

The complaint

Mr G complains that Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance (Novuna) have held him liable for a loan that he didn't apply for.

What happened

The detailed background to this complaint is well known to both parties. So, I'll only provide a brief overview of some of the key events here. In January 2023 a loan was issued by Novuna in Mr G's name. The loan agreement is dated 24 January 2023, it was for £20,000 with monthly payments of around £620 over a 36-month term. I understand the loan was paid into a bank account in Mr G's name.

There was then a further loan application made in Mr G's name. Novuna referred this second application for additional checks. On 3 February 2023 an email was sent from Mr G's email address chasing where the funds from this second loan were. There was also conversation between Mr G and Novuna the same day in which he again asked when the funds from the second loan would be paid into his account. During that call, reference was made to this being his second application. I understand the second loan wasn't ever paid to Mr G.

On 7 February 2023 Mr G contacted Novuna and told them he thought he'd been the victim of a scam. He described how he believed he'd been investing in cryptocurrency. He says he'd shared access to his phone with the scammer and that he hadn't done the loan applications himself. He says the scammer took control of everything and told him that they worked closely with Novuna and the funds he'd received were 'company money' which he had to send on. On the directions of the scammer, he'd opened a further bank account and accounts with a cryptocurrency exchange.

Novuna investigated but ultimately held Mr G liable for the loan agreement. But they did say that in the circumstances, they wouldn't apply interest or charges to the loan. The matter was considered by our service and one of our Investigators didn't recommend that Novuna needed to do more. In summary whilst she acknowledged Mr G had been scammed, she wasn't persuaded that he hadn't agreed to the loan. Mr G has asked for an Ombudsman to review his complaint.

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 and for largely the same reasons. I know this will be disappointing for Mr G, so I'll explain why.

Mr G says that he didn't take out the loan with Novuna. Novuna say that the loan application used Mr G's genuine email address and phone number. They also shared their process which is that a code is sent to the phone number to confirm the loan.

I agree with our Investigator that if a scammer were trying to conceal a loan from Mr G, they most likely wouldn't have used his true contact details as he may then have seen and questioned any documentation received. This isn't conclusive in itself as Mr G has said that the scammer had access to and control of his device. He also states that he rarely checked his emails.

However, I find the call Mr G had with Novuna on 3 February 2023 to be persuasive evidence. The following exchange took place on that call.

Novuna: *"Is it just the one application that you've applied for recently?"*

Mr G: *"No, this is the second, I'm getting home improvements done on my house"...*

Novuna: *"So that was the first one as it, the one that went live on the 24th?"*

Mr G: *"Yes."*

If Mr G hadn't applied for the loan as he alleged in his complaint, then it's difficult to understand why he told Novuna he had applied for the loan dated 24th January during his call with them. I appreciate Mr G says he was acting under the instructions of the scammer, and that he believed Novuna worked in partnership with the cryptocurrency firm he thought he was dealing with. But if that were the case, it's again difficult to understand why he would have needed to have lied (to say the loan was for home improvements) if it were a genuine business relationship.

I've placed more weight on this evidence than on Mr G's testimony. I think it's most likely that even if the scammer physically keyed the loan application, Mr G had involvement such that Novuna's decision to not treat this as a case of ID theft was fair and reasonable.

Mr G has more recently raised that he doesn't think the loan should have been granted as it wasn't affordable for him. But this didn't form part of his complaint to Novuna and they haven't yet had an opportunity to investigate and respond. So it isn't something I can comment on here. This complaint is about Novuna's decision not to treat the loan application as fraudulent and to hold Mr G to its terms. I note that Novuna have agreed to remove interest and charges, and if Mr G feels the lending was irresponsible this is something he should take up with Novuna in the first instance.

My final decision

For the reasons outlined above, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 20 November 2023.

Richard Annandale
Ombudsman