

The complaint

Mrs C's complained that Mitsubishi HC Capital UK Plc, trading as Hitachi Personal Finance ("Hitachi") indirectly discriminated against her on the basis of her disability when they declined her application for a loan.

What happened

Mrs C wanted to buy a watch. There was an option to pay by instalments using credit provided by Hitachi. Mrs C applied. But her application was declined.

Mrs C complained to Hitachi. She said she and her partner are both disabled and unable to work. But they have a reasonable income and her credit score is higher than average. Mrs C felt that not taking these factors into consideration meant Hitachi had indirectly discriminated against her, based on her disability.

Hitachi investigated and wrote to Mrs C with their response. They said they'd spoken to their underwriters about the reason her application was declined. They said this was because Mrs C had selected "houseperson" as the occupation for both her and her partner when she completed the application. This suggested that they both had limited, or no, income and further details weren't considered.

Hitachi said that Mrs C was welcome to re-apply for credit. And, if she did that, she should state her occupation as "retired". Hitachi said this would prompt additional checks of her income and a more detailed consideration of her application. And Hitachi said they'd refer Mrs C's experience to colleagues to see if there was any way to improve the application process for the future.

About two weeks later, Mrs C contacted Hitachi again to see if there'd been any change to their processes. And she asked about compensation for what had happened. Hitachi sent Mrs C a cheque for £15 compensation.

Mrs C wasn't satisfied with Hitachi's response and brought her complaint to us. Our investigator considered it and concluded Hitachi didn't need to do anything more to resolve it. He explained that lenders are entitled to decide who they lend to. And he was satisfied Hitachi declined Mrs C's application because she'd described both her and her partner as "houseperson" – which suggests insufficient income to sustain loan repayments.

He was satisfied Hitachi's decision wasn't based on Mrs C's disability, or because she's in receipt of benefits. And he said that their offer to reconsider the application if Mrs C resubmitted it and described herself as "retired" was reasonable.

I didn't agree with our investigator's conclusion. So I made a provisional decision. I explained that my role is to decide whether Hitachi dealt fairly with Mrs C's loan application – and, if they didn't, what they should do to put that right. But I couldn't say whether Hitachi's processes had breached the Equality Act 2010. I confirmed that, if Mrs C wants a decision on that, she'd need to go to court.

But I didn't think it was fair for Hitachi to conclude that someone selecting "houseperson" meant they necessarily had no income to make loan repayments. I was satisfied that this option most closely describes Mrs C's situation. But she also declared a yearly income of £20,000.

I provisionally decided it was reasonable for Mrs C to conclude that, having provided this information, it would be taken into account in Hitachi's decision to lend. And I noted that Hitachi had also not followed its own guidance in making the decision, which says receiving some benefits should mean someone is classed as employed for the purpose of the application – which isn't what they told Mrs C. I said Hitachi should pay Mrs C £150 compensation, in addition to the £15 they'd previously paid her.

Mrs C confirmed she had nothing to add to my provisional decision, although she was disappointed at the level of compensation. And she said she'd not cashed the £15 cheque Hitachi had sent.

Hitachi didn't comment any further, but said they'd arrange to send Mrs C a cheque for £165.

The complaint's now been passed back to me to make 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.

Having done that, I'm upholding Mrs C's complaint for the reasons I set out in my provisional decision and which I've summarised above.

Putting things right

Hitachi sent Mrs C £15, which they said was to compensate for her time in completing the loan application. Mrs C found that sum insulting and didn't pay in the cheque. I said that it didn't compensate her for the distress she'd been caused when Hitachi didn't follow their own procedures, or take into account the information they'd asked her for, in making their loan decision. I thought Hitachi should pay Mrs C £150 compensation for those mistakes.

I can see Mrs C is disappointed by that amount. I've thought carefully, but I've decided not to increase it.

Mrs C hasn't explained in detail why she's disappointed. But she has acknowledged that she'd *"have to pursue it in court"* if she wanted to take matters further. I understand from this her disappointment is that the compensation doesn't recognise the breach of the Equality Act 2010 she feels has occurred.

I understand Mrs C's frustration at this. But, as I said in my provisional decision:

"My role isn't to look at Hitachi's business practices. It's to see whether they dealt fairly with Mrs C's loan application. And – if they didn't – what they should do to put that right. So, while I understand why Mrs C pursued the issue of changing Hitachi's application process with them, I can't say whether their processes breached the Equality Act 2010. I've taken the Act into account when deciding this complaint – given that it's relevant law – but I've ultimately decided this complaint based on what's fair and reasonable. If Mrs C wants a decision that Hitachi has breached the Equality Act 2010, then she'd need to go to Court."

As I can't make a decision about whether or not the Equality Act has been breached, it follows that I can't direct Hitachi to pay Mrs C any compensation for that. I can only decide they should pay compensation for not dealing fairly with the loan application.

And, as I said in my provisional decision, Hitachi did offer to re-assess Mrs C's application by selecting her occupation as "retired", to trigger a manual income check. Mrs C declined that option – which she was entitled to do.

But it would have resulted in Hitachi assessing Mrs C's income when making their lending decision. So I can't say Hitachi didn't do anything to try and correct what had happened – or that they refused entirely to consider Mrs C's income.

For that reason I think £150 compensation is fair. And I think Hitachi should also pay the £15 they'd previously sent Mrs C – making a total of £165 to resolve her complaint.

My final decision

For the reasons I've explained, I'm upholding Mrs C's complaint about Mitsubishi HC Capital UK Plc, trading as Hitachi Personal Finance and directing them to pay her total compensation of £165.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 29 November 2022.

Helen Stacey
Ombudsman