DRN-4334488

Financial Ombudsman Service

The complaint

Mr C is complaining about Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance (Novuna). He says they shouldn't have lent to him because the repayments weren't affordable for him.

What happened

In February 2018, Mr C took out a fixed sum loan agreement with Novuna to finance the purchase of a car. He paid a deposit of £850 and borrowed £8,500 – the cash price of the vehicle was £9,350. The agreement required Mr C to make 60 monthly repayments of £178.44.

Mr C complained to Novuna in December 2022, saying they hadn't fully considered his credit history and affordability when assessing his application.

In response, Novuna said they'd searched Mr C's credit history and used a Credit Reference Agency (CRA) tool to understand his income and general indebtedness. They said they hadn't seen any indications that he would struggle to service the loan agreement. Novuna said Mr C had told them his annual income was £28,800 from which they'd estimated his net monthly income was £1,926.65. From his credit record they said they could see he had credit balances totalling £11,100 with monthly payments of around £331.50. They said Mr C was a homeowner with no mortgage at the time of the lending decision. Deducting those monthly payments and the £178.44 for this agreement from Mr C's net monthly income, they felt £1,416.71 was enough to meet average cost of living expenses and therefore didn't have any concerns about lending to Mr C. So they didn't uphold his complaint.

Mr C brought his complaint to our service, saying that when the agreement started he'd had numerous late payments, missed payments and defaults, and had also just retired. One of our investigators looked into the matter but she said there was no evidence of any issues on his credit report. Our investigator said she thought Novuna could have done more when checking whether the loan would be affordable for Mr C. But she thought if they had they'd still have decided it was affordable, based on what she'd seen on Mr C's bank statements.

Mr C disagree with our investigator's view, saying that he still believed that he had defaults at the time the loan was agreed. He said his bank statements showed that he was overdrawn for much of that year and he had to beg and borrow to keep making the repayments. He added that Novuna should have looked at his bank statements because of his age at the time. He asked for an ombudsman's decision – and the complaint's come to me.

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 recognising it'll be disappointing for Mr C, I'm not upholding his complaint. My reasons are broadly the same as our investigator's – I'll explain below.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.

Did Novuna carry out proportionate checks?

Novuna say they checked Mr C's credit file and this showed existing credit commitments of £11,100, no mortgage, and no indications of financial stress. They haven't got a copy of the credit file, just data extracted from it. Looking at the extracted data, I think Novuna's assessment that there weren't any indicators of financial stress was reasonable.

Mr C sent us a copy of his credit report which I've looked at carefully given Mr C's testimony that he had defaults at the time. This report is dated May 2023 but gives data for six years. Looking at this report, I can't see that Mr C had any defaults, or any recent late or missed payments at the time the loan was agreed. The total of the three credit card balances shown on the credit report is very similar to Novuna's figure of £11,100. And there's no evidence Mr C had a mortgage at the time.

Novuna also verified Mr C's income and considered how much income he'd have left over once he'd made his credit repayments. They felt that the figure of around £1,400 ought to be enough for general living expenses. This also seems reasonable given Mr C was a homeowner with no mortgage.

However, Mr C was of retirement age at the time he took out the loan. Novuna had his date of birth and therefore would have known this. That meant they should have anticipated his income would likely change during the term of the loan. CONC 5.2.3G says a firm's assessment of affordability should be proportionate to factors including "*any future changes in circumstances which could be reasonably expected to have a significant financial adverse impact on the customer*". I'm satisfied Mr C's age and upcoming retirement falls into this category and means Novuna should have done more to at least understand Mr C's retirement plans and future sources of income.

What would Novuna have found if they had done proportionate checks?

To understand more about Mr C's income, I looked at his bank statements around the time of the lending decision – January, February and March 2018. I'm not saying Novuna needed to look at Mr C's bank statements, but the statements provide an indication of Mr C's financial circumstances at the time.

The statements are for a joint account. They show regular income of around £2,150 per month from the Department for Work and Pensions, and one other source. These amounts are paid every month at around the same time each month.

On top of this, the statements show irregular income which appears to be from Mr C's self-employment. These amounts aren't insignificant, averaging around £1,200 per month across the three months I looked at. I also noted that these receipts into Mr C's account continued throughout the year – which suggests Mr C likely did intend to keep working for some time when he took out the hire purchase agreement and would probably have told Novuna this if asked.

The statement also show Mr C received a large lump sum from DWP in February 2018 and appears to have paid much of this into a personal pension in April 2018. This suggests that

Mr C would have additional income from his personal pension when he chose to draw this in the future.

Taking all of this together, I'm satisfied that if Novuna had found out more about Mr C's income and retirement plans, they'd have been satisfied his and his partner's average joint monthly income was likely to be around £3,350 for the foreseeable future. The bank statements show regular direct debits of around £1,600 per month – covering credit card payments, insurance, council tax and utilities, road tax, telecommunications, and various insurances. Adding to this the £178 per month for the new hire purchase agreement, Mr C (and his partner) would have committed expenditure of around £1,800 per month. Comparing this to the joint income suggests Mr C and his partner would be left with well over £1,000 for food, fuel and other expenditure. As our investigator noted, Mr C and his partner had significant spending on non-essential items and were lending money to family members – which supports my view that they had plenty of disposable income. On this basis I think it would have been reasonable for Novuna to decide to lend to Mr C even if they'd done more checks.

My final decision

As I've explained above, I'm not upholding Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 October 2023.

Clare King
Ombudsman