

complaint

Mr R complains that Provident Personal Credit Limited (trading as Satsuma) has treated him unfairly in the way it adds interest when calculating loan balances following a full or partial early settlement payment.

background

Mr R took six loans from Satsuma between May 2016 and May 2017. He separately complained that he shouldn't have been given these loans at all. In response to that complaint Satsuma agreed that it shouldn't have given Mr R the last two loans and paid him some compensation. And one of our adjudicators, having looked at the complaint, said that it hadn't been wrong for Satsuma to give Mr R the first four loans.

Satsuma has refunded all the interest and charges that Mr R paid on the last two loans in response to his complaint about irresponsible lending. So I don't think he has lost out on those two loans in relation to this complaint. And the interest that he says shouldn't have been charged on his early repayments of those loans would have been refunded anyway.

Each of the loans that Mr R was given was repayable in 52 weekly instalments. But he repaid each of his loans far earlier than that. And so he was affected by Satsuma's approach to calculating early settlement rebates.

The repayments on the loans Satsuma provided were based on an amortisation schedule where each instalment was made up of some of the interest and charges and some of the capital advanced. Since these were high-cost credit products the higher interest rate meant that only a small proportion of the instalment went towards repaying the capital in the early stages of a loan.

The Consumer Credit (Early Settlement) Regulations 2004 set out how a lender can calculate the maximum amount permitted for a settlement figure – on a regulated credit agreement - in the event that a consumer says that they want to pay off a loan early. It essentially sets out a formula that lenders may use, which is based on the outstanding capital and the remaining loan term. Typically, a firm is entitled to add between 28 to 56 days interest to the outstanding capital balance.

When Mr R repaid his loans early Satsuma calculated a settlement figure using this formula which meant he was required to pay an additional 28 days interest relating to his borrowing. And he was told that the same additional interest payment would apply if he made a partial early repayment too. He didn't think that was fair, and he said it wasn't the way he has been treated by other lenders. So he complained to Satsuma. The lender didn't agree with his complaint – it considered that its actions were reasonable and in line with the regulations.

Mr R's complaint has been assessed by one of our adjudicators. He agreed with Satsuma that its actions had been in line with the relevant regulations. And although he thought that Satsuma could have given Mr R a better explanation of its terms and conditions he didn't think that Mr R had lost out as a result of the lack of information. So he didn't think this complaint should be upheld.

Mr R didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

So looking specifically at this complaint I think the first thing I need to establish is whether Satsuma has acted reasonably, and in line with the relevant regulations when setting its terms and conditions around early repayment – whether in full or part. I would then need to think about whether Satsuma adequately communicated those terms to Mr R before he decided to take the loans. And finally, if I don't think Satsuma provided enough information, I'd need to decide whether that lack of information caused detriment to Mr R – or in other words if he'd have acted differently if he'd been given better information before taking the loans.

In deciding this complaint I have taken account of the submissions that have been made by Mr R and by Satsuma. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to have happened.

As I noted earlier, the regulations that apply to early repayments of the nature being complained about here are The Consumer Credit (Early Settlement) Regulations 2004. I've looked carefully at the way in which Satsuma has calculated the amounts that are due from Mr R when he repaid his loans early and have concluded that these have been calculated in accordance with the regulations.

The regulations set out a formula for working out the maximum amount a lender is able to charge in the event that a consumer wishes to settle a regulated agreement early. But in addition to the regulations I need to look at what's fair and reasonable in all the circumstances of a case and not just what the terms and conditions state. It could be argued for example that the higher the interest rate is the less likely I would be to conclude that a lender should charge the maximum amount the regulations allow.

The Financial Conduct Authority was the regulator at the time Mr R borrowed from Satsuma. Its regulations for lenders are set out in its consumer credit sourcebook (generally referred to as "CONC"). CONC 4.2.5R requires a lender to provide an adequate explanation in order to place the consumer in a position to assess whether the agreement is right for their needs and financial situation. Matters to take into account include the features of the agreement which may make it unsuitable for particular type of use and the features of the agreement which would have a significant adverse effect on the customer in a way which they're unlikely to foresee. And CONC 4.2.7G also lists factors a lender should take into account when deciding the level and extent of an explanation. These factors include the type of credit, the amount and duration, and the actual and potential costs.

In each of the agreements that Mr R electronically signed before taking the loans was a section regarding early repayment. That section said;

“You have the right at any time to make early repayment in full or in part. To do so you should first give us notice. The payment should be made before the end of the period of 28 days, beginning with the day following the day that we receive your notice, or on or before any later date specified in your notice”

But that section doesn't provide Mr R with any indication of how the settlement figure will be arrived at. And in these circumstances I don't think the statement above met the lender's obligations in relation to providing a pre-contractual adequate explanation that's clear, fair and not misleading. But that, in itself, doesn't mean that the complaint should be upheld. I also need to decide whether Mr R would have acted any differently if he'd been given better information.

Satsuma has provided us with a recording of a telephone call between Mr R and Satsuma around the time he was looking to repay his final loan. Having listened to that call it is clear to me that Mr R already had a good understanding, gained from his previous borrowing with Satsuma, about how it would treat the early repayment of its loans. It is apparent that Mr R doesn't agree with the approach that Satsuma has applied in the past. But it seems to me that hasn't stopped him taking these loans from Satsuma.

I don't know exactly when Mr R became aware of how Satsuma treated the early repayment of its loans. But I am persuaded that he became aware of the process well before he took his final loan – by that time he'd repaid five other loans far earlier than the date he'd agreed when he took the loan out. So it seems to me that even when Mr R was aware that he would need to pay some additional interest on repaying the loan early, this didn't stop him from asking Satsuma for a new loan.

Given that Mr R was so upset by the terms and conditions Satsuma applied to early repayment I have thought about why he continued to borrow from this lender. It might have been because this lender was one of only a few lenders that would agree to lend to him. It might have been because, at the time he took the loan out, he had no intention of repaying the loan early. Or it might have been that he found the way in which Satsuma structured the loans, allowing him to make weekly repayments over an extended period, was attractive. But taking all that into account means I can't fairly say that Mr R wouldn't have taken any of the loans if he'd been aware of the way Satsuma treated early repayment.

So in summary, I don't think this complaint should be upheld. Satsuma complied with the relevant regulations when calculating the additional interest that would need to be paid if the loan was settled early. I don't think the information that Mr R was given, before he took the loans, about the calculation of the interest was sufficient. But I think Mr R would still have borrowed from Satsuma even if he'd been given more details about the terms and conditions.

my final decision

For the reasons given above, I don't uphold the complaint or make any award against Provident Personal Credit Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 12 January 2020

Paul Reilly
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