

The complaint

Miss S complains Mitsubishi HC Capital UK Plc trading as Novuna irresponsibly provided her with an unaffordable personal loan.

At the time Miss S was approved with this credit the business was known as Hitachi Capital (UK) PLC trading as Hitachi Personal Finance. However, within my decision I've referred to it by its current name of Novuna.

What happened

Novuna approved Miss S with a loan of £12,000 over a term of 68 months in January 2019. The monthly repayments were around £230 and the loan had a total repayable value of around £15,500.

Miss S complained to Novuna in November 2022. She said had it completed reasonable and proportionate checks it would have identified this loan wasn't affordable for her. She therefore said Novuna hadn't made a fair lending decision and had irresponsibly provided her with the loan.

Novuna didn't uphold Miss S's complaint. It said its checks were reasonable and proportionate and that it went on to make a fair lending decision when providing the loan.

Miss S referred her complaint to our service following Novuna's final response. Our investigator reviewed the details and didn't uphold it. She didn't consider the checks Novuna completed were fair and reasonable; but on review of the information it would have likely obtained had it completed reasonable and proportionate checks, she felt it would have reasonably reached the same decision to lend.

Miss S didn't accept our investigator's assessment. She provided a lot of detail within her response to support her argument that this loan shouldn't have been provided. This included evidence of high running account credit utilisation, making minimum payments toward some exiting credit accounts, making late payments in some months and incurring late payment fees, and that her income wasn't at the level Novuna had used when conducting its affordability checks, as well as other additional points.

Our investigator reviewed the details Miss S provided and explained why she still considered Novuna had made a fair lending decision when providing this loan.

Miss S asked for an ombudsman's decision so the complaint's been passed to me to decide.

What I've decided – and why

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

Having done so I've reached the same outcome as our investigator, for broadly the same reasons. I appreciate this will be disappointing to Miss S as I understand her strength of

feeling on the matter. However, I hope my reasoning below helps Miss S understand why I'm not directing Novuna to take any further action in resolution of her complaint.

We've set out our approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website; and our investigator referenced this within her assessment so both Miss S and Novuna are aware of this.

Novuna needed to take reasonable steps to ensure the lending it provided was responsibly lent. The relevant rules, regulations, and guidance at the time of Novuna's lending decision required it to carry out reasonable and proportionate checks. These checks needed to assess Miss S's ability to afford the credit being provided and repay it sustainably, without causing her financial difficulties or harm.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration, and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Novuna to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision.

Novuna has said it obtained Miss S's declared income and verified it using credit reference agency data. It also says it used Office of National Statistics (ONS) data to understand Miss S's monthly non-discretionary expenditure, and that it completed a credit check to identify Miss S's existing credit commitments and credit history.

It says it was satisfied, based on the information it obtained, that these checks were proportionate and that it went on to make a fair lending decision when providing this loan.

I've carefully considered Novuna's argument and having done so, I'm not persuaded its checks were reasonable and proportionate in this instance. But, having considered what it would likely have identified had it completed reasonable and proportionate checks, I consider it would have reasonably still reached the same decision to lend.

I say this because Miss S declared within her application that she had a salary of £28,000 per year. Novuna obtained information via credit reference agency checks that Miss S's income was around £25,000; and it used this lower amount in its affordability calculations. It also reviewed Miss S's credit file and identified around £10,400 of outstanding debt at the time across a number of running credit accounts. It identified Miss S's existing credit commitments had monthly repayments totalling around £430.

Novuna has said it used ONS data to understand Miss S's non-discretionary expenditure, but it hasn't provided details of these figures. Instead, it has said its calculations showed Miss S would have been left with around £1,300 disposable income per month to cover her non-discretionary costs and repayments to this loan of around £230. And it has said that it considered this left Miss S with a reasonable level of funds to cover these costs and any additional costs that may have occurred.

The total repayable value of this loan was a relatively sizeable amount, and Novuna was tying Miss S into a significant term. So, I consider it would have been proportionate for Novuna to have looked to understand Miss S's expenditure, as well as to have verified her income and complete a credit check as it did. I consider this is especially the case as Miss S appears to have declared within her application that she was a homeowner with a mortgage in her name, but the credit check Novuna obtained didn't identify a mortgage. It appears

Novuna therefore didn't take into account any monthly amount to cover housing costs, which is contradictory to the information it had.

Novuna could have looked to obtain details about Miss S's monthly non-discretionary expenditure by any means it saw fit. Miss S has provided our service with her bank statements covering the months leading up to the loan. In the absence of any other contradictory information, I consider these provide me with a reasonable level of information to understand what Novuna would likely have identified at the time of this loan, had it completed reasonable and proportionate checks.

Before setting out my review of Miss S's bank statements I've considered the evidence she's presented in support of her arguments around late payments to her existing credit cards in the years before this loan. Having reviewed the evidence, I've seen there were a number of late payments to her credit cards across 2016, 2017 and 2018. The information Miss S has provided appears to show the last late payment charge was incurred on these credit cards in February 2018, around a year before this loan.

However, on review of the evidence I've seen Miss S makes the required minimum payments within a number of days of the payment due dates, therefore bringing these accounts back in line well within a month of the payment being due. This means that these late payments wouldn't generally be recorded with credit reference agencies; and Miss S's credit file confirms this is the case. So, it therefore follows Novuna wouldn't have had knowledge of these late payments available to it as part of its credit check.

There is however a late payment to one of Miss S's mail order accounts in June 2018. But Miss S brought the account back in line the following month and while some running credit balances were increasing, the evidence suggests she had been managing all of her other credit accounts relatively well in the lead up to this lending. So, I don't consider the one late payment, or Miss S's increased usage of her running credit facility limits, on their own to be reasons Novuna shouldn't have approved this loan as Miss S suggests.

But I do consider these points, together with the contradictory information I've set out above, as well as the relatively sizeable total value of this lending and term, ought reasonably to have led Novuna to complete more detailed checks to satisfy itself this loan was sustainably affordable for Miss S across its full term. So, I've gone on to consider what these checks would likely have shown Novuna.

Miss S's statements across the three months leading up to this loan confirm that her income averaged around £1,620 per month. This is around £100 less than Novuna took into account as part of its checks.

Miss S has confirmed that she paid £400 per month towards her share of a mortgage and household bills which is evidenced within her statements. I've seen payments towards her existing credit commitments which largely correspond with the amount Novuna took into account within its affordability checks. Taking into account Miss S's other living costs as evidenced within her bank statements and from the testimony she's provided our service, I consider the monthly payments towards this loan appear sustainably affordable for her.

I say this because after deducting payments towards Miss S's mobile phone contract, union payments, a regular payment to another individual and what Miss S has said she paid for food each month, she is still left with a reasonable level of disposable income in the hundreds of pounds. Across the three months leading up to this loan this averages to be around £450.

I consider this to be at a reasonable level for Miss S to afford to make the monthly payment towards this loan and still have a reasonable level of disposable income for additional living costs that she may incur.

It therefore follows that I'm satisfied had Novuna completed more detailed checks it would reasonably have reached the same decision to lend; and I therefore consider it made a fair lending decision when providing Miss S with this loan.

Miss S has told us that she's in financial difficulties and I'm sorry to hear this. I would remind Novuna of its responsibilities to treat Miss S sympathetically and fairly in its contact with her and in its recovery of the outstanding debt.

My final decision

My final decision is that I'm not upholding Miss S's complaint about Mitsubishi HC Capital UK Plc trading as Novuna, and I therefore don't require it to take any further action in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 1 December 2023.

Richard Turner
Ombudsman