

The complaint

Miss G complains that Startline Motor Finance Limited (“Startline”) irresponsibly approved a hire purchase agreement with her that she couldn’t afford.

What happened

In August 2022 Miss G acquired a used car. She paid £99 to take possession of the car, and set up a hire purchase agreement with Startline to cover the remaining £6,900 cost. But Miss G says she realised she couldn’t afford the car the following day. So she tried to return it and cancel the finance agreement.

The agreement required Miss G to make 59 monthly payments of £176 followed by a final payment of £186. The total amount payable for the car and finance was £10,680.

The company that sold the car appear to have refused its return. And to cancel her agreement with Startline, it seem Miss G would have had to find money from somewhere else to pay for the car. She didn’t have the money to do that, so the agreement continued.

In response to Miss G’s complaint about the affordability of the agreement, Startline said they’d carried out several checks to ensure she could afford it. They listed the details they had from Miss G – that she was unemployed, had two dependants, and an income of £1,628 per month. They noted some of her historic credit use had issues, but noted these had improved more recently. They felt the agreement had been affordable.

Miss G wasn’t satisfied with this response, so she came to us. One of our investigators felt Startline hadn’t completed a reasonable and proportionate creditworthiness assessment. But she felt that if they had, they’d still have said Miss G could afford this credit agreement.

Startline didn’t respond. But Miss G disagreed with our investigator’s view, particularly around her income and expenditure. She felt money she received from benefits shouldn’t be considered as income, and listed some of the debts she was repaying at the time.

With no agreement to resolve this complaint, it’s come to me for a formal 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.

I’ll explain below why I’ve decided Startline don’t need to do anything more to resolve this complaint. That means I’m not upholding it, even though I’ve found Startline should have done more to check Miss G could afford to repay the money she borrowed.

The rules that apply to credit agreements are set out in the consumer credit sourcebook (“CONC”) of the Financial Conduct Authority’s handbook. Section 5.2A of CONC is relevant here, as – among other things – it talks about the need for businesses like Startline to complete reasonable and proportionate creditworthiness assessments before agreeing to

lend someone money.

I'm going to consider these rules in the following stages:

1. Did Startline complete reasonable and proportionate checks to satisfy itself that Miss G would be able to sustainably repay the borrowing?
 - a. If they did, was their decision to then lend to Miss G fair?
 - b. If they didn't, would reasonable and proportionate checks have shown that Miss G could sustainably repay the borrowing?
2. Did Startline act unfairly or unreasonably in some other way?

Did Startline complete reasonable and proportionate checks to satisfy itself that Miss G would be able to sustainably repay the borrowing?

What's considered reasonable and proportionate will vary depending on the details of the borrowing and the borrower's individual circumstances.

Here, the borrowing was to last for a long time – five years. The longer span brought with it more opportunity for Miss G's circumstances to change, affecting her ability to keep making the payments needed. So I'd expect to see Startline make a thorough check of her circumstances before offering to lend to her.

In their response to this complaint, Startline have referred to some of the details I'd expect them to have looked at: Miss G's income and some of her history using credit, including some of the times she'd had problems repaying what she'd borrowed.

But they've missed some of the details I'd expect them to have looked at too. Startline mentioned Miss G's income, but also noted that she was unemployed. They should be able to show us what they did to understand the source of Miss G's income, and how sustainable that would be for the next five years.

Startline haven't sent us the evidence to show what checks they carried out. The rules in CONC – specifically CONC 5.2A.33(5) – say they should keep a record that demonstrates their assessment was completed to a reasonable standard.

So for the first stage of my decision, I find Startline didn't complete reasonable and proportionate checks in the circumstances of this case. I find they should have asked Miss G for more information about the source of her income and how likely this was to continue unchanged.

Would reasonable and proportionate checks have shown that Miss G could sustainably repay the borrowing?

I can't be certain what questions Startline would have asked Miss G, or what evidence they'd have asked her to provide. But I've seen some bank statements that show Miss G's income and her spending around the time she took out this loan. I view the information these statements give me as indicative of what Startline would have found if they'd completed a reasonable check.

Miss G's referred to her income coming from benefits, and this being a reason not to

consider it in a creditworthiness assessment. I don't agree with that position. I can appreciate certain tax calculations don't factor in certain benefits when calculating income. But it's still money Miss G received to spend as she chose on her various day-to-day expenses, including transportation and getting around. I find it'd be reasonable to consider the benefits she received as income for the purposes of her creditworthiness assessment.

The bank statements I've seen show some of the benefits Miss G received were one-off payments. Taking these away, the average Miss G received over the three months prior to taking Startline's finance was £1,680 per month. So Startline appear to have based their decision on a reasonable figure for Miss G's income.

Some of the benefits related to Miss G having young children. As such, those could be expected not to change too much over the five years of the agreement. Others related to Miss G being unemployed. This had potential to change, but in a way that would be likely to replace one source of income for another. So Startline could have reasonably regarded Miss G's income as reliable in their creditworthiness assessment.

A proportionate check would have then looked at Miss G's fixed living costs. I understand her residential rent wasn't paid from the income I've seen on her bank statements, so I don't need to factor that in to the £1,680 per month. Miss G's provided a list of her monthly gas, water, electricity and food costs. The numbers she's provided for these total about £650 per month.

Miss G's also listed a credit card and some other fixed repayment commitments she's got. These total about another £100 per month.

I can appreciate Miss G's statements show she had an overdraft. But I can also see that this was sustained by Miss G transferring most of the money she received to another account in her name. Had she not done that, her income looks like it should have been able to reduce her overdraft borrowing.

Miss G's not shown us the details of her other account, so I can't see why she was putting her money there instead of paying off more of her overdraft.

But Miss G's list of living expenses looks to cover all of the essentials I'd expect Startline to have considered when assessing Miss G's ability to make the payments needed for this agreement. After those are accounted for, the rest of Miss G's income – which I make to be about £900 – appears not to be committed to fixed costs.

With that information, I find Startline could reasonably have concluded Miss G had income available to allow her to afford the £176 per month needed for this agreement.

Did Startline act unfairly or unreasonably in some other way?

The agreement document I've seen has set out the terms of the finance Startline gave to Miss G. It appears the finance has been set up in line with those terms. That's consistent with Startline doing what the agreement said they would do, and so treating Miss G fairly.

I can see Miss G's said about Startline not seeking a proof of address or proof of income from her before the agreement was made. But even if that's the case, I don't feel that alone renders the agreement unfair. Those sorts of proof would have confirmed Miss G's details were as Startline believed.

Similarly, Miss G's commented about the car sale being irreversible even before the money had been transferred from Startline to the seller. That too doesn't make the agreement

unreasonable. Miss G had signed to purchase the car, paid a deposit, and taken the car away. I don't feel it was for Startline to explain that those actions confirmed the sale.

Overall I find no further action is needed to put Miss G in the position she would have been in, if not for Startline's failure to complete a reasonable and proportionate assessment here.

My final decision

For the reasons above, I've decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 14 August 2023.

Paul Mellor
Ombudsman