

complaint

Mrs W complains that Provident Personal Credit Limited, trading as Satsuma, lent to her irresponsibly.

background and findings

My provisional decision dated 18 November 2019 is attached and forms part of this final decision. In it I explained that I was planning to uphold Mrs W's complaint and gave time to both Provident and Mrs W to respond to it. The reply date of 2 December 2019 has passed. Mrs W is content with the provisional decision. I have not heard from Satsuma.

I have reconsidered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I have considered the law, any relevant regulatory rules and good industry practice at the time the loans were offered.

I see no reason to alter the conclusions I reached in my provisional decision. So, I uphold Mrs W's complaint.

putting things right – what Satsuma needs to do

- refund all interest and charges Mrs W paid on the loan;
- pay interest of 8% simple a year* on any refunded interest and charges from the date they were paid (if they were) to the date of settlement;
- remove any negative payment information about the loan from Mrs W's credit file;

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

my final decision

My final decision is that I uphold Mrs W's complaint and Provident Personal Credit Limited, trading as Satsuma, needs to do as I have said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 6 January 2020.

Rachael Williams
ombudsman

my provisional decision dated 18 November 2019

background

Mrs W had one loan of £1,000 approved for her to be repaid over twelve months from 8 February 2018 at about £166 a month. It was repaid in January 2019.

Satsuma has sent us records to show that Mrs W had told it that she earned £1,500 at the time and had declared to Satsuma the following expenditure: mortgage/rent outgoings of £300, other loans of £200 and ‘other expenses’ of £200. This added up to £800.

Satsuma has said that it used credit reference agencies (CRA) to retrieve ‘detailed information about existing financial/credit commitments.’ It applied ‘extra safeguards and buffers’ once it had got the CRA information. It has explained that this translated into Mrs W having the equivalent of about £370 disposable income after adding the safeguards and the new loan payments. Its explanation and table is reproduced here:

What affordability information our lending decision was based on:

Agreement	Declared Disposable Income	Safeguards	Monthly Loan Repayments	Disposable Income (After additional safeguards)
*****48	£800.00	£429.47	£166.00	£370.53

The bureau checks conducted did not demonstrate the loans issued were unaffordable or unsustainable at the time of the applications. Based on the above we are satisfied that we have followed a responsible lending process when issuing the loans.

Satsuma has said to us that ‘All accepted customers are... within our business risk appetite.’

I have seen from the Satsuma records that Mrs W had applied for a loan with it in July 2015, February 2017 and May 2017 which were declined.

Mrs W has said that at the time she ‘already had various other credit commitments with debts beginning to spiral out of control.’ She says proper checks would have revealed the problems which she says included: other payday lender debts, a debt management plan and mortgage arrears.

Mrs W has given us evidence to show she had health problems which impacted on her work from around May 2017 to February 2019.

One of our adjudicators looked at this complaint and thought that Satsuma did not need to put things right for Mrs W. She did not agree and after a second opinion from our adjudicator Mrs W asked for an ombudsman to review the complaint. It was passed to me for a decision.

my provisional findings

I have considered all the available evidence and arguments to decide what I consider to be fair and reasonable in the circumstances of this complaint. We have 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 did not lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mrs W 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: where a customer's income is particularly low; where the repayments are particularly high; and/or where the frequency of the loans and the length of time over which a customer has been given loans need to be looked at: repeated refinancing could signal that the borrowing had become, or was becoming, unsustainable.

I think that it is important for me to start by saying that Satsuma was required to establish whether Mrs W could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

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 Consumer Credit Sourcebook ("CONC") defines 'sustainable' as being the ability to repay without undue difficulties. In particular the customer should be able to make repayments on time, while meeting other reasonable commitments, and 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 will not be able to make their repayments sustainably if they need to borrow further in order to do that.

I have carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mrs W's complaint.

The proportionate checks I would have expected Satsuma to undertake for a new customer applying for a first loan usually would be for it to know the applicant's income and expenditure. This loan for Mrs W was for £1,000 and Mrs W's declared information has been set out in the 'background' section and I do not repeat it here.

But in addition to knowing Mrs W's income and expenditure, Satsuma carried out a credit check for Mrs W and had information in its own records that it had declined three earlier applications from her. I appreciate that these declines were sometime before February 2018 (the most recent one being May 2017) so I do not think that these *alone* ought to have prompted additional checks. What I do think is the cumulative nature of the information I can see that Satsuma had in February 2018 leads me to think more should have been checked.

I note that Satsuma's own credit search results must have alerted it to something of concern as it has explained that it increased Mrs W's assumed expenditure figure by a further £429. That represented a greater than 50% increase in Mrs W's own declared expenditure. I have not seen the full results of the Satsuma check. So although this was a first loan I would have expected Satsuma to have carried out more checks to ensure that Mrs W was in a position to repay the loan. A credit worthiness assessment is borrower focussed and an assessment of the risk to the borrower. So Satsuma may have concluded that Mrs W came within its own '*business risk appetite*' but that is not the CONC requirement.

The personal credit file I have seen dated September 2018 gives me a fairly good idea as to what a Satsuma credit search was likely to have shown. I think that the increase Satsuma made to Mrs W's expenditure figure likely resulted from seeing the outstanding loans Mrs W had at the time. But in addition I do not think that the mortgage arrears Mrs W has mentioned and had been recorded on her personal credit file could be ignored. And I find it unlikely that the credit searches Satsuma carried out would not have revealed these as the arrears were recorded for all of 2017.

So in these very particular circumstances surrounding Mrs W's application I think that Satsuma ought to have carried out a full financial review of Mrs W's finances before approving this 12 month loan for £1,000.

I have seen the bank account statements for the relevant periods leading up to the application by Mrs W. She had a joint account with her husband and two personal accounts. I can see a number of returned cheques, payments to other lenders, transfers between accounts and generally the picture of a person juggling finances and debt. This is further substantiated by what she has told us.

Satsuma has relied on the fact that it did feel it was warranted to increase her declared expenditure figure because of the results it got from doing a credit search. And that, plus what I have seen and heard from Mrs W, leads me to think that a full review of her finances would have been justified and proportionate.

I do not think Satsuma did that full review and if it had, I think Satsuma as a responsible lender would have realised it was not the right thing to lend Mrs W £1,000 and add to her debt issues in February 2018.

I am planning to uphold this loan complaint.

end of extract