

## The complaint

Mr C complains Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance (Novuna) irresponsibly entered a fixed term loan agreement with him because it failed to carry out reasonable and proportionate checks to ensure he could affordably make the repayments.

## What happened

Mr C acquired a used car in August 2017 using a fixed term loan from Novuna. The cash price of the car was £8,950 and Mr C paid a deposit of £55. The loan agreement required Mr C to make 48 monthly payments of £254.76. The total amount payable under the agreement was £12,283.48.

Mr C complained to Novuna in December 2022. He said better checks should have been completed before lending to him. He felt these would have shown he had other commitments and was struggling with his finances.

Novuna responded in January 2023, saying it felt the decision to lend to Mr C had been reasonable. It explained it had based the decision on information from Mr C's credit record, Mr C's income declaration and estimates it had made for his spending. Novuna concluded Mr C would be able to afford the loan alongside his other committed expenses.

Mr C didn't agree with that response, so he brought the complaint to us. On 24 January 2024, I issued a provisional decision. I said the following:

*The Financial Conduct Authority (FCA) was the regulator when Novuna lent to Mr C. It required Novuna to lend responsibly. Its rules and guidance are found in its Consumer Credit Sourcebook (CONC), available online. The rules in 2017 required them to take reasonable and proportionate steps to assess whether a borrower could afford to meet loan repayments in a sustainable manner over the lifetime of the agreement.*

*The rules don't set out exactly what checks Novuna needed to do to carry out an appropriate assessment or how such an assessment was to be carried out in practice. They instead explain that checks should be proportionate, and what was needed would depend on a number of factors including the type of product, the amount of credit being considered, and the associated cost and risk to the borrower relative to the borrower's financial situation – amongst other factors.*

*With the rules and guidance from CONC in mind, there are two overarching questions that I need to answer to fairly and reasonably decide Mr C's complaint.*

*These two questions are:*

- 1. Did Novuna complete reasonable and proportionate checks to satisfy itself that Mr C would be able to sustainably repay the borrowing?*
  - If they did, was their decision to then lend to Mr C fair?*

- *If they didn't, would reasonable and proportionate checks have shown that Mr C could sustainably repay the borrowing?*

*2. Did Novuna act unfairly in some other way?*

*Did Novuna complete reasonable and proportionate checks to satisfy itself that Mr C would be able to sustainably repay the borrowing?*

*Novuna have said they checked Mr C's credit record. That will have allowed them to consider what other commitments Mr C had to balance with the new borrowing. And it would have given some indication to Novuna if Mr C had been suffering financial difficulties at the time of the agreement.*

*Novuna also explained Mr C declared his income at £49,757. It's not generally sufficient for firms to rely solely on a statement of current income made by a consumer without independent evidence. It explained it did rely on the declared income in its final response and provide its expenditure estimate based on the income declared.*

*However, Novuna provided a screenshot of its affordability information and confirmed it received independent information from a credit reference agency at the time of its lending decision. It said it used current account turnover information to check Mr C's declared income. Having done so, it received low-income validation scores so applied a level of stress to the income when completing checks. Therefore, the income figure used was £27,000. I think the significant discrepancy identified by the low-income validation score ought to have prompted some further checks.*

*In respect of the expenditure, Novuna's affordability assessment included an estimated rental payment of around £1,100. It also said the credit search revealed monthly credit commitments of around £1. The credit balance was around £200 with three active accounts.*

*There doesn't seem to be any adverse information which might have indicated Mr C wouldn't be able to meet the repayments. Our service also asked Mr C for a copy of his credit file, but we haven't received it. Based on the information collected, Novuna calculated Mr C had £470 disposable income to cover the repayments and other likely non-discretionary expenditure.*

*Overall, I think Novuna should have done more to establish Mr C's accurate financial circumstances. I think the low-income validation score was an indicator that it was necessary to verify the information and gain a more accurate picture. I've also taken into account the duration of the agreement and the size of the monthly repayments. The borrowing in this case was to last for a relatively long time – four years. And the payment Mr C would commit to was relatively large – around £255. Whilst Mr C seemed to have low credit commitments, I'm also mindful that based on Novuna's affordability assessment Mr C would only have £470 to cover his other expenses including things like utilities, council tax and car costs. Again, the level of remaining income and the low-income validation score should have indicated to Novuna to obtain further information about Mr C's financial circumstances including his income and expenditure.*

*Would reasonable and proportionate checks have shown that Mr C could sustainably repay the borrowing?*

*I can't be sure what Novuna would have asked Mr C to provide to confirm his income and expenditure at the time. And I'm not sure what he would have shown them. But I've seen some bank statements from the time that give me some insight into what Novuna could have seen if they'd completed a reasonable and proportionate check in this case.*

*The statements show me Mr C wasn't receiving a regular income in the three months prior to the borrowing. In May he appears to have received £1,694 plus a significant tax refund. In June he received £1,977. In July he received £1,842. These put his pre-tax salary at something like £27,500 and means he received an average monthly salary of around £1,838 in the three months leading up to the agreement. I've decided not to include the tax refund Mr C received when considering his income, as this would likely have been a one-off amount. If his tax was assessed accurately in future years, it could be expected he wouldn't get a further refund.*

*Balanced against this income would have been Mr C's committed spending. I've reviewed the statements provided by Mr C. I also put some further questions to Mr C to understand the information on his statements. But there was no response, so I have to consider the evidence I do have.*

*Mr C provided us with rent slips showing his rent was £1,850 but there aren't any corresponding transactions on the statements. As his income was sometimes less than the rent, it doesn't seem likely he was solely responsible for this commitment. It's not clear what proportion Mr C was required to pay.*

*Additionally, there are several cash withdrawals but for smaller increments. Mr C says he paid for his rent using cash. Over the three months Mr C withdrew an average of around £1,554 per month. Sometimes he withdrew more and sometimes less. But it doesn't seem these withdrawals were for rent because of the number of times cash was withdrawn and the amounts withdrawn. Also, he didn't withdraw enough to cover the value of the rent. Based on what I've seen, I'm unable to conclude these transactions were for non-discretionary expenditure. There were also other payments to another person which also haven't been explained.*

*Looking at the other transactions, I can see payments towards food, petrol, overdraft fees, insurance and media. The identifiable commitments seemed to average around £291 per month. In respect of his other credit, I understand from the information obtained by Novuna that he had a total credit balance of around £200. We haven't received a copy of Mr C's full credit file, but I have no reason to conclude this isn't accurate having reviewed Mr C's statements. I don't know what type of credit this was but it's likely any repayments would be relatively small.*

*So, the amount of non-discretionary spend, including credit commitments, I can identify seems to be around £300 per month. Taking into account Mr C's average monthly salary of £1,838, he would have around £1,538 after the identified commitments. From what I've seen, it seems he would have enough to make the repayments of around £255 with sufficient remaining to cover other likely costs.*

*Overall, I'm not satisfied Novuna completed reasonable and proportionate checks to ensure the agreement was affordable. However, based on the information I do have it seems likely had reasonable and proportionate checks been carried out then they would have shown the agreement was affordable. I would note this is based on the limited information I have seen. I'll consider any other information I receive from the parties.*

*Did Novuna act unfairly in some other way?*

*The evidence I've seen doesn't lead me to conclude Novuna acted unfairly in some other way.*

I gave both parties the opportunity to respond with any further comments or evidence providing they did so by 21 February 2024. I didn't receive a response from either party, so I've proceeded with my final decision on this complaint.

**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, I see no reason to depart from the conclusion I reached in my provisional decision. I remain of the view Novuna should have carried out reasonable and proportionate checks. But had it done so, it seems likely it would have found the agreement was affordable.

**My final decision**

For the reasons outlined above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 22 March 2024.

Laura Dean  
**Ombudsman**