

complaint

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

background

Mr M was given nine instalment loans by SL from July 2015 to July 2018. A summary of the loans taken out by Mr M is shown below:

Loan number	Date of loan	Repayment date	Loan amount	Number of weekly repayments
1.	20/7/15	14/10/15	£500	21
2.	16/12/15	6/2/16	£370	21
3.	5/2/16	10/11/16	£600	39
4.	11/6/16	12/10/16	£100	21
5.	12/10/16	13/7/17	£200	39
6.	29/4/17	3/5/18	£400	52
7.	23/1/18	Unpaid?	£1,000	52
8.	5/5/18	Unpaid?	£500	26
9.	27/7/18	Unpaid?	£400	39

SL said that it had carried out a credit check before each loan and asked Mr M for details of his income and expenditure. SL also applied extra safeguards and buffers to Mr M's declared expenses to reflect the information it obtained from its credit and internal checks. Taking these into account SL said that the loans were affordable and left Mr M with a comfortable disposable income. But SL also said it would provide a rebate on Loan 1, pay 8% interest on the rebate and remove the entries about Loan 1 from Mr M's credit file. It has applied the rebate (after deducting tax) to reduce the outstanding balance on Loan 7.

our adjudicator's view

The adjudicator noted that SL had made an offer in its final response letter about Loan 1, so he didn't consider Loan 1 in his view. Otherwise he recommended that Loans 8 and 9 should be upheld. He said that by Loan 8, Mr M's overall pattern of borrowing suggested that Mr M was persistently reliant on short term loans.

SL disagreed and said that it appeared from reviewing the adjudicator's view that the adjudicator had only considered the number of loans obtained by Mr M. But it didn't feel that sustained or sequential borrowing was of itself irresponsible or conclusive that Mr M was persistently reliant on borrowing. SL said that it performed individual checks before every

loan. SL considered the sustainability of the loans and believed that the adjudicator hadn't considered Mr M's individual circumstances.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr M and to SL on 27 November 2019. I summarise my findings:

I noted that SL had already settled Loan 1 and applied the settlement amount against the outstanding balance on Loan 7. I found this reasonable and hadn't considered this loan further in my decision.

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

I explained that SL had made a number of checks before it lent to Mr M. It had asked him for details of his income and expenditure. Mr M had declared his monthly income as £1,126.66 before Loans 2 and 3 and £1,473.32 from Loan 4 onwards. His declared expenditure had ranged from £375 to £875. And SL had increased Mr M's declared expenditure in its assessments of all the loans to reflect what it had seen in its credit checks and internal models.

I also noted that SL had checked Mr M's credit file before agreeing to the loans and it had provided this service with a summary of its checks. The checks showed no bankruptcy or individual voluntary arrangements, no debt management plans and no county court judgements before all the loans.

Mr M hadn't provided this service with a copy of his credit report. So I couldn't say that there was anything in that report which might have caused additional concerns to SL.

I could see that Loan 2 was taken out around two months after Loan 1 was repaid. Loan 2 was for the smaller amount of £370 repayable by 21 weekly repayments of £30.30 which was less than the repayments Mr M had made on Loan 1. SL's credit checks showed that he had no active accounts in arrears. I'd noted that Mr M's adjusted monthly disposable income was just £94.67. But I could see that was after SL had applied its prudent safeguards and buffers to Mr M's declared expenditure.

Loan 2 was still outstanding when Mr M took out Loan 3. The loan amount had significantly increased to £600 and was repayable over a longer period than Mr M's previous loan. The loan was due to be repaid by 39 weekly repayments of £30.62. SL's credit checks showed that a new credit account had just been opened but there were no active credit accounts in arrears. Again I'd noted that Mr M's adjusted monthly disposable income was just £68.22. But again I could see that was after SL had applied its prudent safeguards and buffers to Mr M's declared expenditure.

Overall, given Mr M's repayment amounts, and what was apparent about his circumstances at the time, 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 Loans 2 and 3 were unsustainable.

And I didn't think there was anything in the information Mr M 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 have given Loans 2 and 3 to Mr M.

Loan 3 was still outstanding when Mr M took out Loan 4. Loan 4 was for £100 and repayable by 21 weekly repayments of £8.19. But by the time of Loan 4, Mr M's monthly income had increased by around £350. His declared expenditure had fallen and Mr M's monthly disposable income after SL had applied its safeguards, buffers and the loan repayments had increased to £455. It was not clear to me if SL had also taken into account the repayments on Loan 3 when calculating this figure.

But overall, given Mr M's repayment amounts, and what was apparent about his circumstances at the time, 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 I didn't think there was anything in the information Mr M 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 have given Loan 4 to Mr M.

Loan 5 was taken out on the day Loan 4 was repaid. And Loan 3 was still outstanding. I thought this might have caused SL some concerns as it was more likely than not that Mr M was having to borrow further to cover the hole repaying Loan 4 was leaving in his finances. Loan 5 was for £200 repayable over 39 weeks by weekly repayments of £10.21. SL's credit checks showed that he had four payments in arrears in the previous six months. And Loan 5 was Mr M's fourth loan in ten months without a break. I could also see that SL had again added an additional amount of around £700 of safeguards and buffers to Mr M's declared expenses. So for the fifth loan running, it was aware that Mr M wasn't declaring all his regular commitments.

I thought by the time of Loan 5, SL ought reasonably to have suspected that Mr M was likely having trouble managing his money. So I thought it would have been proportionate for SL to have gathered a more comprehensive view of Mr M's circumstances and sought some independent verification of this.

I explained that I would normally look at the borrower's bank statements to see what proportionate checks would likely have shown. Unfortunately I'd not seen Mr M's bank statements for the month before Loan 5 to see what proportionate checks would have shown. I'd noted that the adjudicator had asked Mr M for his bank statements in October 2018 so he'd had ample time to provide these. So I couldn't say that if SL had completed sufficient checks, it would have found that Mr M couldn't afford to repay Loan 5 sustainably. So I couldn't say that SL was wrong to have given Loan 5 to Mr M.

I'd looked at the overall pattern of SL's lending with Mr M to see if there was a point at which SL should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so SL should have realised that it shouldn't have provided any further loans. Given the particular circumstances of Mr M's case, I thought that this point was reached by Loan 6. I said this because:

- By Loan 6, Mr M had been borrowing from SL for around 21 months with only a two months break.
- Mr M had one other loan outstanding with SL when he took out Loan 6.
- The loan amount had increased to £400. Mr M wasn't making any real inroads to the amounts he owed SL and by approving this loan, SL was extending Mr M's indebtedness by a further year.

I could see that as SL didn't stop lending at this point, Mr M went on to take out another three loans in the following 15 months. I thought that Mr M lost out because SL continued to provide borrowing from Loan 6 onwards because:

- These loans had the effect of unfairly prolonging Mr M's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time.
- The number of loans was likely to have had negative implications on Mr M's ability to access mainstream credit and so kept him in the market for these high-cost loans.

I'd noted that SL had said that the adjudicator's view hadn't considered Mr M's individual circumstances and only considered the number of loans Mr M had obtained. I'd taken SL's response to the adjudicator's view into account in reaching my decision. I'd also taken Mr M's circumstances into account. But I hadn't recreated affordability assessments of the loans in dispute. This was because I thought the number of loans and the pattern of lending here were of concern.

I'd also thought that when a consumer borrowed numerous loans over a long period of time, it was most likely that the loans weren't being used for their intended purpose of temporary cash flow problems. As SL knew, the FCA made it clear in a recent letter to CEOs of high cost lending firms that "a high volume of relending.....might be symptomatic of unsustainable lending patterns". And I thought that was the case here.

So I intended to uphold Mr M's complaint about Loans 6 to 9. My redress was drafted on the basis that Loans 7, 8 and 9 hadn't been repaid. The most recent loan information I'd seen showed that. So, subject to any further representations by Mr M or SL my provisional decision was that I intended to uphold this complaint in part. I intended to order Sunny to:

- with regard to Loan 6, refund all the interest and charges that Mr M has paid on this loan;
- pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
- with regard to Loans 7 to 9, refund all the interest and charges that Mr M has paid on these loans;
- pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
- write off any unpaid interest and charges from Loans 7 to 9;
- apply the refunds referred to above to reduce any capital outstanding on Loans 7 to 9 and pay any balance to Mr M;
- remove all entries about Loan 6 from Mr M's credit file;
- remove all entries about Loans 7 to 9 from Mr M's credit file when they have been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr M a certificate showing how much tax it was 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 M responded to say that he accepted my provisional decision.

SL responded to my provisional decision to say that my proposals had been accepted.

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 both Mr M and SL have accepted my provisional decision and 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 take the steps and pay Mr M 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 Loan 6, refund all the interest and charges that Mr M has paid on this loan;
2. Pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
3. With regard to Loans 7 to 9, refund all the interest and charges that Mr M has paid on these loans;
4. Pay 8% simple interest* a year on the refunds from the date of payment to the date of settlement;
5. Write off any unpaid interest and charges from Loans 7 to 9;
6. Apply the refunds referred to above to reduce any capital outstanding on Loans 7 to 9 and pay any balance to Mr M;
7. Remove all entries about Loan 6 from Mr M's credit file; and
8. Remove all entries about Loans 7 to 9 from Mr M's credit file when they have been repaid.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr M a certificate showing how much tax it was 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.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 30 January 2020.

Roslyn Rawson
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