

## **The complaint**

Mr O complains that Mitsubishi HC Capital UK Plc, trading as Hitachi Personal Finance ("Hitachi") provided him with credit he couldn't afford to repay.

## **What happened**

Hitachi approved an £11,000 loan for Mr O in December 2021. He was to make 48 monthly repayments of £307.75.

Mr O says the loan wasn't affordable for him.

Hitachi disagree. They say they completed reasonable and proportionate checks. They reviewed credit file information, verified his salary, and considered his likely expenditure but they didn't find anything that would suggest Mr O couldn't afford the loan,

Our investigator disagreed. She thought the loan was unaffordable for Mr O and she suggested Hitachi returned interest and charges they'd made on it in order to resolve matters.

Hitachi didn't respond to the investigator's view, but Mr O did. He didn't agree with it as he thought Hitachi should also refund the capital.

The decision has therefore been referred to me, 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.

Our approach to considering complaints about unaffordable and irresponsible lending is set out on our website. I've had this approach in mind when considering what's fair and reasonable here.

I don't think Hitachi completed reasonable and proportionate checks before approving the loan. Whilst they took note of Mr O's income and also considered what his likely expenditure would be. I think there was evidence on his credit file that warranted further investigation before they could assure themselves that the lending was affordable.

I say that because the credit file showed 56 credit searches within the last three months and also suggested Mr O was relying on pay day loans. I think that information should have alerted Hitachi to the potential that he was experiencing financial difficulties.

I don't think that information alone would have suggested that the loan was unaffordable, but I do think Hitachi should have gathered more information to clarify whether Mr O could afford repayments sustainably before they lent to him.

I think it would have been proportionate for Hitachi to have found out more about Mr O's committed expenditure, such as his actual living costs. I can't be sure exactly what they would have found out if they had explored further. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mr O's bank statements as to what would most likely have been disclosed.

I've reviewed bank statements from the account I think it's likely Hitachi would have reviewed; the one Mr O's salary was paid into. I think those statements would have raised further questions. It would have been clear that Mr O's income was substantially lower than the £101,000 he'd claimed on his loan application. And, as there were payments being made to another account under "admin", and those payments were significantly higher than Mr O's income, I think Hitachi would have wanted to review statements from that account too.

Those statements demonstrated that Mr O was spending significantly more than his salary on gambling and, in those circumstances, I don't think the loan could be said to be affordable as Mr O was clearly relying on credit to support that gambling. Hitachi were therefore irresponsible to advance the credit.

### **Putting things right**

Mr O says Hitachi should refund everything he paid towards the agreement, but I don't agree. I understand Mr O's explanation that other companies rejected his credit applications because of his extensive gambling, but Hitachi didn't, and have therefore lent irresponsibly. So, they shouldn't benefit from those transactions and should return any charges and interest they have gained. But Mr O has benefitted from the capital and it wouldn't be fair to refund that too.

While I think it's fair that Mr O's credit file is an accurate reflection of his financial history, I don't think it's fair that he should be disadvantaged by Hitachi's decision to lend to him irresponsibly. Therefore, I think Hitachi should remove any negative information they have recorded on Mr O's credit file once he's repaid the capital.

Hitachi should:

- Remove all interest, fees, and charges from the balance on the loan, and treat any repayments made by Mr O as though they had been repayments of the principal. If this results in Mr O having made overpayments then they should refund these overpayments with 8% simple interest\* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
- If there is still an outstanding balance once interest, fees and charges have been removed then Hitachi should try to agree an affordable repayment plan with Mr O.
- Once the capital has been repaid, Hitachi should remove any adverse information recorded on Mr O's credit file in relation to this loan.

It seems this loan is still outstanding, and the debt hasn't been sold. But, if I'm wrong about that and the debt has been sold, Hitachi should buy back the debt or liaise with the new debt owner to achieve the results outlined above.

### **My final decision**

I uphold this complaint and tell Mitsubishi HC Capital UK Plc to put things right in the manner I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 12 October 2022.

Phillip McMahon  
**Ombudsman**