expenses. He wants a refund of the sums advanced, interest and charges, with interest.

One of our adjudicators assessed Mr K's complaint. He said that Satsuma shouldn't have given Mr K loans four to 11. He set out what Satsuma should do to put things right. Satsuma didn't agree with the adjudicator. It said that the adjudicator had only considered the number of loans and that sustained or sequential borrowing isn't, in itself, either irresponsible or proof that the customer is persistently reliant on borrowing. Satsuma said that it carries out individual checks on every loan application and sustainability is considered.

As there was no agreement between the parties, the complaint was passed to me, an ombudsman, 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.

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 K 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 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);
- 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.

Satsuma was required to establish whether Mr K 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 Office of Fair Trading Irresponsible Lending guidance and later 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. 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 K's complaint.

I don't think Satsuma was wrong to give Mr K loans one to three. Given the repayment amounts, what was apparent about Mr K's circumstances at the time and his history with the lender at that point, I don't think it would've been proportionate for Satsuma to ask Mr K for the amount of information needed to show the lending was unsustainable. There wasn't anything in the information Mr K provided or the information Satsuma should've been aware of, which meant it would've been proportionate for it to start verifying what Mr K said.

I've also looked at the overall pattern of Satsuma's lending history with Mr K, with a view to seeing if there was a point at which Satsuma should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Satsuma should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr K's case, I think that this point was reached by loan four. I've noted the two-month gap in Mr K repaying loan two and taking out loan three but I don't think that broke the chain of lending here. So, by loan four, Mr K had been borrowing from Satsuma with very little break for seventeen months. His overall pattern of borrowing suggested that he had become persistently reliant on short-term loans. Whilst the amounts Mr K borrowed varied, they didn't significantly decrease over this period and for the rest of Mr K's borrowing relationship with Satsuma. In my view, the pattern of lending itself shows that the loans from loan four were unsustainable. So, I don't think that Satsuma should have given Mr K loans four to 11.

Mr K wasn't making any real inroads to the amount he owed Satsuma. Loan 11 was taken out over four years and four months after Mr K's first loan. Mr K had paid large amounts of interest to, in effect, service a debt to Satsuma over an extended period.

I think that Mr K lost out because Satsuma continued to provide borrowing from loan four onwards because these loans had the effect of unfairly prolonging Mr K's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period. The sheer number of loans was likely to have had negative implications on Mr K's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So I don't think that Satsuma should have given Mr K loans four to 11 and Satsuma should put things right.

putting things right – what Satsuma needs to do

Mr K says that he wants a refund of the capital he borrowed. I don't think that would be fair, as he had the use and benefit of the money he borrowed. To put things right, Satsuma should;

- refund all interest and charges Mr K paid on loans four to 11 and write off any outstanding interest and charges on loans nine, ten and 11;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- deduct from the refund above any capital sum still due in relation to loans nine, ten and 11 and pay Mr K the balance, if any. If there remains an outstanding balance owed to Satsuma in relation to loans nine, ten and 11, Satsuma should agree an affordable repayment plan with Mr K;
- the number of loans taken from loan four onwards means any information recorded about them is adverse. So all entries about loans four to eight should be removed from Mr K's credit file. Entries about loans nine, ten and 11 should be removed once the capital owing on those loans has been repaid.

† HM Revenue & Customs requires Satsuma to take off tax from this interest. Satsuma must give Mr K a certificate showing how much tax it's taken off, if he asks for one.

my final decision

For the reasons given above, I'm upholding Mr K's complaint in part. Provident Personal Credit Limited, trading as Satsuma, should pay Mr K compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 30 November 2019.

Louise Povey
ombudsman

appendix – summary of Mr K's loans with Satsuma

	date	£ amount borrowed	date repaid
1	21 December 2013	250	9 May 2014
2	8 May 2014	220	25 November 2014
3	25 January 2015	450	15 June 2015
4	5 June 2015	200	14 October 2015
5	21 October 2015	400	22 April 2016
6	19 February 2016	400	17 November 2016
7	22 June 2016	600	8 June 2017
8	17 November 2016	500	24 November 2017
9	17 November 2017	1,000	
10	3 January 2018	200	
11	12 May 2018	300	