

complaint

Mr A complains that Provident Personal Credit Limited (trading as 'Satsuma') gave him loans irresponsibly.

background

This complaint is about three loans Satsuma provided to Mr A between September 2015 and May 2016.

Here's a loan table setting out details of the loans:

Loan No.	Start Date	Amount	Term (weeks)	Repaid Date
1	07-Sep-15	£100	26	15-Dec-15
2	15-Dec-15	£200	17	08-Aug-17
3	29-May-16	£200	33	24-Aug-17

Mr A said that proper checks weren't done and Satsuma shouldn't have given him these unaffordable loans. He says the loans he took out led to him being in a spiral of debt and this has had lasting consequences on his credit file.

Our adjudicator's overall view was that he hadn't seen enough to say it was unfair for Satsuma to have provided loans 1 and 2 to Mr A. But he felt that by loan 3, Mr A had shown clear signs he was struggling to repay his previous loan. And also, the overall pattern of borrowing itself showed that by loan 3 the lending was unsustainable – so Satsuma shouldn't have given loan 3 to Mr A.

To put things right our adjudicator recommended (I'm briefly summarising here) that Satsuma should refund all interest and charges Mr A had paid on loan 3, plus interest on the refund, and amend his credit file to remove all information about this loan from Mr A's credit file.

Satsuma responded by saying it accepted the adjudicator's proposals. It then went on to say how it intended to put things right for Mr A.

But what Satsuma said it would actually do appeared to fall short of what our adjudicator had recommended – and Mr A requested an ombudsman review.

The complaint came to me to decide. I issued a provisional decision.

what I said in my provisional decision

Here are some of the main things I said.

"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 A 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 consumer'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 A 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 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 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 A's complaint.

Our adjudicator didn't think he had enough evidence to say that loans 1 and 2 shouldn't have been provided, but he felt that loan 3 shouldn't have been lent.

It appears that both Satsuma and Mr A agree with our adjudicator's proposal to uphold the complaint only about loan 3.

So I don't think I need to say much more about this other than to confirm I've reviewed all the available information – and I agree this seems a fair outcome.

But I'd like to explain why I think loan 3 should be upheld – I've taken a slightly different approach to our adjudicator. This doesn't change the outcome – I'm still planning on upholding Mr A's complaint about this loan. But it does make a difference in terms of what I think it's fair to tell Satsuma to do to put things right.

I think by loan 3 Satsuma should reasonably have seen that further lending was likely to be unsustainable and it shouldn't have provided this loan. I say this because at this point Satsuma ought to have realised:

- *Mr A was not managing to repay his loans sustainably. He'd had problems keeping up the scheduled repayments on loan 2 which was still running when Mr A took out loan 3, even though it should've been repaid by then*
- *Satsuma's own credit checks appear to show that Mr A had five payments in arrears*
- *Mr A wasn't making any real inroads into the amount he owed Satsuma – the loan amounts he was borrowing weren't decreasing - loan 3 was for twice the amount he'd borrowed on his first loan*
- *by now he'd been continuously paying Satsuma loans for around eight months in a row. So it wasn't reasonable of Satsuma to think Mr A's situation had improved and he was now asking to borrow because of a new need for a short term loan. Rather, it looked more like he had ongoing and long term money problems*

So I'm thinking about upholding Mr A's complaint about loan 3 because I think there were clear signs that the loan wasn't affordable for him – so Satsuma shouldn't have provided it to him.

I don't think there's enough information to say at this stage that a clear pattern of lending had been established by the time Mr A took out loan 3 – I think it's just too early to say that. In my view, he hadn't had so many loans or been borrowing for long enough for me to be able to say his "overall pattern of borrowing suggested he was by then becoming persistently reliant on short-term loans" as our adjudicator did.

So, when deciding how to reflect this on Mr A's credit file, I think a fair outcome is to say that Satsuma should remove any adverse information about this loan (as in fact Satsuma has offered to do). I don't think it would be fair overall to say that it should remove all information about the loan – as our adjudicator recommended."

what the parties said in response to my provisional decision

Mr A has welcomed what I've said in my provisional decision - as far as it goes. He also thinks that in the interests of fairness Satsuma should be directed to write off any outstanding balance remaining after it has reworked the account the way I've said.

Beyond acknowledging receipt, Satsuma hasn't made any further comments.

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.

I've carefully considered what Mr A has said in response to my provisional decision – in particular what he's said about his current financial situation and the time since the loan was taken, as well as the time and money he's spent responding to the lender's demands.

I agree with Mr A that a blanket approach isn't necessarily fair – and I'd like to take this opportunity to reassure him that the Ombudsman considers each case on its own particular merits, taking into account individual circumstances. And that's what I've done here when thinking about Mr A's complaint.

My aim is to try, as far as possible, to put Mr A in the position he would've been if the lender hadn't provided him with an unaffordable loan.

I think that the redress I set out in my provisional decision does this in a way that's fair and reasonable to both parties – based on all the information I've seen and bearing in mind that Mr A had the benefit of this loan. And whilst I appreciate that the loan dates back a long time, this will be addressed in money terms by my direction to Satsuma to pay Mr A backdated interest.

So, after taking carefully into account everything that's been said in response to my provisional decision, I still think it's fair to uphold this complaint for the reasons I explained and to issue the directions to settle the complaint as set out in my provisional decision.

putting things right – what Satsuma should do

If Satsuma has sold the outstanding debt it should buy this back before doing what I have outlined below. If Satsuma isn't able to buy the debt back then it should liaise with the new debt owner to achieve the following:

- refund all interest, fees and charges Mr A paid on loan 3 and pay interest* of 8% simple a year on any refunded interest, fees and charges from the date they were paid (if they were) to the date of settlement
- if there is still an outstanding balance owing then Satsuma can first use the amounts calculated above to repay any balance remaining outstanding
- if this results in a surplus then the surplus should be paid to Mr A. However if there is still an outstanding balance then Satsuma should try to agree an affordable repayment plan with Mr A
- remove any adverse information Satsuma has recorded on Mr A's credit file (and ask any new debt owner to do the same if the debt is sold on).

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

my final decision

I uphold this complaint and direct Provident Personal Credit Limited (trading as 'Satsuma') to take the steps I've set out above to put things right for Mr A.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 14 March 2020.

Susan Webb
ombudsman