

Complaint

Mrs R complains that Startline Motor Finance Limited (“Startline”) unfairly entered into a hire-purchase agreement with her. She’s said the monthly payments to the agreement were not affordable and so she shouldn’t have been accepted for it.

Background

In August 2022, Startline provided Mrs R with finance for a used car. The cash price of the vehicle was £5,647.00. Mrs R didn’t pay a deposit and entered into a 56-month hire-purchase agreement with Startline for the entire purchase price of £5,647.00.

The loan had interest, fees and total charges of £2,838.90 (made up of interest of £2,828.90 and a credit facility fee of £10, which needed to be paid if Mrs R exercised her option to purchase the vehicle) at the end of the term. So the total amount to be repaid of £8,485.90 was due to be repaid in 55 monthly instalments of £148.70 followed by 1 final monthly payment of £158.70.

Mrs R’s complaint was considered by one of our investigators. He didn’t think that Startline had done anything wrong or treated Mrs R unfairly. So he didn’t recommend that Mrs R’s complaint should be upheld.

Mrs R disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

My findings

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

We’ve explained how we handle complaints about irresponsible and unaffordable lending on our website. And I’ve used this approach to help me decide Mrs R’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Mrs R’s complaint. I’d like to explain why in a little more detail.

Startline needed to make sure that it didn’t lend irresponsibly. In practice, what this means is that Startline needed to carry out proportionate checks to be able to understand whether Mrs R could make her payments in a sustainable manner before agreeing to lend to her. And if the checks Startline carried out weren’t sufficient, I then need to consider what reasonable and proportionate checks are likely to have shown.

Our website sets out what we typically think about when deciding whether a lender’s checks were proportionate. Generally, we think it’s reasonable for a lender’s checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Startline says it agreed to this application after it completed an income and expenditure assessment on Mrs R. During this assessment, Mrs R provided details of her monthly income which was validated by obtaining a payslip. Startline says it also carried out credit searches on Mrs R which showed that she did have some defaulted accounts.

But six of the seven defaulted accounts had already been settled. In terms of active commitments, Mrs R did have an unsecured loan with payments of around £120 and five credit cards which it says were being well maintained. Startline also says Mrs R had a previous hire-purchase agreement with larger monthly payments that had been settled and two mortgages.

And as I understand it, Startline argues that when the amount Mrs R already owed plus a reasonable amount for Mrs R's living expenses, based on average data, were deducted from her monthly income the monthly payments were still affordable. On the other hand, Mrs R says that these payments were unaffordable.

I've thought about what Mrs R and Startline have said.

The first thing for me to say is that I don't think that the checks Startline carried out did go far enough. In my view, given the number of historic defaults that Mrs R had, I don't think that it was reasonable to conclude that these were not relevant just because they had been settled. And I think that the presence of these defaults meant that Startline needed to take further steps to get an appreciation of Mrs R's actual living costs. I don't think that it was reasonable to simply rely on average data when Mrs R's defaults did not indicate that she was an average customer.

As Startline didn't carry out sufficient checks, I have gone on to decide what I think Startline is more likely than not to have seen had it obtained further information from Mrs R. Given the circumstances here, I would have expected Startline to have had a reasonable understanding about Mrs R's regular living expenses as well as her income and existing credit commitments (which it already had).

To be clear, notwithstanding what our investigator has said, I'm not going to carry out a forensic analysis of Mrs R's bank statements in order to assess whether the loan payments were affordable. I'm simply going to consider what Startline is likely to have done if it tried to obtain the missing information I think it should have done here.

Startline could have if it wanted to have asked for bank statements, or it could have instead asked for copies of bills etc to build this picture of Mrs R's living expenses. I think this is an important point for me to make because it's clear that Miss R was moving funds across a number of different accounts and I simply wouldn't expect a lender to go searching through a customer's finances in this way for this type of lending.

Having considered what Startline needed to get a better understanding of, rather than what a forensic analysis of Mrs R's financial position would show, I think that Startline is likely to have concluded that when Mrs R's regular living expenses and the credit commitments on the credit search were deducted from her income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I appreciate that this might not accurately reflect Mrs R's actual position at the time. For example, I know that Mrs R's husband had lost his job and this led to her taking on some of his commitments. I also know that Mrs R says that she went on to miss payments on her credit card. I'm sorry to hear that this is the case.

But what I have to consider is whether Startline ought to have factored this into its decision on whether to lend to Mrs R. And the truth is Startline didn't know about what Mrs R has told us about. And given this won't have shown up in independent searches either, Startline could only have found out about the true position in relation to Mrs R's financial circumstances if she had volunteered this information.

As Mrs R chose to purchase a car at the time, which she was looking to obtain finance through this agreement to do, it is difficult for me to conclude that she would have declared the extent of her financial position, particularly as she didn't do so.

So having carefully considered everything, I'm satisfied that the available information makes it appear, at least, as though Mrs R had sufficient funds in order for the monthly payments to this agreement to be made in a sustainable manner. And in my view, it is unlikely – and less likely than not – that Startline would have declined to lend if it had done further checks along the line of what I think that it needed to find out here.

Overall and having carefully considered everything, while I don't think that Startline's checks before entering into this hire-purchase agreement with Mrs R did go far enough, I've not been persuaded that reasonable and proportionate checks would have prevented Startline from providing these funds, or entering into this agreement with her.

This means I've not been persuaded that Startline acted unfairly towards Mrs R when it lent to her and I'm not upholding the complaint. I appreciate that this will be very disappointing for Mrs R. But I hope she'll understand the reasons for my decision and that she'll at least feel her concerns have been listened to.

My final decision

My final decision is that I'm not upholding Mrs R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 4 January 2024.

Jeshen Narayanan
Ombudsman