

## **The complaint**

Mr J complains that Mitsubishi HC Capital UK Plc, trading as Novuna Personal Finance, lent irresponsibly when providing him with a loan.

## **What happened**

In January 2023, Novuna loaned Mr J £25,000 over 84 months. Based on the information it's provided, the interest rate on the loan was an annual percentage rate (APR) of 13.5%. The total charge for the credit was around £13,000, which meant the total amount repayable by Mr J for the £25,000 he was borrowing was around £38,000. The monthly repayments were over £450. The information Novuna recorded at the time of his application showed he had a net monthly income of £2,600.

Later in 2023, Mr J complained to Novuna that it had lent irresponsibly to him and had made his existing debt problems worse.

Novuna responded that it wasn't upholding Mr J's complaint. Novuna said the loan application was reviewed against its lending criteria and information provided by credit reference agencies (CRAs) and accepted based on the information provided.

Unhappy with Novuna's response, Mr J complained to this service. Our investigator looked into the complaint and recommended that it should be upheld. The investigator thought that Novuna hadn't carried out the checks it should have done prior to making the lending decision. They felt that, if Novuna had, it would have discovered that Mr J wasn't in the financial position to sustainably afford the loan payments. The investigator asked Novuna to put things right for Mr J in line with our general approach to such cases.

Novuna didn't agree with the investigator's assessment, so the complaint was referred to me to review afresh.

## **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.

We've set out our approach to considering unaffordable and irresponsible lending complaints on our website – including the key relevant rules, guidance, good industry practice and law. And I've considered this in deciding Mr J's complaint.

Having done so, I've decided to uphold the complaint. I'll explain why.

There are several questions that I've thought about when deciding if Novuna treated Mr J fairly and reasonably when it provided him with the loan. These include:

- 1) Did Novuna complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the loan in a sustainable way?
- 2) If not, what would reasonable and proportionate checks have shown at that time?

- 3) Ultimately, did Novuna make a fair lending decision?
- 4) Did Novuna act unfairly or unreasonably in some other way?

*Did Novuna complete reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the loan in a sustainable way?*

The rules that Novuna had to follow required it to carry out checks that would enable it to reasonably assess whether Mr J could afford to repay the loan being offered. This is often referred to as an '*affordability assessment*'.

The rules don't set out what specific checks Novuna needed to carry out, but they did set out that those checks needed to be proportionate to the circumstances of the application. I think what this meant in practice was that the scope and extent of Novuna's checks needed to reflect the nature of the lending, bearing in mind things such as the amount of credit, the interest rate, the duration of the loan, the monthly and total amount repayable, and any indications of customer vulnerability.

The checks Novuna needed to carry out as part of its affordability assessment had to be '*borrower focussed*'. What I mean by this is that the checks needed to consider whether paying the loan back would cause Mr J any difficulties or have any adverse consequences for him. They would also need to take account of factors such as the amount of money being lent, the term of the loan and the monthly repayments, total charge for the credit and the interest rate being charged. This isn't an exhaustive list.

And, as a result of the above, I think reasonable and proportionate checks needed to be more thorough if, for example, Mr J was on a low income. This would reflect that it could be more difficult for him to meet the monthly repayments on such an income.

Novuna would also need to be more thorough the higher the amounts he had to repay, as it would be more difficult to make higher repayments depending on his income.

With these principles in mind, I've thought about whether Novuna completed reasonable and proportionate checks to satisfy itself that Mr J would be able to repay the loan in a sustainable way.

In summary then, the circumstances of the loan application included the following:

- Mr J applied for the loan which had an APR of 13.5%.
- Mr J was recorded by Novuna as having a net monthly income of £2,600.
- The term of the loan was 84 months.

It seems Novuna did request some information in relation to the loan. This included asking Mr J for details of his monthly income. Novuna also obtained information from a CRA to gauge his expenditure and to assess how he was managing his existing credit.

The CRA checks revealed that Mr J had £1,200 of active credit and was making regular repayments of £37. It attributed mortgage costs to Mr J of £859.50 a month based on him declaring he was married. Mr J wasn't showing as being in arrears or subject to any arrangements or county court judgments (CCJs). The checks indicated to Novuna that he wasn't experiencing over-indebtedness in terms of total levels of unsecured debt.

I recognise that there were no apparent or immediate causes for concern regarding Mr J's financial situation in any of the information Novuna had gathered in January 2023. But I'm

mindful that Mr J had applied to take on a significant level of debt with Novuna and over a long period of time. In total, he stood to pay many thousands of pounds in interest alone during the term.

So, there ought to have been at least some cause for concern that I think should have prompted Novuna to look more closely at Mr J's financial situation before deciding whether to provide the loan. Novuna doesn't appear to have carried out borrower focussed checks as I'd have expected it to, given the nature of the borrowing. And, as a result, more checks should have been carried out to ensure Mr J be able to sustainably repay the loan.

*What would reasonable and proportionate checks have shown at that time?*

I believe it would have been reasonable and proportionate for Novuna to, for example, have requested and reviewed copy bank statements to help better determine how Mr J was managing his finances before making its decision.

On reviewing Mr J's account statements in the months prior to January 2023, I think sight of them would have brought to light clear indicators that he was experiencing more financial difficulty than Novuna's initial checks suggested. For instance, his net monthly income was on average a few hundred pounds lower – although admittedly not markedly so – than Novuna based its decision on. He was contributing £1,700 a month to some, though not all, household costs.

In addition to that, Mr J's bank account was almost continuously in overdraft, and by several hundreds of pounds, suggesting his financial position was more strained than Novuna first believed. This resulted in Mr J regularly incurring overdraft fees and interest charges that wouldn't otherwise have been added. So, it seemed Mr J was struggling to manage his day-to-day finances even before he took out the long-term loan with Novuna.

*Did Novuna make a fair lending decision?*

In addition to the information Novuna held, there's the information I believe it ought to have obtained in carrying out the relevant borrower focussed affordability checks. This information showed the loan left Mr J with little remaining of his disposable monthly income. That at a time when Mr J was already showing signs of difficulty in managing to balance his income and expenditure on a day-to-day basis.

The lending Novuna offered to Mr J represented a significant financial responsibility. Namely, the requirement that he pay as much as around £450 a month for as long as 84 months. While incurring around £13,000 in interest charges.

The information indicates to me that Mr J was struggling financially before January 2023 and continued to do so after that point. I also think, based on the information Novuna should have gathered about Mr J, that it was unlikely he'd be able to sustainably afford to make the monthly payments for the new loan.

So, based on the information Novuna had and ought to have obtained about Mr J, I'm not satisfied that it could have reasonably concluded that he'd be able to sustainably afford to make the monthly payments for the loan.

For the reasons I've outlined above I think that, in the circumstances of Mr J's case, Novuna should have realised it was unlikely he'd have been able to repay the loan, and that it wasn't appropriate to lend to him.

*Did Novuna act unfairly or unreasonably towards Mr J in some other way?*

I've carefully thought about everything provided. Having done so, I've not seen anything to suggest that Novuna acted unfairly or unreasonably towards Mr J in some other way.

**Putting things right**

I think it's fair and reasonable for Mr J to repay the principal amount that he borrowed, because he had the benefit of that lending. But he's paid interest and charges on the loan that shouldn't have been provided to him. So, I think Mr J's lost out and that Novuna should put things right for him. Novuna should:

- a) Remove all interest, fees and charges applied to the loan from the outset. Any payments made by Mr J should then be deducted from the new starting balance. If the payments Mr J's made total more than the amount he was originally lent, then any surplus should be treated as overpayments and refunded to him with 8% simple annual interest† calculated on any overpayments made, from the date they were paid by Mr J, to the date the complaint's settled.
- b) If there's still an outstanding balance on the loan, then Novuna should agree an affordable repayment plan with Mr J, bearing in mind the need to treat him positively and sympathetically in those discussions, and take account of his current ability to repay the loan.
- c) Remove any relevant adverse information recorded on Mr J's credit file as a result of the lending.

† HM Revenue & Customs requires Novuna to take off tax from this interest. Novuna must give Mr J a certificate showing how much tax it's taken off if he asks for one.

**My final decision**

For the reasons given, I've decided to uphold this complaint. I require Mitsubishi HC Capital UK Plc, trading as Novuna Personal Finance, to put things right for Mr J as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 17 January 2024.

Nimish Patel  
**Ombudsman**