

## **The complaint**

Mr S complains about the settlement of a fixed sum loan agreement with Mitsubishi HC Capital UK Plc, trading as Novuna Personal Finance.

Throughout Mr S' complaint he has been represented by a family member. For ease, I'll refer only to Mr S.

## **What happened**

In January 2015, Mr S took out a fixed sum loan agreement with Mitsubishi, to pay for the installation and supply of a brand new boiler. Regular monthly payments were made under the agreement. But, in February 2020, arrears of £315.12 had accrued.

Mitsubishi agreed to accept a payment from Mr S of £183.69, to settle the arrears and close the loan account. Mitsubishi then wrote off the remaining balance and sent Mr S an email in March 2020, to confirm that the agreement was fully settled down.

Around two and a half years later, Mr S contacted his mortgage broker to find a new fixed rate for his mortgage. But, the broker explained to Mr S that an application for the rate he wanted, would probably be declined due to a default marker, applied by Mitsubishi. So, Mr S contacted Mitsubishi to try and get the default removed from his credit report.

At the end of September 2022, Mitsubishi confirmed to Mr S that the default had been removed and the status of loan account he held with them, had changed on his credit report to settled. However, in the time it took for Mitsubishi to make the changes, Mr S found that the interest rates for mortgage lending had increased. He says this meant the deals found for him by his broker, had become more expensive.

Mr S complained to Mitsubishi and asked them to consider paying him for the cost of the difference in the rates, in light of their oversight. Mitsubishi responded and apologised for not marking the loan as satisfied in 2020.

But, Mitsubishi said Mr S wasn't guaranteed to get the less expensive interest rate, as the broker hadn't actually submitted a full application. So, they didn't agree to refund the difference in the cost of the interest rates. However, Mitsubishi offered Mr S £500 for the distress and inconvenience caused by the delay in updating his credit file.

Mr S didn't accept Mitsubishi's offer and brought his complaint to us. One of our investigators looked into Mr S' case and found that Mitsubishi hadn't treated him fairly. The investigator was persuaded that had Mitsubishi not made an error with the default marker, Mr S would have been given the less expensive mortgage interest rate.

So, the investigator concluded that as well as the £500 offered by Mitsubishi, they should pay Mr S the cost of the difference between the mortgage interest rate he wanted and the rate he was given. The investigator also said that Mitsubishi should add further interest to each amount, as Mr S wasn't able to use that money for something else.

Mitsubishi didn't agree and said it wasn't certain that the application for the mortgage interest rate Mr S wanted, would be accepted. They said other issues on Mr S' credit report may have stopped the application from succeeding.

The investigator didn't change her findings, so Mr S' case has now been passed to me to make a final decision.

### **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.

This case is about a fixed sum loan agreement Mr S took out with Mitsubishi, which is a regulated financial product. As such, we are able to consider complaints about it

#### *The settlement of the fixed sum loan*

The crux of Mr S' complaint sits with what he was told, when he agreed a reduced settlement amount for the fixed sum loan in early 2020. I can see from the evidence Mr S has sent to us, that he made a payment of £183.69 to settle the total outstanding debt of £315.12.

I can also see that Mitsubishi sent an email to Mr S on 5 March 2020 and said:

*"I can now confirm that your agreement has been fully settled down, thank you for your patience while this was done."*

However, Mitsubishi's records show that in July 2020, they explained to Mr S that the default appearing on his credit file, may not be removed. So, I think Mr S was given two pieces of conflicting information about the satisfied status of the fixed sum loan, within a few months of each other.

Mitsubishi's final response letter in October 2022 seems to revert back to their initial stance on the settled status of the loan. In this letter, Mitsubishi apologised to Mr S and confirmed that the loan account should have been marked as satisfied.

Overall, I think Mitsubishi have acknowledged that Mr S' fixed sum loan agreement should have been marked as satisfied in 2020, when he made the payment to settle the balance. Having considered all the evidence, I think Mitsubishi made an error in March 2020, which wasn't corrected until Mr S complained to them in September 2022. So, I've gone on to consider the impact the error had on Mr S.

#### *The impact on Mr S' mortgage offer*

Mr S says he wasn't able to take up a fixed rate mortgage deal in 2022, because Mitsubishi didn't mark his fixed sum loan as settled. Mitsubishi say that there were multiple variables involved to connect the settlement of the fixed sum loan, to any potential lending Mr S would go on to apply for.

I can see from the history of this complaint, that Mr S approached a mortgage broker at the start of September 2022. We've spoken to the broker and we've seen a copy of the eligibility criteria for the fixed rate deal Mr S wanted to apply for.

The fixed rate deal Mr S had in mind was for two years with monthly repayments of £1,154.44. Part of the criteria to be eligible for the deal, was that an applicant should not

have any default markers showing as unsatisfied, in the previous two years. In other words, any defaults in Mr S' name, needed to have been satisfied before September 2020.

I've looked at a copy of Mr S' credit file and I can see that the default marker from the fixed sum loan, was the only account that showed as unsatisfied, at the time he wanted to take out the mortgage deal. I'm aware that Mitsubishi say there may have been other factors involved, that could have resulted in a failed application.

But, I can see from the application criteria where Mr S' application would likely have succeeded, had Mitsubishi marked the fixed sum loan as satisfied in March 2020.

I've also thought carefully about where both Mr S and his wife wanted to apply for the mortgage deal together. And I'm aware that any successful application would depend on her credit history too. However, the broker has told us that the reason the application ceased, was because of what he'd seen on Mr S' credit file, rather than his wife's.

On balance, I'm persuaded by what the broker says here. I think Mr S contracted the broker to find him the most appropriate mortgage deal. So, the broker concentrated on what would be the most likely reason why an application may fail. And the broker found that to be with the information recorded about Mr S' credit history.

Mitsubishi have said that the mortgage deal Mr S wanted, was an agreement in principle, rather than an offer from a mortgage lender. But, I can see where it may have been detrimental if Mr S and his broker had decided to proceed, knowing that the default marker for the fixed sum loan, was likely to have caused a problem. So, I think it was reasonable for Mr S not to submit the full application, after he had been given the agreement in principle.

I've considered the full eligibility criteria for the mortgage deal, Mr S's credit file and what the broker has said. Having done so, I'm persuaded by the weight of evidence in Mr S' case. In all the circumstances, on balance, I think the default for the fixed sum loan caused Mr S to miss out on the mortgage deal he wanted to apply for.

To look at the full impact on Mr S, I've thought about what he went on to do, once Mitsubishi corrected the default marker.

Mr S has provided documents to show he entered into a mortgage deal on 26 September 2022. This deal was for the same amount borrowed and over the same term as the mortgage deal he wanted earlier in the month. However, due to a higher rate, the monthly payments over a two year fixed rate period are £1,321. Mr S says he entered this mortgage deal on the same day Mitsubishi made him aware that his credit file had been updated.

Mitsubishi say they authorised the update to Mr S's credit file on 21 September 2022 and the changes were made two days afterwards. I've seen evidence to show where lenders increased fixed rate mortgage deals from 23 September 2022 onwards. And the broker says the lender stopped offering the deal that Mr S had originally wanted.

Taking everything into consideration, I'm persuaded by what Mr S says. I find it likely that the deal he wanted was removed on the same day as Mitsubishi say his credit file would have been updated. And I find Mr S' actions consistent and credible, in that he looked to secure a two year fixed rate deal as soon as he says he became aware of the changes to his credit file.

I've concluded that the default marker applied by Mitsubishi led to Mr S missing out on his preferred mortgage deal. I've also found that Mr S went ahead and took a different deal when he was reasonably able to.

So, I've gone on to think about the loss suffered by Mr S and what Mitsubishi should do, to put things right.

### *The settlement of this complaint*

Mr S has provided us with copies of the agreement in principle that he was given by his broker in early September 2022, and of the mortgage deal he took out at the end of that month. Nearly all the details are the same for each deal. However, there are differences with both the lender and the rate.

I can see from the evidence given to us that Mr S is due to pay a total of £31,842 over the whole of his current two year fixed rate mortgage deal. This is in contrast to the total repayment amount of £27,706.56, outlined in the document for the mortgage deal he missed out on.

So, given my findings, I think it's fair for Mitsubishi to refund the difference between the two fixed rate mortgage deals, of £4,135.44.

Mr S has made payments to his current mortgage since October 2022. This means he's paid around £166 more than he would of every month, had he been able to take up the initial mortgage deal. It follows that Mr S hasn't had the use of those funds, in each month they were paid.

In all the circumstances, I think it's fair for Mitsubishi to pay Mr S interest at 8% a year simple on the difference between the monthly payments he's made, and the monthly payments that were outlined under the fixed rate deal he initially wanted.

I think the interest should be added from the date each repayment was made, to the date this complaint is settled. Should Mitsubishi ask Mr S to provide proof he's made each payment to his mortgage lender, then I also think this is a reasonable request.

There will be some payments due under Mr S' current fixed rate deal which he has yet to make to his mortgage lender. I don't think Mitsubishi need to pay interest on these future repayments, as under this settlement, Mr S will not lose the use of these funds.

Finally, I agree that Mr S has been caused distress and inconvenience throughout the time he dealt with Mitsubishi about the default marker.

I acknowledge that trying to secure a mortgage deal, with the aim of having a consistent monthly repayment would have been very important to him. I think this was even more relevant, when considering the borrowing conditions at the time and the likelihood of the changing of rates.

So, I think it's fair for Mitsubishi to make a payment to Mr S for the distress and inconvenience he has experienced. Mitsubishi offered to pay Mr S £500 when they responded to his complaint. Having carefully considered everything, I think Mitsubishi's offer is fair and reasonable.

### **Putting things right**

For these reasons Mitsubishi HC Capital UK Plc, trading as Novuna Personal Finance should:

- pay Mr S £4,135.44 for the difference between the two year fixed rate given to him by his mortgage lender and the fixed rate deal he missed out on;

- add interest at a rate of 8% a year simple to the difference between each repayment made under Mr S' current fixed rate deal and the deal he missed out on, from the date each monthly payment was made, to the date of settlement of this complaint; and
- pay Mr S £500 for the distress and inconvenience he has experienced.

**My final decision**

My final decision is that I uphold this complaint and require Mitsubishi HC Capital UK Plc, trading as Novuna Personal Finance to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 18 December 2023.

Sam Wedderburn  
**Ombudsman**