

The complaint

Mrs O has complained Mitsubishi HC Capital UK PLC limited trading as Novuna (Novuna), is holding her liable for a loan she didn't take out.

What happened

Mrs O said she was victim to a scam. She said she received an unexpected call from a third party about investment opportunities. And then later the same day she received an email which included a link that allowed her to register to a trading platform. On registering, she received a call to let her know a financial adviser would soon be in touch.

A third party purporting to be a financial adviser subsequently contacted Mrs O a couple of days later and recommended Mrs O invest £100 which she proceeded to do. She was then recommended other investment opportunities.

The third party instructed Mrs O download the any desk app on her phone. And on their request, she states she went on to share the security code that she received which she said allowed the third party remote access to her phone going forward.

Mrs O states she shared copies of her passport and driving licence, and other personal information with the third party.

Mrs O explained that the third party applied for a loan with Novuna on her behalf for £20,000 on 15 July 2024. She states she was unaware of the loan application and did not notice it had been paid into her bank account. She said she raised concerns with the provider and her bank when she received confirmation of the loan in the post. Novuna said it was made aware of Mrs O's concerns on 25 July 2024.

After looking into the matter, Novuna said they would be holding Mrs O liable because they believed Mrs O had applied for the loan. It said the loan application was made using Mrs O's genuine details and the ID process was completed in a live environment and the money was sent to Mrs O's genuine bank account. It also explained Mrs O had confirmed that she had consented to the loan for the purpose of it being used for the investment and that she had received notification from Novuna of the loan prior to it being received.

Mrs O has brought her complaint against Novuna to this service along with other complaints relating to loan applications with other providers that also took place around the same time. Mrs O said they were also made by the same third-party.

Our investigator considered Mrs O's complaint against Novuna but did not uphold. She was of the view that Mrs O was aware of the loan as the proceeds were paid into her bank account and that she had allowed the third-party access to her phone by divulging the security code.

As, Mrs O remained unhappy with the outcome, she asked that an ombudsman consider her complaint.

She maintained she was unaware of the Novuna loan application at the time it was made and contacted the bank on receiving a letter alerting her to the application. Mrs O also felt that our investigator was biased in her investigation, based on the previous view of Mrs O's complaint against another loan provider regarding two fraudulent loan applications made some days earlier under similar circumstances.

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.

It's important to highlight that with cases like this I can't know for certain what has happened. So, I need to weigh up the evidence available and make my decision on the balance of probabilities – in other words what I think is more likely than not to have happened in the circumstances.

Having done so, I've reached the same outcome as our investigator for broadly the same reasons, in that it is reasonable for Novuna to pursue Mrs O for the loan. I realise this will be upsetting for Mrs O to hear, but I'd like to assure her I haven't taken this decision lightly. I'll explain why.

I don't doubt that Mrs O has been the victim of a cruel scam, and it's clear that ultimately, it's the scammer that is responsible for the loss Mrs O has experienced and I have seen that Mrs O has brought other complaints to this service where loans were taken with other providers in her name around the same time. But on considering this matter, my focus here is on the actions of Novuna and whether it has acted reasonably towards Mrs O.

I've carefully considered all the evidence presented including information from Novuna and Mrs O, to get an understanding of what happened. This includes submissions made on the other cases, so I can understand the sequence of events fully. But I'd like to assure Mrs O that if I don't mention a particular point, it's not because I haven't considered it, but I've focussed instead on what I believe to be important to the outcome of this complaint.

Firstly, existing consumer credit legislation states that a customer can't be held liable for a loan if it was taken out by an unauthorised party. So, what I have to decide here is whether or not Mrs O applied for the loan herself or authorised someone else to do so on her behalf.

I understand Mrs O said she downloaded remote access software to her phone on the instruction of the third party and then shared the security code that she received. And she did not realise the implications of doing so at the time. Mrs O also mentions that she was unaware of the loan application made with Novuna and it only came to her attention when she subsequently received a letter from the loan provider.

I have considered what Mrs O has said, but on reviewing what Novuna has told us and her complaint against another loan provider, it seems like there is a discrepancy between what Mrs O had said previously about the loan applications and what she has provided here. Specifically, I can see Mrs O previously told us she was aware that loans with another provider had been applied for on her behalf and that the third party had clarified that they were to be used to fund her investment. The loan applications made with the other provider were also made a week before the loan application made with Novuna, and it seems Mrs O had formerly agreed to using the proceeds of those loans to fund the investment.

Novuna states Mrs O, when asked as part of their investigation, explained she agreed to the scammer taking the loan because she was under the impression it was going to be used to

fund the investment. And that Mrs O transferred the funds to her Monzo account and then on to the third party as she was under the assumption they would be converted to bitcoin.

But Mrs O does not agree that she should be held liable for the loan in the sense that she did not agree to it. With the benefit of hindsight and realising that she's been the victim of an elaborate scam, I can fully understand why Mrs O thinks that. But the issue here is that at the time of the application, as far as Novuna was concerned, it was a legitimate application which was verified and checked using information belonging to - and as I understand - supplied by Mrs O, which was used to satisfy Novuna's loan application requirements. This included Mrs O providing a live selfie, which was requested via a link sent to her and where she was required to be present.

Mrs O accepts she provided a selfie and said she was led to believe it was part of the registration process for the platform, but Novuna has provided evidence to show what Mrs O would have received. The link that was sent to Mrs O and that she was asked to visit and consent to, shared scam warnings. I can see it particularly highlighted the use of any desk and using finance for investment opportunities as a tactic used by criminals to scam individuals, which on review I think supposedly would have raised some red flags for Mrs O.

I can see that Mrs O had also by this point, previously provided a selfie to another loan provider as part of its loan application checks. So, this was not the first time she had gone through this type of check process. The information provided suggests it was clear to Mrs O that the selfie was required to complete an application for personal finance with Novuna and given Mrs O had been led to believe she had already successfully made investments on the platform, from what I can see it should already have been considered established. So, I am persuaded Mrs O was aware the selfie was for the purposes of the loan application.

Novuna has provided other supporting information relating to the loan application made and I can see that confirmation of the loan agreement was sent to Mrs O's correct email address and that a letter was also sent to the address this service has recorded for her.

Mrs O it seems initially told Novuna she received the email confirming the loan prior to the funds being paid into her account but then later told our service that it was only on receiving confirmation of the loan in the post that she contacted Novuna. So, there are some inconsistencies in Mrs O's testimony. But considering the loan application with Novuna wasn't the first, on balance it looks like Mrs O was aware what it was for.

Given everything presented, I don't think Novuna would have been alerted to anything to suggest that the loan was being applied for because of a scam. The details entered into the loan application were provided by Mrs O herself, and the loan proceeds were paid into an existing bank account in Mrs O's name. So, I think Novuna acted in good faith, based on the information it was given when approving the application. And I'm not persuaded there was cause for Novuna to suspect anything untoward.

Based on what Mrs O has told us, I acknowledge that she has said it was the scammer who ultimately applied for the loan on her behalf and in doing so agreed to the terms and conditions set out by Novuna. But I'm conscious that Mrs O has already mentioned that she was aware of other loans, taken earlier in the month, and was aware of what the scammer had proposed to do with the proceeds. And the funds were also paid into her bank account.

So even if I'm wrong about her awareness of the application itself, I remain satisfied she was aware of the funds crediting her account and then being moved on to the investment platform. Despite Mrs O having the opportunity to question where the money had come from and stop it being spent, I can see she raised no concerns.

As such I think it more likely than not that the loan with Novuna was applied for on her behalf by an authorised third party, and that she was aware that the proceeds would be invested. Given this, I'm satisfied Mrs O can fairly and reasonably be held liable for repayment of the loan.

I'm aware this has been a very difficult time for Mrs O and that the impact of the scam has been significant. But taking everything into account, as I believe it's most likely Mrs O knew about the loan, I can't say Novuna has acted unfairly in holding Mrs O responsible for repaying it.

Novuna however must be mindful of the position Mrs O finds herself in. This is a lot of money that Mrs O is now liable to repay, and she has raised concerns about how she will do so. I would expect Novuna to be sympathetic to her circumstances and give consideration to this prior to deciding on an appropriate repayment plan which is agreeable and reasonable for both parties.

My final decision

For the reasons given, my final decision is not to uphold Mrs O's complaint against Novuna.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 26 May 2025.

Sukhdeep Judge
Ombudsman