complaint

Mr D complains about four instalment loans that he took out with Provident Personal Credit Limited, trading as Satsuma Loans, ("SL"), which he said were unaffordable.

background

Mr D was given four instalment loans by SL from June 2016 to August 2017. A summary of the loans taken out by Mr D is shown below:

Loan number	Date of loan	Repayment date	Loan amount	Repayment amounts
1.	23/6/16	21/9/16	£1,000	13 weekly repayments of £110.08
2.	10/12/16	13/3/17	£100	26 weekly repayments of £7.37
3.	20/3/17	8/1/18	£1,000	12 monthly repayments of £166
4.	10/8/17	Unpaid?	£500	12 monthly repayments of £83

SL said that it had carried out a credit check before each loan and asked Mr D for details of his income and expenditure. SL also applied extra safeguards and buffers to Mr D's declared expenses to reflect the information it obtained from its credit check.

our adjudicator's view

The adjudicator recommended that Loans 3 and 4 should be upheld. He said that proportionate checks would have shown Mr D was having problems managing his money and he had borrowed from other payday lenders.

SL disagreed and said that Mr D had a declared disposable income of £1,675 and it also applied extra safeguards and buffers to this amount. It said that its credit checks didn't demonstrate that the loans weren't affordable or sustainable at the point of application.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr D and to SL on 26 September 2019. I summarise my findings:

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

I could see that SL had made a number of checks before it lent to Mr D. It had asked him for details of his income and expenditure. Mr D had declared his monthly income as £6,500 and his expenditure as £500 before Loan 1, and his income as £3,375 with expenditure of £500 before Loan 2. And SL had increased Mr D's declared expenditure in its assessments of Loans 1 and 2 to reflect what it had seen in its credit checks and internal models.

I also noted that SL had checked Mr D's credit file before agreeing to the loans. SL hadn't provided this service with its credit checks. Mr D had provided this service with a copy of his credit report.

I could see that Loan 1 was for £1,000 repayable by 13 weekly repayments of £110.08. I noted that Mr D's disposable income after SL had applied its safeguards was £4930.74.

I thought that the checks SL had carried out before agreeing Loan 1 were proportionate. The repayments that Mr D had needed to make on Loan 1 were very modest compared to the income that he'd declared to SL.

So given Mr D's repayment amounts, what was apparent about his circumstances at the time, and that this was his first loan with the lender, I don't think it would've been proportionate for SL to ask him for the amount of information that would be needed to show the lending was unsustainable.

And I'd said that there wasn't anything in the information Mr D had 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 give Loan 1 to Mr D.

But I'd noted from SL's notes that Mr D had missed some repayments in the first month of his loan. But he'd said that he didn't know that his repayments were weekly. He'd then missed other repayments as he'd said that he was waiting for money to come into his account. But he'd then repaid the loan around three months after he'd taken out, around the due date.

I thought SL might have been concerned about Mr D's repayment history on Loan 1. But the amount Mr D had asked to borrow on his next loan was much smaller than before so that might have helped allay some of the concerns SL might have had at the time. Loan 2 was for £100 to be repaid by 26 weekly instalments of £7.37. SL had said that Mr D had a disposable income of £1,627.17 before Loan 2 after its safeguards had been applied to Mr D's expenses.

Overall, I thought that the checks SL had carried out before agreeing Loan 2 were proportionate. The repayments that Mr D needed to make on Loan 2 were very modest compared to the income that he'd declared to SL.

So given Mr D'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 ask him for the amount of information that would be needed to show the lending was unsustainable.

And there wasn't anything in the information Mr D had 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 give Loan 2 to Mr D.

But despite Mr D's relatively large disposable income, it appeared he'd missed two weekly repayments on Loan 2. He'd then repaid Loan 2 around three months early. I thought that behaviour might have caused SL some concerns about Mr D's finances. And a week after repaying Loan 2, Mr D had applied for Loan 3. That was for £1,000 to be repaid by 12 monthly repayments of £166. So he was committing to making his repayments over a far longer period than previously. I could also see that SL had added an additional amount of around £631.15 of safeguards to Mr D's declared expenses. So it was aware that Mr D wasn't declaring all his financial commitments.

I appreciated that SL had asked Mr D for his income and expenditure. And I'd noted that Mr D's disposable income was £1,043.85 after SL had applied its safeguards. But I thought his erratic repayment history and the pattern and increasing amount of Mr D's borrowing with repayments over a long period were such that it wasn't reasonable for SL to rely on that information. So I thought that should have prompted SL to have made some additional checks such as asking Mr D for more information about his other short term borrowing commitments.

I'd looked at Mr D's credit report and bank statements to see what proportionate checks might have shown. I'd not seen any other short term loans repayable at the same time as Loan 3 on the credit report or the bank statements. So I couldn't safely say that SL shouldn't have given Loan 3 to Mr D.

Loan 4 was taken out whilst Loan 3 was still outstanding. It seemed it was borrowed after Mr D had missed the due date for his August repayment on Loan 3. I thought that Mr D's missed repayment history on each of his loans might have suggested by the time of Loan 4 that Mr D was facing financial problems and should have caused some concerns to SL about Mr D's finances.

Loan 4 was for £500 with 12 monthly repayments of £83 which needed to be made around the same time as the rest of the repayments on Loan 3. And Mr D was again committing to repay Loan 4 over a long period. I could also see that SL had added an additional amount of around £494 of safeguards to Mr D's declared expenses. Although that was the lowest amount of safeguards SL had added to Mr D's expenses for all his loans, I thought by the time of Loan 4 SL should have been more than concerned that Mr D still wasn't declaring all his commitments. And I thought SL ought to have asked why a person with an apparent high level of disposable income was coming back to it for a £500 loan whilst his previous loan with SL was still outstanding.

I thought SL ought reasonably to have suspected that Mr D was likely having trouble managing his money. So I thought it would have been proportionate for SL to have supplemented the information it held by again asking Mr D some more detailed questions, such as whether he was borrowing from other short term lenders at the same time.

Had it done so, SL would have discovered that Mr D had two short term loans with other lenders which together with Loan 3 were repayable at the same time as Loan 4. I'd seen these on Mr D's bank statements. I thought it would have been clear to SL if it had made proportionate checks that Mr D was facing significant problems managing his money and that he was unlikely to be able to repay Loan 4 in a sustainable manner. So I didn't think it was reasonable for SL to have given Loan 4 to Mr D.

Subject to any further representations by Mr D or SL my provisional decision was that I intended to uphold this complaint in part. I intended to order SL to put things right as follows. My redress was drafted on the basis that Loan 4 hadn't been repaid. I'd said that it would be helpful if SL could provide up to date information on the balance for Loan 4 in its response to my provisional decision.

putting things right – what SL needs to do

- with regard to Loan 4, refund all the interest and charges that Mr D has paid on this loan;
- 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 Loan 4;
- apply the refunds referred to above to reduce any capital outstanding on Loan 4 and pay any balance to Mr D;

- remove all adverse entries about Loan 4 from Mr D's credit file.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr D a certificate showing how much tax it has 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 D responded to my provisional decision to say that he had no outstanding loans with SL. He said that SL had confirmed this to him by phone.

SL responded to say that it agreed with my provisional decision.

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 note that Mr D said that he had no outstanding loans with SL. I've not seen SL's current transaction statement for Loan 4. But I think that the directions in my redress will provide the correct outcome whether or not Loan 4 has already been repaid in full.

Otherwise given that SL has agreed my provisional decision and Mr D has given me no other information 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 pay Mr D 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 4, refund all the interest and charges that Mr D 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. Write off any unpaid interest and charges from Loan 4;
4. Apply the refunds referred to above to reduce any capital outstanding on Loan 4 and pay any balance to Mr D; and
5. Remove all adverse entries about Loan 4 from Mr D's credit file.

*HM Revenue & Customs requires SL to take off tax from this interest. SL must give Mr D a certificate showing how much tax it has 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 D to accept or reject my decision before 5 December 2019.

Roslyn Rawson
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