

## Complaint

Mrs R is unhappy that Mitsubishi HC Capital UK Plc (trading as Novuna Personal Finance) is holding her liable for a personal loan she says she didn't take out.

## Background

In 2021, Mrs R fell victim to an investment scam. She was looking for investment opportunities online and found a company that appeared to be endorsed by a well-known media personality. She entered her details on that company's website and received a call from someone who persuaded her to invest her money. That call wasn't from a genuine investment manager, but a fraudster.

The fraudster told Mrs R that, in order to help her with the process of making her investments, she should download a piece of remote access software. This enabled the fraudster to take control of her computer and show her how to carry out the steps he said were necessary to make the investments. She says that the fraudster would sometimes access her computer using that software and she thinks he also had access to her email account.

Some of the money that was lost to the fraud was funded by a loan granted by Novuna. Mrs R says that she didn't take out the loan and that the fraudsters must be responsible. However, when she contacted Novuna to report what had happened, she told it about the investment scam she'd fallen victim to. The notes recorded by an employee of the business say:

*"Person they were speaking to made the application – said they didn't have to worry about making the payments back. Used her email to apply for loans and set up loans under her name ..."*

Novuna didn't agree to cancel the loan. Mrs R was unhappy with that response and so she referred her complaint to this service. It was looked at by an Investigator who thought it was most likely Mrs R was, at the very least, aware that the loan had been taken out. Mrs R disagreed with the Investigator's view and so the complaint has been passed to me to consider and come to a final decision.

## Findings

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

I can't know with complete certainty how the loan application was made. And when dealing with that uncertainty, I must reach a decision based on the balance of probabilities – that is, I need to be persuaded that the available evidence shows it's more likely than not that Mrs R didn't take out the loan.

I've considered the evidence carefully and I'm not persuaded that's the case here. I agree with the conclusions of the Investigator that it's likely that the loan was arranged with Mrs R's knowledge.

The notes recorded by the business at the time Mrs R reported the fraud does not suggest that the applications were made without her knowledge or consent. She had granted access to and control of her computer to the fraudsters by downloading remote access software. However, the way that she appears to have described what happened to Novuna does suggest that the loan applications were made with her knowledge and consent, albeit she was tricked into consenting to them by the false reassurance given to her by the scammer that she wouldn't be responsible for repayments.

It's also noteworthy that the proceeds of the loan were deposited into Mrs R's bank account. The losses occurred when they were transferred out of that account into one controlled by the fraudster. Mrs R has made separate complaint about that bank which is also being considered by this service. The evidence I've seen on the file for that complaint shows that she called her bank to discuss the transfers of the loan funds. That call strongly suggests that she knew that the loan had been paid into her account.

I know my decision will be hugely disappointing to Mrs R, but I'm persuaded that the weight of the evidence suggests the loan was arranged with her knowledge and consent. It follows that I don't think Novuna has acted unreasonably by holding her liable for it. Nonetheless, I'd like to remind Novuna that it has a regulatory obligation to offer forbearance and due consideration in the event that Mrs R experiences financial difficulties.

### **Final decision**

For the reasons I've explained above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 5 January 2024.

James Kimmitt  
**Ombudsman**