DRN-5104540

The complaint

Mr M has complained about a loan Mitsubishi HC Capital UK PLC trading as Novuna Personal Finance provided to him. He says the loan was unaffordable and therefore shouldn't have been given to him.

What happened

On 1 March 2024 Mr M applied online for a £6,000 fixed sum loan with Novuna. The interest rate was fixed at 28.9% per annum, and the total repayable, including the interest, was £9,655.20. He had to make 48 monthly repayments of £201.15.

In April 2024, Mr M complained to Novuna to say the loan should never have been provided to him. Novuna didn't think it had acted unfairly when lending to Mr M.

Our investigator didn't recommend the complaint be upheld. She thought Novuna had carried out reasonable and proportionate affordability checks, and Novuna made a fair decision to lend.

Mr M didn't agree, so the 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.

The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.

CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case. What is proportionate will vary with each lending decision and considers things such as (but not limited to): the amount of credit, the size of the repayments, the cost of the credit, the purpose the credit was taken out for and the consumer's circumstances.

Mr M declared on the application he was employed and earned an annual salary of £28,000. He said he wanted the loan to consolidate existing debts, and that he was single with no dependents.

Novuna verified Mr M's income (£1,921 net) using an automated income verification tool provided by one of the credit reference agencies, and carried out an affordability assessment using Mr M's monthly mortgage (£484) and payments to creditors from his credit report (£353). That left £883 a month for Mr M's other living expenses, which Novuna said statistical data showed was generally sufficient to meet the other expenses typical to someone in similar circumstances to Mr M. CONC allows businesses to use statistical data to estimate a customer's non-discretionary expenditure unless they have reasonable cause to suspect that the data might not be reasonably representative in the customer's specific situation.

I haven't seen any reason that Novuna might have thought Mr M's non-discretionary expenditure might significantly differ from statistical data. His credit report shows he'd not defaulted on any accounts or missed any payments to creditors. Although he had debts totalling around £10,800, they were all being well-managed, with no indicators of any difficulties and he said he was borrowing this money to consolidate £6,000 of his debt.

Mr M's view is that Novuna should have been aware of his previous financial difficulties, with him saying he had hundreds of payday loans back in 2021 and he'd taken out recent loans in the weeks running up to this loan. I wouldn't expect Novuna to go back over two years to look at Mr M's financial circumstances back then when considering whether to lend what is a relatively modest unsecured loan (in terms of the borrowing amount and monthly payments) and that information wasn't available on the credit search it did. His circumstances over two years ago aren't as relevant as his circumstances at the time of the lending as things change. At the time he took out this loan, Mr M's current circumstances appeared stable and well-managed based on the information Novuna received from the credit check it undertook. Whilst Mr M took out some other loans in the weeks before this, those searches and debts weren't visible to Novuna so I can't say it should have been aware of those.

Mr M has also said Novuna should have questioned where the debt came from, but that isn't something it was required to do. And even if it did ask Mr M, I don't think this would have changed the outcome. On balance I think it's highly unlikely Mr M would have disclosed that he had a recent gambling addiction relapse, having previously got it under control in 2021. And I don't think this level of debt alone meant Novuna ought to have obtained Mr M's bank statements – there were no other indicators of financial difficulty and all the other checks Novuna did suggested that the loan was affordable.

As this was Mr M's first loan with Novuna, I'm satisfied that it was reasonably entitled to believe that Mr M would settle £6,000 of his existing debts with the proceeds from this loan as that is what he said the purpose of the loan was when he applied for it. And that it wouldn't be increasing Mr M's existing indebtedness in a way that was unsustainable or otherwise harmful. I accept that Mr M didn't use the funds in that way, but I don't think there was anything to alert Novuna to the fact that would happen.

Novuna could only make a reasonable decision based on the information it had available at the time. All Novuna could do was take reasonable steps to ensure the payments would be affordable. Novuna wasn't in a position to close Mr M's other accounts or prevent Mr M accruing further debts elsewhere afterwards.

That said, I'm aware Mr M made a further four loan applications to Novuna in the months after he took out this loan, all of which Novuna either declined or the application didn't proceed once Novuna asked Mr M for further information, such as bank statements. Novuna did further checks on those due to the proximity to taking out this loan, and the fact further debts by then had appeared on Mr M's credit file, indicating a worse financial position.

It's only fair and reasonable for me to uphold a complaint in circumstances where a lender did something wrong. And, in this case, I don't think that Novuna did anything wrong when bringing about Mr M's loan. The key thing here is that it carried out reasonable and proportionate checks which suggested the repayments would be affordable.

So overall I don't think that Novuna treated Mr M unfairly or unreasonably when bringing about his agreement. In reaching my conclusions, I've also considered whether the lending relationship between Novuna and Mr M might have been unfair to Mr M under section 140A of the Consumer Credit Act 1974. However, for the reasons I've explained, I don't think Novuna irresponsibly lent to Mr M or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A or anything else would, given the facts of this complaint, lead to a different outcome here. I'm therefore not upholding Mr M's complaint.

I appreciate this is likely to be very disappointing for Mr M – as he clearly feels strongly about this matter and I've seen what he's said about having trouble making his loan payments. But I hope he'll understand the reasons for my decision. Although I'm not upholding Mr M's complaint, I would remind Novuna of its obligation to exercise forbearance and due consideration, given what Mr M has said – and what Novuna knows - about his financial position.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 21 March 2025.

Julia Meadows
Ombudsman