

The complaint

Mr P's complaint about Hitachi Capital (UK) Plc (Hitachi) relates to a fixed sum loan he took out with them in 2017 and which he says was unaffordable.

What happened

Mr P signed a three-year loan agreement with Hitachi for £3,000 on 10 October 2017. The interest was calculated up front and added to the amount borrowed with repayments being spread over three years. The monthly repayments were £142.74 per month. Mr P said at the time he had several other loans with other companies and feels Hitachi shouldn't have granted him the loan as it was unaffordable.

Hitachi said that when Mr P made his application they searched his credit record to check his borrowing history; how much he owed and how often he applied for credit; whether he made repayments on time, and whether he had any defaults or CCJs. In addition, Hitachi said they used other information he provided, such as his income, to calculate an overall score which in his case positively exceeded their lending criteria. Hitachi felt it had done sufficient checks to ensure the loan was affordable and didn't think it had done anything wrong.

Mr P was unhappy with Hitachi's final response and so approached this service to see if we could assist in resolving the dispute. Our investigator looked into the complaint and also thought Hitachi hadn't done anything wrong. He did however think that it could have asked for three months of bank statements before making its lending decision and it could have verified Mr P's rent payments, but still thought that even if it had done that it would still have shown the loan was affordable.

Mr P didn't agree and asked for the complaint to be passed to an Ombudsman for 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.

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 approach when deciding Mr P's complaint.

When someone complains about irresponsible and/or unaffordable lending, I consider whether the lender completed reasonable and proportionate checks to satisfy themselves that their borrower would be able to repay the loan in a sustainable way. And if reasonable and proportionate checks weren't carried out, I think about whether the loan would've been approved if the checks had been done. I also consider if the lending decision was fair and if the lender acted unfairly or unreasonably in any other way. In this complaint a copy of Mr P's full credit file from October 2017 hasn't been provided – so I've had to use the limited

information I do have. That means I have to consider what I think is most likely to have been the situation at the time.

In my provisional decision I asked the parties if they had anything further they wished to add, and Hitachi relied to say it didn't. Mr P replied disagreeing with my provisional decision and pointing to the volume of gambling transactions on his bank statements and asking how Hitachi missed those. I addressed what Hitachi were required to consider in my provisional decision and there was no requirement on them to obtain his Mr P's statements. As I have said below, Hitachi was entitled to rely on the information from Mr P and the credit check it carried out, so I don't see that it acted unfairly in not getting the bank statements.

Mr P has commented that some of his other complaints have been upheld but I can't comment on those other complaints because I do not know the circumstances and they are separate and aside from this complaint. My role is to look at the facts of this complaint and make my decision based on those facts, which is what I have done. So, having considered Mr P's further comments there is nothing within them that causes me to alter my provisional view, which I now repeat below.

The Financial Conduct Authority's (FCA) guidance at the time Mr P took this loan in 2017 can be found in the FCA handbook at the section marked [CONC 5.2]. This says that before making a regulated credit agreement (as was the case here) a business such as Hitachi was required to undertake an assessment of the creditworthiness of its customer. That meant Hitachi was required to consider;

- the potential that the loan commitment could adversely impact on Mr P's financial situation taking into account the information of which it was aware at the time, and
- the ability of Mr P to make repayments as they fell due over the life of the loan.

Further, the assessment had to be based on sufficient information from the customer where appropriate and a credit reference agency, where necessary.

CONC 5.2.4(2) provided that a business should consider what is appropriate taking into account the type and amount of the credit and the risks to the customer of the credit not being sustainable. And CONC 5.2.4(3) gives an indication of what a lender *might* (my emphasis) look at in its creditworthiness assessment depending on the circumstances, which could include some or all of the following:-

- its record of previous dealings;
- evidence of income;
- evidence of expenditure;
- a credit score;
- a credit reference agency report; and
- information provided by the customer.

The circumstances which arise in Mr P's case are as follows:

Mr P wanted a modest fixed sum loan of £3,000 over a period of 3 years with an interest rate of 23.8%. The monthly repayments were £142.74 and the total amount repayable over the term was £5,138.64.

When Mr P submitted his application, he declared he was working full time and had an income of between £15,000 - £20,000 per annum and had been with the same employer for just over 7 years.

Hitachi validated that with a Credit Reference Agency (CRA) and then went on to estimate that his net monthly income would be £1,286. This appears to be, broadly, using the mid-point of the income range Mr P told Hitachi about. I think that was a reasonable approach by Hitachi. Mr P has provided bank statements for the three months prior to his loan which actually show a better financial picture at the time of his application, with an average of £1,355.54, although Hitachi didn't ask for these at that time.

Hitachi said the information from the credit file didn't show that Mr P had any previous or current financial stress. Further there is nothing on the credit file to show Mr P had any missed payments, defaults or County Court Judgments.

Hitachi estimated Mr P's rent payments were £447.84, which they then halved to take account of his partner. Mr P confirmed to our investigator that his rent was about £555 per month when the average was taken over the months July to October.

Mr P's credit record, which Hitachi looked at, revealed he did have existing credit with an overall balance of £800 and monthly repayments of £378.14 per month. I cannot say what the overall balance was from the additional documentation Mr P has provided since there is no information in that regard, but what can be seen from the statements is that Mr P was paying around £34 less than recorded on the credit report. This is because he was paying around £345 per month to other creditors. I think on balance it is more likely than not that Mr P's overall debt at the time of his application to Hitachi was around £800 – certainly that is what the available evidence points to.

When Hitachi assessed whether the loan was affordable they reached the conclusion that Mr P had £541 per month for other expenses, beyond his rent and financial commitments. Having looked at his bank statements this figure changes to £313 per month. The reason for the difference is because when Hitachi considered Mr P's rent commitment the 'model' it used was to take a regional average. I don't think that's unreasonable. But Hitachi then ascribed only half of the rent to him as he had a partner. I've considered whether Hitachi should have asked Mr P what his rent payment actually was at the time but applying the applicable guidance of the time I don't think this was a requirement.

And I've also thought about what the position might have been if Hitachi had found the 'correct' information about Mr P's rent payments. Would this have significantly changed Hitachi's decision to offer credit? I don't think so. Mr P still had some disposable income. Deciding whether the amount left is sufficient is almost always going to be a subjective assessment.

But – based on the information from Mr P and its own assessment process – I think it is more likely than not that Hitachi would have given Mr P a loan of £3,000 as it appeared to be affordable. And I'm satisfied that there aren't any other reasonably proportionate checks Hitachi could have carried out when considering whether to grant a loan of £3,000 over a 3-year term.

Mr P has raised the issue of his gambling and I've looked at his bank statements and I can see he had a considerable number of online betting transactions prior to taking this loan. But Hitachi didn't know this, and Mr P didn't tell them about his gambling so they couldn't have known. I accept that Mr P's financial position may well have been worse than the credit check showed or that any information he disclosed to Hitachi at the time showed. And it is possible that further checks might have told Hitachi this. But Hitachi was entitled reasonably to rely on the information from Mr P and the credit check it carried out at the time. Given there wasn't any adverse information shown on the credit check, or significant outstanding debts elsewhere and the amount of credit being advanced was relatively low, I think Hitachi's checks went far enough.

My final decision

For the reasons set out above I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 21 July 2021.

Jonathan Willis
Ombudsman