

The complaint

Mr O complains Mitsubishi HC Capital UK PLC trading as Hitachi Personal Finance (HPF) lent to him irresponsibly when they approved two fixed sum loan agreements, which he says were unaffordable.

What happened

In March 2019, Mr O took out a personal loan with HPF for £5,000. He was required to make 60 monthly repayments of £103.39. In June 2019, Mr O took out a second personal loan with HPF for £7,000. The second loan required him to make 60 monthly repayments of £150.09.

Shortly after taking out the second personal loan, Mr O found himself in financial difficulty and he made HPF aware he'd entered into a debt management plan.

In July 2021, Mr O complained to HPF that the loans were never affordable for him and considering his poor financial situation at the time of both applications, he struggled to quantify how they were approved. Mr O believed HPF lent to him irresponsibly.

HPF investigated Mr O's concerns and agreed both loans were unaffordable at the point of him applying, so they upheld his complaint. HPF removed all interest applied to the loans, reducing the balances Mr O owed.

HPF calculated interest at 8% on the amounts Mr O had already paid towards interest on the loans and further reduced his balance owed by these amounts.

In addition, HPF requested the removal of any negative information added to Mr O's credit file in relation to the agreements.

Mr O welcomed HPF's acknowledgement of their lending failures, however he remained unhappy with their offer to put things right, so he referred his complaint to the Financial Ombudsman Service.

Mr O said HPF's decision to lend to him on both occasions had led to a serious decline in his mental health and had been the catalyst for pushing him into financial hardship. He said HPF should write off the debts in their entirety.

One of our Investigators looked into things but said she thought the business had acted fairly by offering the redress they had, as resolution to Mr O's complaint.

Mr O didn't agree with our Investigator's opinion. He said the repercussions of HPF's failures extend beyond financial consideration and have impacted his quality of life. He remained of the opinion a fair resolution would be for HPF to write off his outstanding debt in full. Mr O also said HPF's previous assurances they would remove interest from the lending had not been carried out.

One of our Investigators reviewed Mr O's response. She contacted HPF who confirmed whilst they are unable to update their system to display customer balances without interest, the interest had been removed and the 8% compensatory interest had been applied to both

Mr O's agreements.

HPF also acknowledged since dealing with Mr O's complaint, their process to suppress future impact to credit files had been changed. As such, they arranged to suppress any future negative information in relation to the agreements from being reported to Mr O's credit file. HPF paid Mr O £205 compensation by way of an apology this action wasn't previously part of their process.

Mr O remained unhappy. Because no agreement could be reached, this complaint has been passed to me to decide.

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.

Mr O's complaint that HPF irresponsibly lent to him isn't in dispute here. HPF have upheld his complaint and acknowledged at the point of both applications, the lending shouldn't have been approved. Instead, it's what HPF have done to put things right that remains in dispute and it's this my decision will focus on.

I understand Mr O feels strongly about HPF's failures. I'm sorry to hear he's been through a difficult time. However, while I appreciate it'll come as a disappointment; I'm not upholding Mr O's complaint. I'll explain why.

Where a business has made an error, our service would usually aim to put the consumer back in the position they would've been in had the error not occurred. However, in cases where a business has lent irresponsibly this isn't entirely possible as the lending can't just be undone.

Our approach when we agree borrowing shouldn't have been approved is that the customer isn't made to repay any interest, charges and/or fees that may have been applied. However, because a customer will have had use of the funds, we would still expect them to repay the capital borrowed.

Mr O has been open when explaining to us the impact HPF's lending decisions have had on him. I'd like to thank him for his honesty and assure him I've carefully considered everything he's said.

But as an impartial service, I must consider all the information and be fair to both parties to this complaint. Mr O borrowed £12,000 in total and had use of those funds. While I sympathise with the situation Mr O finds himself in, I can't say that asking HPF to write off his outstanding debt in full is a fair and reasonable resolution to his complaint.

HPF have removed any interest charged to the loans plus applied compensatory interest at 8% simple when calculating the balances owed by Mr O. I'm satisfied that by taking these actions, HPF have done what I'd have expected them to do in the circumstances of this complaint.

HPF have also provided an explanation to Mr O as to how his outstanding balances will show on their customer system – but that he is able to obtain his balance post interest removal by either speaking to them over the telephone or via email.

HPF also explained an amendment was needed to ensure any future negative information relating to the loans were excluded from his credit file. When brought to their attention, I can

see HPF acted promptly and paid compensation to Mr O.

I'm satisfied by providing an explanation to Mr O and after considering the compensation paid, that HPF have acted fairly and reasonably here, and I won't be asking them to do anything further to put things right.

I can see that HPF have showed willingness to work with Mr O to find the best possible way forward. I would urge HPF to continue treating Mr O with forbearance and due consideration in order to agree a suitable and sustainable repayment agreement with him.

I've also considered whether HPF acted unfairly or unreasonably in some other way given what Mr O has complained about, including whether their relationship with Mr O might have been viewed as unfair by a court under s.140A Consumer Credit Act 1974.

However, I'm satisfied the redress set out by HPF results in fair compensation for Mr O in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 26 September 2024.

Sean Pyke-Milne
Ombudsman