

## The complaint

Mr M complains that Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance ("Novuna") is holding him liable for the debt on a loan which he says he neither applied for nor consented to. He's also unhappy Novuna granted the loan given his financial situation.

Mr M is represented by Mrs M, his mother, in this complaint but for ease of reading I'll refer mainly only to Mr M throughout this decision.

## What happened

The background to this complaint is well known to both parties, so I won't repeat everything here. In brief summary, in January 2022 a loan was taken out with Novuna in Mr M's name for £10,000. Mr M subsequently got in touch with Novuna to let it know he hadn't applied for the loan. Novuna investigated things and ultimately couldn't reach agreement with Mr M, so he referred his complaint about Novuna to us. Our Investigator couldn't resolve things informally, so the case has been passed to me for a decision.

I sent Mr M and Novuna my provisional decision in November 2023, explaining why I wasn't minded to uphold this complaint. Now that both parties have had fair opportunity to comment further, I'm ready to explain my 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.

Having done so, and whilst I've carefully considered everything Mr M has said in response to my provisional decision, I've reached the same conclusions and for the same reasons as explained in my provisional decision. I've explained why again below, with some further comment where I've deemed it appropriate to address Mr M's most recent submissions.

The first question is: did Mr M enter into this loan agreement, or was it done without his knowledge and/or consent as he alleges? Having considered this carefully, I think it's most likely the loan was taken out in Mr M's name *with* his knowledge and consent, and he therefore *did* enter into the loan agreement. I say this because:

- The loan funds of £10,000 were received into Mr M's Barclays account on 12 January 2022. Mr M has said he didn't know anything about the loan, and that he received a message from an unknown person who said the £10,000 was sent to him in error, and it needed to be paid back or else there would be serious consequences including possible violence.
- I don't take this lightly and I've thought about this really carefully. But, in this case, I'm not persuaded what Mr M has said happened is most likely accurate. This is because Novuna has explained that for a person to have been able to complete the loan without Mr M's knowledge and consent, they would have needed access to both Mr M's phone and his email account. This is because an email was sent about the

loan, which then required a passcode which was sent separately to Mr M's phone, in order to complete the loan application. I appreciate in his response to my provisional decision Mr M has said that he can't remember authorising anything through his email or with a code, but this hasn't changed my mind. I'm satisfied by what Novuna has said about this. I can't reasonably explain how taking out the loan would have been possible without Mr M sharing such details.

- Additionally, an examination of Mr M's Barclays' account statements leads me to doubt the accuracy of what Mr M has told us. I appreciate Mr M has said in response to my provisional decision that he can't remember anything about any transfers. However, the day after the £10,000 loan funds landed in Mr M's account, he sent four payments out to three different beneficiaries totalling £10,000 *and* he received a credit of £1,930 from one of those beneficiaries with the reference "Deal". I note that Mr M had also previously received money from another one of those four beneficiaries going back to at least August 2021, so this wasn't a new relationship. This isn't really consistent with what I'd expect if things happened as Mr M has said they did. I've thought carefully about what Mr M has said, and what he's re-iterated in his response to my provisional decision, that he'd already previously been the victim of fraud after he gave his details such as his National Insurance Number, passport information, and bank account details to a third party through social media. But I still don't think this would adequately explain things.
- Furthermore, during Novuna's investigatory call Mr M participated in with his mum, Mr M indicated he was told the unknown third party (who he says took out the loan without his knowledge and consent) wanted the money paid to 'Gemini' which is a 'Bitcoin thing or something'. However, I can see that the loan money wasn't transferred to 'Gemini'. But instead, Mr M's Barclays' account statements show that Mr M started to make and receive payments from Gemini Europe Ltd at the end of January 2022, and this appears unconnected to the loan funds. Mr M then, on 4 February 2022, received a credit of £9,993 from another third party with the reference "Gift", before he sent around £3,000 of this to Gemini Europe Ltd. Again, this substantially brings into question the accuracy of Mr M's submissions here. And again, although I appreciate Mr M has said in response to my provisional decision that he can't remember anything about any transfers, this hasn't changed my mind.
- Novuna has provided call recordings of both the investigatory call referenced above, and a further earlier call which took place before the loan landed in Mr M's account, in which the caller purported to be Mr M and asked when the loan funds would land. Mr M's mum says it's definitely not really Mr M in the first call. I've listened to the calls and, whilst I'm not a voice expert, I accept this is a *possibility*. However, given what I've said above, even if this caller wasn't Mr M, I'm not persuaded this changes things, because the evidence suggests Mr M nonetheless knew about and consented to the loan, and that the way he's said things happened is likely inaccurate.
- I've thought very carefully about what Mr M has said in his response to my provisional decision about him having ADHD, how this affects him, and the difficult circumstances I understand he's experiencing. I understand this can make it difficult for him to remember the details of what happened, and could make him vulnerable to what he's said happened. Again, I don't take this lightly and I've thought about this really carefully. But I still don't think this adequately explains things. For the reasons above, it still seems to me that it's most likely in this case that the loan was taken out in Mr M's name *with* his knowledge and consent at the time.

Mr M has questioned how he was accepted for the loan in the first place. For clarity, our

usual approach on irresponsible lending is that interest and charges should be removed but the consumer should still pay back the principal amount of the loan they had the benefit from. But here, I'm not persuaded it would be fair to say the loan was irresponsibly lent. Novuna was required to carry out reasonable and proportionate borrower-focused checks, and its checks revealed the income stated on the application was incorrect. I understand Novuna therefore reviewed a lesser income to check if the loan was affordable in case Mr M was exaggerating his earnings, and a rental payment was also applied and this showed the loan was affordable. I appreciate what Mr M has said about his employment ending in November 2021, but I'm not convinced reasonable and proportionate checks would automatically have uncovered this. Instead, I think it would have looked like the loan was affordable, given Mr M's income and, noticeably, extremely limited *essential* outgoings. But in any case, and whilst I acknowledge Mr M will be extremely disappointed, I just don't think, bearing in mind what I've said, that it would be fair to hold Novuna responsible for what's happened. However, I would, naturally, expect Novuna to be sympathetic to any financial constraints moving forward should there be any.

### **My final decision**

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 8 February 2024.

Neil Bridge  
**Ombudsman**