

Complaint

Mr D has complained about loans Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance provided to him under its “Hitachi” brand. For ease of reference I’ll refer to the respondent as Hitachi in this final decision.

He says Hitachi failed to conduct proportionate checks and if had carried out such checks it would have seen that he shouldn’t have been provided with these loans.

Background

In May 2019, Hitachi provided Mr D with a first loan for £6,000.00. This loan had an APR of 18.9% and a 36-month term. The total amount to be repaid of £7,747.92, which included interest, fees and charges of £1,747.92, was due to be repaid in 36 monthly instalments of £215.22.

Mr D successfully applied for a second loan for £8,000.00 in November 2019. This loan had an APR of 16.9% and a 60-month term. The total amount to be repaid of £11,601.60, which included interest, fees and charges of £3,601.60, was due to be repaid in 60 monthly instalments of £193.62. So when this loan was provided to Mr D he’d have to make combined payments to Hitachi of £408.84 for two and a half years, before he’d then only be left with making the required payments of £193.62 towards loan 2.

One of our investigators reviewed what Mr D and Hitachi had told us. And she thought that Hitachi hadn’t done anything wrong or treated Mr D unfairly. So she didn’t recommend that Mr D’s complaint be upheld. Mr D disagreed and asked for an ombudsman to look at his complaint.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about unaffordable and irresponsible lending on our website. And I’ve used this approach to help me decide Mr D’s complaint.

Having carefully considered everything, I’ve not been persuaded to uphold Mr D’s complaint. I’ll explain why in a little more detail.

Hitachi needed to make sure that it didn’t lend irresponsibly. In practice, what this means is Hitachi needed to carry out proportionate checks to be able to understand whether Mr D could afford to repay before providing these loans.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify it – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low or the amount lent was high. And the longer the lending relationship goes on, the greater the risk of it becoming unsustainable and the borrower experiencing financial difficulty. So we'd expect a lender to be able to show that it didn't continue to lend to a customer irresponsibly.

Hitachi provided Mr D with personal loans for £6,000.00 and £9,000.00 in May 2019 and November 2019. These loans were due to be repaid in 36 instalments of just over £215 and just over £190 respectively. And as I've explained, Mr D had to make combined payments of just over £400 to Hitachi for at least two and a half years.

Hitachi says it agreed to Mr D's applications after he provided details of his monthly income and some information on his expenditure. It says it cross-checked this against the funds being received into his bank account and information on credit searches it carried out and all of this information showed Mr D could comfortably afford to make the repayments he was committing to. On the other hand, Mr D has said he was in financial difficulty, had always had a poor credit score and was in negotiations with partially settling a loan with another lender to avoid going into bankruptcy.

I've carefully thought about what Mr D and Hitachi have said.

The first thing for me to say is that Hitachi has provided a record of the results of its credit searches. Hitachi searches appear to show that Mr D had existing credit but that his commitments at the time were relatively well maintained. And while I appreciate that Mr D has provided a copy of a letter offering to short settle, what looks to be a car finance agreement, this loan didn't show as being outstanding at the time of Mr D's applications to Hitachi.

It's unclear why this outstanding balance didn't show on Novuna's credit searches. But I've also seen that the details of this agreement do not show up on the copy of the full credit file Mr D has provided us with in support of his complaint. Indeed the only reference to the agreement in question is a possible address link. And as that agreement was recorded against a different address to the address recorded for Mr D's Hitachi applications, this may well be the reason why it didn't show on Hitachi's credit searches.

As Hitachi clearly wasn't aware of the agreement Mr D has referred to, I can't reasonably say that it ought to have factored into its decision making. And crucially, according to the credit searches, Mr D's debt total at the time of the respective applications were reasonable in comparison to his declared income and they appeared to be relatively well managed – indeed Mr D had made all of his repayments to loan 1 in full and on time by the time he applied for loan 2.

I know that Mr D says he didn't earn £50,000.00 a year at this time. He says he was self-employed and put down £50,000.00 for his earnings as this is what he hoped to earn during the course of the year. This may be the case but as Hitachi's checks on the funds Mr D's current account was receiving suggesting that this was a plausible declaration of income, I don't think that it was unreasonable for Hitachi to have proceeded with Mr D's applications on the basis of him having an income of £50,000.00 a year – particularly as there doesn't seem to be anything else obvious to have contradicted Mr D's declaration.

Furthermore, the rest of the information demonstrated that when Mr D's regular living costs and credit commitments were deducted from this income, he still had enough left over to be able to make the payments to these loans. So it's difficult for me to say that Hitachi needed to do more, or more importantly it should have decided against lending to Mr D.

I accept that Mr D's actual circumstances were not have fully reflected either in the information he provided, or the information Hitachi obtained. I know that Mr D has said that he has had mental health issues since childhood and this has meant that he's constantly been in a negative financial position. And it's also clear from the credit file information that Mr D has now provided his circumstances took a significant turn for the worse from around the middle of 2020. I'm sorry to learn of all of this and I do sympathise with the position Mr D is in.

However, the key here is whether Hitachi ought reasonably to have known this. And I don't think that this is the case here. As I've explained there wasn't anything that could have put Hitachi on notice of Mr D's mental health issues at the time of the applications and there was no way it could know that Mr D's circumstances would change in the way that they did in 2020, or the massive impact that this would have on his financial position.

Indeed, the credit file information Mr D has provided now shows he had a good credit repayment record from June 2017 to around May 2020. So given this is what the information provided now shows, I can only say that all Hitachi could do was make reasonable decisions based on the information it did have at the time of the respective applications.

I've also kept in mind that loan 2 was taken relatively soon after loan 1. But it as I've explained Mr D had maintained his payments to loan 1. And there wasn't anything to indicate that the total amount Mr D would owe, or the combined monthly payments, would be unmanageable give what Hitachi reasonably believed Mr D's income to be.

Furthermore, given the amounts involved, it wasn't immediately obvious that Mr D might have been taking loan 2 because of the effect the repayments to loan 1 was having on his finances. And there isn't anything else obvious in either of these applications which lead me to think that further checks would have been reasonable and proportionate, particularly as all of the information that was obtained showed the loans to be affordable.

As this is the case, I don't think that Hitachi did anything wrong when deciding to lend to Mr D - it carried out proportionate checks and reasonably relied on what it found out which suggested the repayments were affordable. And the second loan was provided in circumstances where Mr D's indebtedness didn't appear to be increasing unsustainably either.

So overall I don't think that Hitachi treated Mr D unfairly or unreasonably when providing him with his loans. And I'm not upholding Mr D's complaint. I appreciate this will be very disappointing for Mr D. But I hope that he will understand the reasons for my decision and that he'll at least feel his concerns have been listened to.

Although I'm not upholding this complaint, I'd like remind Hitachi of its obligation to exercise forbearance and due consideration should it intend to collect on the outstanding balance on Mr D's loans. I say this in light of the fact of what Hitachi has learned about Mr D's position during the course of this complaint.

It's also worth noting that Mr D may – subject to any jurisdictional concerns - be able to refer a complaint to us, notwithstanding his irresponsible lending complaints not having been upheld, should he consider that Hitachi isn't exercising forbearance and due consideration in the way it is required to.

My final decision

For the reasons I've explained, I'm not upholding Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 4 December 2023.

Jeshen Narayanan
Ombudsman