

## **The complaint**

Mrs P complains that Startline Motor Finance Limited acted irresponsibly by approving her car finance application, because it wasn't affordable for her.

## **What happened**

Mrs P applied for a hire purchase (HP) agreement with Startline for a car. The finance was for £14,605.52, repayable over 60 months, with monthly instalments of £326.19. Her application was approved, and the agreement started on 3 January 2017.

For the first 18 months Mrs P made all the required payments on time by direct debit. From August 2018 she continued to make payments - mainly by card instead of direct debit. But by February 2020 she was struggling to pay.

Startline have told us they took the car back on 20 January 2021 and later sold it, reducing the amount Mrs P owed. Since then, she's been making payments of £50 a month towards the outstanding balance.

Mrs P complained to Startline that they shouldn't have given her the finance. Startline said they hadn't done anything wrong, so Mrs P brought her complaint to us.

Our investigator didn't think Startline had done enough at the application stage to check whether the finance was affordable for Mrs P. And she didn't think they should've approved the finance. She said Startline should refund the £500 deposit Mrs P had paid, plus interest, and remove any adverse information about the agreement from her credit file.

The investigator said Mrs P should pay Startline for the use she'd had of the car, but that a fair amount would be £225 per month. She said if Mrs P had paid more than that, Startline should refund the overpayments, with interest. Or if any amount was still owed, Startline should agree an affordable repayment plan with Mrs P.

Startline disagreed with the investigator's view - they said they'd undertaken a thorough creditworthiness assessment in line with the requirements. I'll summarise the main points they made:

- Although Mrs P had previously defaulted on several credit lines, this had mainly been in 2013. There were no significant concerns about her credit performance since then.
- They'd noted Mrs P had recently been managing as much as £893 in monthly credit payments. As several of these had been repaid, they felt it was reasonable to assume she could afford additional credit.
- The application hadn't required Mrs P to say what her income was at the time. Startline had estimated it to be £22,000, based on her stated occupation. They weren't aware that she'd been on a zero-hours contract. But they'd seen her income had been stable over the last 12 months, so they thought it was reasonable to assume this would continue even under a zero-hours contract.
- Recent credit reference agency data showed Mrs P had been repaying £395 each month for an unsecured loan she'd taken out in February 2018, without any issues.

They felt this showed she was able to make payments to this loan and Startline's agreement at the same time without any problems.

Startline asked for the case to be reviewed by an ombudsman, so it's been passed to me to make a final decision.

### **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.

Our website explains how we handle complaints about unaffordable and irresponsible lending. I've used this approach to help me decide Mrs P's complaint.

Before they approved Mrs P's application, Startline were required to carry out checks to satisfy themselves she'd be able to afford the repayments without adversely impacting her financial situation – and that she'd be able to keep that up throughout the period of the agreement.

There was no set list of checks Startline had to carry out. But they had to make sure the checks they completed were reasonable and proportionate in the circumstances. I'd expect Startline to have taken into account things like the amount of finance involved, the monthly repayments, how long Mrs P would be making these repayments, and her circumstances at the time of the application.

This agreement was for around £14,600 of credit, requiring Mrs P to make payments of approximately £326 every month for the next five years. I think the fact that she'd be repaying a relatively large amount of credit over a long period of time increased the risk that this might not be sustainable for her. I'd expect the checks Startline carried out to reflect that.

#### Did Startline carry out proportionate checks?

Startline say they carried out thorough checks, and properly considered what that showed about whether the finance was affordable for Mrs P. They've told us they looked at the information she supplied in her application, together with credit reference agency information.

Startline have provided a screenshot showing the employment information Mrs P would've given them in her application. This shows she was permanently employed on a full time basis, and that she'd been in that role for approximately two years.

I haven't seen a copy of all the information Startline's checks revealed. Without seeing that, I'm unable to satisfy myself that their checks were reasonable and proportionate in this case.

#### What would Startline have found if they'd done proportionate checks?

I think a proportionate check would've involved finding out about Mrs P's income and expenditure, as well as her credit history, to decide whether she could afford to repay the amount of credit she'd applied for.

##### **(i) Income**

Startline say the application didn't ask for Mrs P's income, but they estimated she'd be earning at least £22,000 per year based on her stated occupation. They told us credit reference agency information showed her income had been stable for the past 12 months.

If Mrs P had an annual salary of £22,000, she'd have been taking home around £1,500 per month. I don't think it was reasonable for Startline to assume Mrs P would be earning at least that amount, based on the limited amount of information they'd got. Mrs P has told us she was in fact on a zero-hours contract, so her wages varied every month.

I've looked at the last three bank statements Mrs P would've received before she applied for this finance. I wouldn't necessarily expect Startline to have asked to see these. But I think Mrs P's bank statements give a good indication of what they would've discovered if they'd asked for more information about her income.

In the three-month period I looked at, Mrs P's statements show her pay ranged from just under £215 to just over £390 a month. Including child benefit allowance, I calculate her average income to have been just over £360 a month.

The agreement with Startline required Mrs P to make monthly repayments of just over £326. This would leave her with less than £10 a week to spend on other essential expenditure.

Without even considering her other financial commitments and essential living expenses, I wouldn't consider this monthly repayment to have been affordable for Mrs P in a way she'd be able to sustain for the next five years. This finance was for a car, so at the very least she'd have to pay for road tax, insurance, and fuel.

For completeness, I've also considered her essential living expenditure.

## (ii) Expenditure

Mrs P has provided a copy of her credit file. This may not contain exactly the same information Startline would've obtained from the credit reference agency they used, because there's no requirement for lenders to share information with every credit reference agency. But I think Mrs P's credit file gives an indication of the kind of information Startline were likely to have seen.

The credit file shows that, at the time of her application to Startline, Mrs P would've already been making repayments for two loans she'd taken out in March and November 2016, as well as an HP agreement she'd taken out in May 2016. Her bank statements show she was in fact making monthly repayments to four or five different lenders and debt recovery agents.

Startline say credit reference agency data showed Mrs P was maintaining her existing credit accounts well, including a loan. They say she was also managing to keep up to date with payments of £310 a month for her existing HP agreement – and that they required her to pay that off before they'd accept her application for the new agreement.

I don't think it's reasonable to assume the new agreement was affordable for Mrs P because she'd kept up to date with repayments on her previous HP agreement - or because she managed to keep up the repayments on the new agreement for some time. I wouldn't consider it unusual for her to prioritise those repayments, because many people regard their car as essential to get to work, or to take their children to school.

The key point for Startline to consider was whether she could afford to keep up the repayments without adversely affecting her financial situation.

Mrs P has told us her husband paid most of the household bills, but that she paid for some of their food and clothes for the children. Having reviewed how much she was paying each month towards her existing credit commitments, insurance, food, and fuel, I can see her essential expenditure significantly exceeded her income every month.

Mrs P told us she had to borrow money from her husband and her mum to make ends meet. I find this to be consistent with the bank statements I've seen, which show money being transferred from family members.

For these reasons, if Startline had carried out reasonable and proportionate checks, I don't think they could reasonably have concluded that Mrs P would be able to make the required repayments in a way she'd be able to sustain over the five year period. So, I'm satisfied that her application shouldn't have been approved.

### **Putting things right**

As I don't think Startline should've approved Mrs P's finance application, I think it would be fair and reasonable for them to refund everything she's paid under the agreement, minus a deduction for the fair use she's had of the car.

There isn't an exact formula for working out what fair use would be. But in deciding what's fair and reasonable, I've thought about the amount of interest and charges applied to the agreement, the use Mrs P had of the car, and what reasonable costs she'd likely have incurred instead if she'd never entered into this agreement.

Having thought about this, I agree with our investigator that it's fair for Mrs P to pay for the fair use she's had of the car based on a rate of £225 per month. So, Startline should now recalculate the balance of the account; working out the total amount Mrs P has paid and deducting an allowance for her fair use of the car based on that rate.

If Mrs P has paid more than the fair usage allowance, Startline should refund any surplus to her. They should add interest to each amount to be refunded, calculated from the date Mrs P made each overpayment to the date of the refund. And as I don't think this agreement should've been approved, I think it's fair that Startline should remove any adverse information that's been recorded on Mrs P's credit file about it.

However, if any outstanding balance remains, Startline should arrange an affordable repayment plan with Mrs P. I'd remind them of the FCA requirement to treat customers in financial difficulties with forbearance and consideration. Once any outstanding debt has been fully repaid, Startline should remove any adverse information that's been recorded on Mrs P's credit file about it.

### **My final decision**

For the reasons I've explained, I uphold this complaint and direct Startline Motor Finance Limited to:

- Refund the £500 deposit, plus 8% simple interest calculated from the date Mrs P paid it to the date it's refunded.
- Recalculate the balance of the account; adding up all the payments Mrs P has made and deducting an allowance for her fair use of the car for the period of time she had it, based on a rate of £225 per month.

- If adjusting the balance leaves the account in credit:
  - Refund the surplus amount to Mrs P, plus 8% simple interest per year calculated from the date of each overpayment to the date it's refunded,
  - Remove any adverse information that's been recorded on Mrs P's credit file about this agreement.
- If any outstanding balance remains:
  - Agree an affordable repayment plan with Mrs P - and treat her with forbearance and consideration.
  - When the debt has been fully repaid, remove any adverse information that's been recorded on Mrs P's credit file about it.

If Startline decide tax should be deducted from the interest element of the award, they should tell Mrs P how much they've taken off. And if she asks for one, they should give her a tax deduction certificate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 24 November 2023.

Corinne Brown  
**Ombudsman**