

complaint

Mr R complains that Provident Personal Credit Limited (trading as Satsuma) lent to him in an irresponsible manner.

background

Mr R was given five loans by Satsuma between August 2015 and August 2017. The first three loans were repayable in 52 weekly instalments. Loan 4 was repayable in eight monthly instalments. And the final loan was repayable in 12 monthly instalments. Mr R's first four loans have been successfully repaid but a balance remained outstanding on the final loan when he made his complaint. A summary of Mr R's borrowing from Satsuma is as follows;

Loan Number	Borrowing Date	Repayment Date	Loan Amount
1	17/08/2015	17/03/2016	£ 700
2	30/03/2016	31/03/2017	£ 900
3	14/09/2016	15/08/2017	£ 1,000
4	08/06/2017	15/11/2017	£ 600
5	16/08/2017	-	£ 1,100

Mr R's complaint has been assessed by one of our adjudicators. He didn't think Satsuma had been wrong to give the first two loans to Mr R. But he didn't think Satsuma should have agreed to lend the remaining loans. So he asked Satsuma to pay Mr R some compensation.

Satsuma 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. If Mr R accepts my decision it is legally binding on both 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 have carried out proportionate checks to make sure that Mr R 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 a 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.

I think that it is important for me to start by saying that Satsuma was required to establish whether Mr R 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 FCA's 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 R's complaint.

Before lending to Mr R, Satsuma asked him for details of his income and normal expenditure. And it then added a buffer to what Mr R had declared to take account of other expenditure it could see from its credit check and estimates of spending from other internal models. It used that information to estimate how much money Mr R had left over each month that he could use to repay his loan. It also gathered some other information about Mr R from his credit file in relation to his financial circumstances such as his relationships with other lenders and whether he was facing any debt management problems.

I think that the checks Satsuma did before agreeing the first loan were proportionate. The amounts that Mr R needed to repay each week were small compared with the disposable income he'd declared. Given these repayment amounts, what was apparent about Mr R's circumstances at the time, and his borrowing history with the lender, I don't think it would've been proportionate for Satsuma to ask him for the amount of information that would be needed to show the lending was unsustainable before agreeing this loan.

Mr R repaid his first loan earlier than scheduled. But within less than two weeks he asked to borrow again. And the amount he asked to borrow was far higher than before. I think that given the size of this loan, and that Mr R was scheduled to repay it over the next 52 weeks, Satsuma should have done better checks. I think that Satsuma should have realised that it couldn't safely rely on the information Mr R was providing about his finances. I think it should have taken steps at that time to independently verify Mr R's true financial position.

I've looked at copies of Mr R's bank statements to see what better checks would have shown to Satsuma. And although those bank statements show some signs that Mr R was under financial pressure I don't think that, at this stage of its relationship with Mr R, these would have been enough for Satsuma to decide not to give the second loan to him. So I'm not able to say that better checks would have meant Satsuma should have declined this application.

Mr R was around halfway through repaying his second loan when he asked to take some additional borrowing. The loan he asked for was even larger than before. And he would need to make repayments on both loans 2 and 3 at the same time. So like before I don't think the checks Satsuma did were enough. As before I think it should have taken steps to independently verify the true state of Mr R's finances.

By now Mr R's bank statements showed that he was facing real problems managing his money. He was additionally borrowing from a number of other short term lenders – loans that he would need to repay at the same time as his loans from Satsuma. I think if it had done better checks Satsuma would have realised that it was unlikely that Mr R would be able to repay any additional borrowing in a sustainable manner. So I don't think Satsuma should have agreed to give loan 3 to Mr R.

And looking at the overall pattern of Satsuma's lending history with Mr R I think by the time he asked for loan 4 the lender should reasonably have seen that any further lending was unsustainable, or otherwise harmful. And so Satsuma should have realised that it shouldn't provide further loans.

I say this because:

- By the time Mr R asked for his fourth loan he'd been borrowing from Satsuma, without any break, for almost two years. And he wasn't making any inroads to the amount he owed the lender. Loan 4 was taken whilst loan 3 was still outstanding.
- Mr R repaid loan 3 around a month earlier than scheduled. But on the following day he asked to borrow again – this new loan (loan 5) was the largest of any of the loans he'd taken from Satsuma. I think Satsuma ought to have realised it was more likely than not Mr R was having to borrow further to cover the hole repaying his previous loans was leaving in his finances and that Mr R's indebtedness was increasing unsustainably

I think that Mr R lost out when Satsuma provided him with loans 4 and 5 because:

- these loans had the effect of unfairly prolonging Mr R'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 R's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So overall I don't think Satsuma should have agreed to give loans 3 to 5 to Mr R. Satsuma needs to pay him some compensation.

putting things right

I don't think Satsuma should have agreed to lend to Mr R after, and including, the loan that he took on 14 September 2016 (loan 3). So for each of those loans Satsuma should;

- Refund any interest and charges paid by Mr R on the loans.
- Add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement*.
- Remove any adverse information recorded on Mr R's credit file in relation to loans 3 and loan 5.
- The number of loans taken from loans 4 onwards means any information recorded about them is adverse. So all entries about loan 4, and loan 5 once it has been fully repaid, should be removed from Mr R's credit file.

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

If Mr R still owes Satsuma any of the principal balance he borrowed on his final loan, Satsuma may deduct this from the compensation that is due to him. But, to be clear, that outstanding balance should be recalculated to remove any interest and charges, but taking account of any repayments Mr R has made on that loan as though they were applied against the principal sum borrowed.

my final decision

My final decision is that I partly uphold Mr R's complaint and direct Provident Personal Credit Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 4 November 2019.

Paul Reilly
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