

complaint

Mr P says Provident Personal Credit Limited (“Satsuma”) irresponsibly lent to him.

background

I issued a provisional decision on 28 October 2019 that explained that I upheld the complaint in part. I have attached a copy of my decision and it forms part of this decision.

Mr P responded to say that he had nothing further to add. Satsuma responded and although it didn't comment on the content of my provisional decision, it did say that Mr P had taken out three further loans with Satsuma and provided further information about those loans.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having considered the additional information provided by Satsuma, I can see that Mr P took out three further loans on 18 November 2018, 4 January 2019 and 5 April 2019. As all of these loans were taken out after Satsuma had already issued its final response, those loans don't form part of this complaint – so I have not addressed them in this decision.

Should Mr P be unhappy about those loans, then he'll need to raise his concerns with Satsuma in the first instance.

However, as Mr P had nothing further to add and Satsuma has not provided any further information relating to the loans that I did consider in my provisional decision, I see no reason why I should reach a different outcome to the one I reached in my provisional decision.

putting things right

I understand that there may be an outstanding balance on loans 4 and 5 so this is what I require Satsuma to do to put things right. If Satsuma has sold the outstanding debts it should buy these back if it is able to do so and then take the following steps. If Satsuma is not able to buy the debts back, then it should liaise with the new debt owner to achieve the results outlined below.

Satsuma should:

A) Add together the total of the repayments Mr P made towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Satsuma has already refunded.

B) Calculate 8% simple interest* on the individual payments made by Mr P which were considered as part of “A”, calculated from the date Mr P originally made the payments, to the date the complaint is settled.

C) Remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr P as though they had been repayments of the principal on all outstanding loans. If this results in Mr P having made overpayments then Satsuma should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Satsuma should then refund the amounts calculated in "A" and "B" and move to step "E".

D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans and any principal Satsuma has already written-off. If this results in a surplus then the surplus should be paid to Mr P. However if there is still an outstanding balance then Satsuma should try to agree an affordable repayment plan with Mr P. Satsuma shouldn't pursue outstanding balances made up of principal it has already written-off.

E) Remove any adverse information recorded on Mr P's credit file in relation to loans 2 - 4. The overall pattern of Mr P's borrowing for loan 5 means any information recorded about it is adverse, so Satsuma should remove this loan entirely from Mr P's credit file. Satsuma does not have to remove loan 5 from Mr P's credit file until it has been repaid, but it should still remove any adverse information recorded about the loan.

*HM Revenue & Customs requires Satsuma to deduct tax from this interest. It should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

my final decision

Because of the reasons given above and in my provisional decision, I uphold this complaint in part and require Provident Personal Credit Limited to do what I have set out above to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 December 2019.

Thomas White
ombudsman

Copy of my provisional decision**complaint**

Mr P says Provident Personal Credit Limited (“Satsuma”) irresponsibly lent to him.

background

This complaint is about 5 instalment loans Satsuma provided to Mr P between 2 December 2016 and 2 May 2018 Mr P’s borrowing history is as follows:

Loan number	Amount lent	Date lent	Date repaid
Loan 1	£100	2 December 2016	26 December 2017
Loan 2*	£600	9 August 2017	26 January 2018
Loan 3*	£720	4 January 2018	12 February 2018
Loan 4	£350	28 March 2018	N/A
Loan 5*	£150	2 May 2018	N/A

* indicates a loan taken out when previous loan(s) is still outstanding.

Our adjudicator upheld Mr P’s complaint and thought that all of the loans shouldn’t have been given. Satsuma disagreed and so the complaint was passed to me for a final decision.

my provisional 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 P 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. Satsuma has told us what checks it carried out before lending any of the loans. It said it checked Mr P’s income and expenses and also searched his credit file.

For the first loan, Satsuma’s notes suggest that Mr P’s declared monthly income was £2,100 and his monthly expenses were £700 which would leave a monthly disposable income of £1,400 to cover 12 monthly repayments of £16.60. Therefore on the face of it the loans seemed affordable. However, Satsuma also carried out a credit check, and having looked at Mr P’s credit file, I can see that in December 2016 a number of outstanding loans were present. And although it’s possible that some of the loans taken out shortly before the Satsuma loan might not have shown up on Satsuma’s check, I think it’s likely that most of the outstanding loans would’ve.

Satsuma said that following the results of the credit check, it added a further £862.12 of potential expenditure to Mr P's declared expenditure. And this still resulted in Mr P having a disposable income of over £500. Therefore, given that the amounts Mr P had to repay on loan 1 were relatively small and as I'm satisfied that Satsuma did take into account Mr P's other credit commitments, I don't think it was unreasonable for Satsuma to have lent loan 1 to Mr P.

However, for loan 2, Satsuma lent a considerably higher amount, which was also due to be repaid over a 12 month period, whilst loan 1 was still outstanding. And as Satsuma carried out the similar checks as it did for loan 1, I think it's likely that it would've seen that Mr P had defaulted on a mobile phone contract in April 2017 i.e. between Mr P applying for loan 1 and 2. He'd also taken a number of other high-cost loans between loans 1 and 2 with Satsuma. And given that Mr P was now borrowing substantially more than his first loan – so that his monthly repayments of £16.60 for loan 1 were now increasing by almost £100 per month (to over £116 per month) it meant he was going to be required to use a sizable proportion of his income to service debt. And he'd not long defaulted on an account, so I think it would've been evident to Satsuma that the repayment of loan 2 was not going to be sustainable for Mr P.

Loan 3 was taken out before loan 2 had been repaid – by which point Mr P had been borrowing from Satsuma for over a year. And loan 3 was again for a larger amount – this time for £720. When deciding whether to lend this loan, Satsuma added £877.41 to Mr P's declared expenditure. So Satsuma was aware that Mr P's credit commitments were much higher than the £300 that he'd declared. And as loan 2 was still outstanding, he was now going to have to repay around £220 per month. So I think it should've been apparent to Satsuma that Mr P was struggling to keep up with his borrowing commitments.

Loans 4 and 5 were for lower amounts. So I have considered whether it was reasonable for Satsuma to have lent to Mr P again, perhaps because it thought his circumstances had improved. But I don't think that was the case.

Mr P had not long repaid loan 3, before he applied for further borrowing from Satsuma, and loan 5 was taken out whilst loan 4 was still running. So I think it was clear from Mr P's actions, especially by the time he took out the final loan that his circumstances had not improved to the extent that the borrowing had become sustainable - particularly as there was barely a break between Mr P repaying one loan and taking out another.

In response to the adjudicator's view Satsuma said that it appeared that the adjudicator had only considered the number of loans. But in considering this complaint, I have looked at Mr P's circumstances at the time of each loan and compared this with what Satsuma has provided, and with what I think Satsuma was likely to have seen when it completed its checks.

Satsuma also said it didn't think that sustained or sequential borrowing is of itself irresponsible or leads to the conclusion that the customer is persistently relying on credit. It's not clear what exactly Satsuma means by this, as sustained or sequential borrowing is generally the *main* indicator that a consumer is persistently relying on credit. And in terms of the irresponsibility of repeat lending, I think there does come a point where the lending history and pattern of lending *itself* clearly demonstrates that the lending was unsustainable.

I say this because 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. And in this case, for the reasons outlined above, I think the pattern of repeat lending was well established by the final loan, if not earlier.

Because of these reasons, I don't currently think that Satsuma should've lent loans 2 – 5 to Mr P in the circumstances.

putting things right

I understand that there may be an outstanding balance on loans 4 and 5 so this is what I intend to require Satsuma to do to put things right. If Satsuma has sold the outstanding debts it should buy these back if it is able to do so and then take the following steps. If Satsuma is not able to buy the debts back, then it should liaise with the new debt owner to achieve the results outlined below.

Satsuma should:

- A) Add together the total of the repayments Mr P made towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Satsuma has already refunded.
- B) Calculate 8% simple interest* on the individual payments made by Mr P which were considered as part of "A", calculated from the date Mr P originally made the payments, to the date the complaint is settled.
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- D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans and any principal Satsuma has already written-off. If this results in a surplus then the surplus should be paid to Mr P. However if there is still an outstanding balance then Satsuma should try to agree an affordable repayment plan with Mr P. Satsuma shouldn't pursue outstanding balances made up of principal it has already written-off.
- E) Remove any adverse information recorded on Mr P's credit file in relation to loans 2 - 4. The overall pattern of Mr P's borrowing for loan 5 means any information recorded about it is adverse, so Satsuma should remove this loan entirely from Mr P's credit file. Satsuma does not have to remove loan 5 from Mr P's credit file until it has been repaid, but it should still remove any adverse information recorded about the loan.

*HM Revenue & Customs requires Satsuma to deduct tax from this interest. It should give Mr P a certificate showing how much tax it's deducted, if he asks for one.

my provisional decision

Because of the reasons given above, I currently think that the complaint should be upheld in part and intend to require Provident Personal Credit Limited to do what I have set out above to put matters right.

I now invite Mr P and Provident Personal Credit Limited to provide any further information or comments they want me to consider before I make a final decision on this complaint, before 11 November 2019.

Thomas White
ombudsman