

The complaint

Mr R has complained about the way Mitsubishi HC Capital UK PLC trading as Novuna Vehicle Solutions ("MHCC") handled an application for a lease agreement.

What happened

The circumstances of the complaint are well known to the parties so I won't go over everything again in detail. But, to summarise, Mr R applied for a lease agreement with MHCC for a car in December 2024. He dealt with a broker I'll call "B". As part of the application Mr R disclosed his income including receipt of adult disability payment. He said a credit check was completed successfully but MHCC asked further intrusive questions about his disability that he didn't feel were relevant, including whether the disability payment was his. He said a second check was carried out and he complained to B and MHCC. He said he'd been discriminated against and requested compensation. He said he'd lost faith in MHCC and B and he felt like he'd need to go elsewhere and pay more for a lease because of the experience he'd had.

MHCC responded to say it couldn't comment on the conversation Mr R had with B. But B told it on all personal finance applications customers are asked to confirm they can afford the repayments, whether they see any future affordability issues, and whether there are any anticipated changes in their circumstances that could affect them. MHCC said the team that spoke to B during the application advised there was a voluntary disclosure of adult disability payments being received representing over 20% of net monthly income and that it asked B to undertake a Vulnerable Person Assessment which hadn't been completed initially. MHCC said it asks this to understand if its customers have any special requirements relating to the vehicle or agreement allowing it to make sure the lease is a suitable financial product.

MHCC said it asked B to resubmit the application with the extra assessment but there was only one credit search carried out. It said it thought it had acted fairly in the circumstances.

Mr R remained unhappy. He said his receipt of disability payment triggered further checks and that he was treated differently because of his disability status with extra hurdles and scrutiny applied. He said MHCC automatically categorised him as vulnerable without any evidence. He said MHCC bundled up questions about support needs with questions about vehicle modification demonstrating it jumped to conclusions about disabled people. He said MHCC could have asked if he considered himself vulnerable or required any additional support. Mr R referred his complaint to the Financial Ombudsman.

MHCC explained it had spoken to B, which said it had carried out a vulnerability analysis and determined Mr R didn't need further assistance, as part of the original application. But B accepted this wasn't recorded on the register as part of its process and so full training would be given to the team as a refresher.

Our investigator asked MHCC why it wanted clarity on Mr R's disability payment. MHCC responded to broadly say it did not, at any stage, ask for further information about Mr R's disability payment. It said it wasn't concerned that the payment represented 20% of Mr R's total income and that his application was approved in the knowledge of that payment. MHCC

said its enquiries solely related to whether a lease agreement was an appropriate product given Mr R would never take ownership of the vehicle; there were limited options to extend; if Mr R needed to exit the contract early due to a disability there'd be considerable exit fees; if the vehicle required modifications they'd be required to be removed at the end of the lease. MHCC said it wanted to make sure a lease was the best option given there were other options available such as hire purchase. It said it asked B to requalify Mr R to understand whether it had followed its own process. I understand the application was agreed, but Mr R didn't proceed.

Our investigator didn't make any recommendations. But Mr R didn't agree with the outcome. He said the line of questioning was invasive, offensive and discriminatory. It was unfair to dismiss B's actions given it was acting on MHCC's behalf. He questioned why additional searches or applications were carried out. And that he was forced to seek alternative lenders at a higher cost and the process caused distress and inconvenience.

I issued a provisional decision that said:

Mr R applied for a lease agreement with MHCC. I think this would have related to a regulated consumer hire agreement, and our service is able to deal with complaints about those sorts of agreements.

In certain circumstances lenders can be held responsible for antecedent negotiations carried out by brokers in relation to goods sold or proposed to be sold under certain types of agreements. But those provisions in the Consumer Credit Act 1974 don't apply to consumer hire (lease) agreements. So MHCC can't fairly be held liable for everything that may have gone wrong with B. But MHCC is responsible for the actions it took itself. Mr R has complained and thinks MHCC has discriminated against him. I've thought about whether MHCC has acted fairly in its dealings with him.

I first want to say that I'm very sorry Mr R is unhappy about the questions he was asked. I can't imagine how he must feel. But I thank him for taking the time to refer his complaint.

I think the key questions I need to ask myself, taking into account what I've said above, is whether the questions MHCC asked Mr R or B off the back of the original application were fair. And has it acted unfairly in any other way.

On the one hand, Mr R shouldn't have been treated less favourably than someone else because of a protected characteristic. But on the other hand, it's not unreasonable for MHCC to want to know the product it was offering was suitable for Mr R.

I'm satisfied B failed to record whether Mr R needed any further assistance on the application. B confirmed this to MHCC. And I think this is primarily what led to MHCC having to ask further questions. I can't hold MHCC liable for B's error when putting the application through. But I've thought about what steps MHCC then took. It asked B:

- Can you please advise why the customer is in receipt of the Adult Disability Allowance and if you have undertaken a vulnerability analysis as per your own vulnerable persons policy?*
- Is Contract Hire considered a suitable product for the customer and will the customer require any additional support from Novuna? Would the customer require any modifications to the vehicle?*
- Given the customer receives a Disability Allowance, we would expect the customer to have been flagged as a VP on the proposal. Please can the customer be repropose with this disclosed?*

I think MHCC had a legitimate reason to want to know a bit more about the income Mr R was receiving. Disability payments can be made for several different reasons. The payments might be for the benefit of the person that's being paid, or they could be for another family member for example. The sums used could be part of the receiver's disposable income or they could be earmarked for specific purposes. I don't think it was necessarily unreasonable for MHCC to want to find out a bit more, particularly given its requirements to undertake a fair creditworthiness assessment.

I'm also conscious that lease agreements work differently to other sorts of finance agreements. The customers don't get the option to own the goods and the options to end the lease early can lead to charges that are different to other finance arrangements. So it's important for MHCC to know the lease is suitable for the applicant, particularly if the vehicle did require any modification.

But I also think MHCC's questions should have been phrased differently. Some of its responses seem slightly contradictory, which I think has also added to Mr R's frustration. It said it didn't need to know about Mr R's disability payment (and that this wouldn't have been an appropriate line of enquiry) but it also asked B why Mr R received that payment. Even though the issue seemed to stem from B's initial mistake, I don't think MHCC's further questions were set out very well. I think it would have been more appropriate for MHCC to have found out if Mr R had vulnerabilities rather than assuming he had. It could have explained the key features of a lease agreement. And it could have explained a bit more about why it needed further information relating to vulnerable customers, if that was still required.

So on the one hand, I think MHCC had fair grounds to ask some further questions. I think it mainly needed to do that because B didn't complete the application steps properly – which MHCC wasn't responsible for. But on the other hand, I think the language used should have been better. And Mr R said it upset him.

It's not our role to say whether a business has acted unlawfully or not – that's a matter for the Courts. Our role is to decide what's fair and reasonable in all the circumstances. In order to decide that, however, we have to take a number of things into account including relevant law and what we consider to have been good industry practice at the time. So although it's for the Courts to say whether or not MHCC has breached the Equality Act 2010, we're required to take the Equality Act 2010 into account, if it's relevant, amongst other things when deciding what is fair and reasonable in the circumstances of the complaint.

Overall, I think MHCC fairly asked Mr R further questions in the circumstances. But I think the way it did that led Mr R to feel like he was being treated less favourably than someone else because of a protected characteristic. I think MHCC should pay Mr R £150 in recognition of that. No amount of money can change what happened. And I wouldn't award a specific sum of compensation for the time it took for Mr R to complain. But I think MHCC made a mistake that clearly impacted Mr R at the time and so this level of award fairly reflects that.

Mr R mentioned he was left to choose a much higher rate elsewhere. But I've not seen that he took up another rate. And even if he had I'd also need to consider whether any losses were reasonably foreseeable; directly flowing from MHCC's mistake; and whether Mr R had taken steps to mitigate. I've not seen enough evidence to show MHCC needs to do any more than I've highlighted above.

Finally, with regards to the searches MHCC carried out, Mr R has shown us MHCC completed a credit search for the lease agreement and an identification search. I don't think either of those were unfairly carried out. MHCC has said there were two applications

received on 10 and 11 December 2024 but there was only one reference number. In practice this means that Mr R's second application reused the first application's credit check which is why there wasn't an extra one recorded on Mr R's credit file. Based on what I've seen I think the second application was required because B needed to include the information it had failed to include the first time – which led to MHCC's follow up questions I've highlighted above. I don't think I can fairly say MHCC was at fault for there being two applications. In any event, I don't think they've caused detriment to Mr R's credit file.

Mr R accepted the proposed outcome. MHCC responded to broadly say it was sorry Mr R was left feeling upset. It said while it did ask B to obtain further details following a voluntary disclosure of disability related income, this was part of its obligation to assess affordability and sustainability. It said it didn't instruct B how to phrase the questions. MHCC said it was concerned it was being held accountable for the tone and wording used by a third party.

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.

I'd like to thank the parties for their responses. I've not received anything materially new to consider so I see no reason to depart from the conclusion that I reached in my provisional decision. For the avoidance of doubt, I agree MHCC generally isn't liable for antecedent negotiations carried out by B because section 56 of the Consumer Credit Act 1974 doesn't apply to lease agreements. I think it's fair MHCC wanted to make sure the product was suitable and affordable. And I didn't agree with everything that Mr R said went wrong. But as I explained in my provisional decision, I can consider the actions MHCC took itself. The questions MHCC asked B were sent to Mr R with the same sort of wording. I think MHCC should have phrased those differently. I think the way things were set out led Mr R to feel like MHCC assumed he was vulnerable. And I also set out I think its responses were slightly contradictory. While I don't think MHCC was trying to upset Mr R, I think the impact of what happened was that he felt like he was being treated differently to someone without a protected characteristic, and so I still think some compensation to reflect that is fair.

My final decision

My final decision is that I uphold this complaint and direct Mitsubishi HC Capital UK PLC trading as Novuna Vehicle Solutions to pay Mr R £150.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 July 2025.

Simon Wingfield
Ombudsman