

The complaint

Mr H is unhappy with how Startline Motor Finance Limited dealt with his request for assistance as a result of the Coronavirus (Covid-19) pandemic.

What happened

In October 2018, Mr H was supplied with a used car through a hire purchase agreement with Startline. He paid a £1,000 deposit and the agreement was for £13,749.73 over 60 months with 59 monthly repayments of £344.85 and a final payment of £354.85.

In September 2020, following a period of furlough as a result of Covid-19, Mr H was made redundant. He contacted Startline to ask for assistance with his payments, but they told him they couldn't provide this while he was out of work. Mr H contacted Startline again in December 2020, as he was hoping to start a new job in January 2021, and again asked for assistance. But Startline said they'd need proof of his new employment before they could consider the request.

Mr H contacted Startline several times between December 2020 and March 2021, asking for assistance, and a backdated one-month payment deferral was eventually agreed. Following this, Mr H arranged with Startline to repay his arrears.

Mr H complained to Startline that they hadn't been supportive of his financial situation, and that he was in a vulnerable position due to his mental health. Startline didn't think they'd done anything wrong, so Mr H brought his complaint to us for investigation.

Our investigator said that Startline said they couldn't agree a payment deferral, as it would make Mr H's financial situation worse, and increase his arrears. But, in not agreeing to a payment deferral, the investigator said Startline's actions resulted in Mr H's arrears balance increasing and his financial situation getting worse. And he thought that, because Mr H's income had been affected by Covid-19, then a payment deferral should've been approved. Which wouldn't have put Mr H in any worse position that he otherwise found himself.

The investigator also said that Startline sent Mr H arrears and fees letters, which would've caused him stress and affected his mental health. And, if a payment deferral had been in place, these letters wouldn't have been sent. The investigator also said Startline terminated the agreement in February 2021, when guidance put in place by the Financial Conduct Authority (FCA) said they shouldn't do this.

What's more, the investigator said that under the FCA guidance, Startline were required to treat Mr H's situation with forbearance. Which they didn't do. Given all of this, the investigator said Startline should remove any adverse entries from Mr H's credit file and pay him an additional £300 for the trouble and upset he'd been caused.

After some consideration, Mr H agreed with the investigator's view. However, after reading an online review about undisclosed commission, Mr H said that he didn't want to accept "*a full and final settlement.*" The investigator explained that, as he hadn't complained to

Startline about the commission issue, it wouldn't form part of any decision we made. Mr H then asked for an ombudsman to make a final decision.

Startline also didn't agree with the investigator. They said *"we must ensure there is a level of affordability moving forward before implementing any short-term payment relief. As Mr H was unemployed with no confirmation of upcoming employment [we] were unable to approve a payment break ... the issue was not classed as 'short-term' since there was no end date."*

Startline also said that the FCA guidance required a payment deferral applicant to be *"employed / self-employed. As Mr H was unemployed a payment break would not serve its purpose of easing the burden of short term affordability."*

Given the above, this matter has 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mr H was supplied with a car under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it.

The FCA issued guidance about customers who were faced with temporary payment difficulties as a result of Covid-19, that came into effect on 27 April 2020. And this allowed financial businesses to grant a three-month payment deferral. The guidance said, *"a firm should grant the customer a payment deferral for 3 months unless the firm determines (acting reasonably) that it is obviously not in the customer's interests to do so."* It also said, *"where a 3 month payment deferral is not considered appropriate, firms should without unreasonable delay, offer other ways to provide temporary relief ... this could include reduced payments or a rescheduled or a rescheduled term."*

The guidance also said the existing forbearance rules and guidance would apply to customers in arrears where a payment deferral wasn't appropriate. The guidance confirmed this included *"suspending, reducing, waiving or cancelling any further interest or charges, deferring payment of arrears or accepting token payments for a reasonable period of time."*

The FCA issued updated guidance on 15 July 2020, which allowed a payment deferral to be extended to a period of up to six-months. And *"if the customer is unable to resume payments at the end of the payment deferral period ... the firm should work with the customer to resolve these difficulties."*

The above guidance was in place when Mr H contacted Startline about a payment deferral. And, while the guidance refers to temporary payment difficulties, it does not specify that a payment deferral can only be approved to a customer who was either employed or self-employed. The guidance is also clear that *"there is no expectation under this guidance that the firm makes enquiries with each customer to determine the circumstances surrounding the request for a payment deferral, or whether this is not in the customer's interests."*

Startline's system notes show Mr H contacted them on 7 September 2020, to tell them he'd lost his job because of Covid-19. He asked for assistance and Startline noted "*as no employment exit affordability the only thing we can do at present is move his payments to the last day [of the month].*" Their system notes also show Mr H contacted them on multiple occasions between December 2020 and March 2021, when he explained that he was working temporary jobs as a delivery driver.

However, Startline didn't provide Mr H with any assistance regarding his payments and didn't accept his request for either a payment deferral (allowable under the Covid-19 guidelines) or to make part-payments (allowable under the forbearance guidelines). And, while they did eventually agree to a backdated one-month payment deferral, they also terminated the agreement and defaulted the account.

In May 2021, Mr H agreed to make his normal monthly payments, and pay his arrears off over 10-months, even though his income was mainly made up of benefits. And it's my understanding that it wasn't until July 2021 that he returned to full-time employment.

I've considered the FCA guidance and, from what I've seen, I'm satisfied that Mr H's income had been affected by Covid-19. So, the temporary guidance referred to above applied. And the guidance is clear that Startline should approve a payment deferral (of up to six-months in total), without the need to investigate Mr H's circumstances in depth, unless it was obviously not in Mr H's best interests to do so. And, where a payment deferral was obviously not in Mr H's best interests, then the usual forbearance rules should've applied.

I consider that 'obviously not in the best interests' is a high bar, and any payment deferral would need to be clearly putting Mr H in a worse financial situation than not having a payment deferral, for it not to be in his best interests. And, in this instance, I don't think that was the case.

In their complaint response letter of 28 April 2021, Startline told Mr H "*while we understand and appreciate you expected support with payments due to your redundancy, this is not the level of support we were able to offer as no alternative employment was advised at the time of your request, therefore, we were unable to provide payment support.*" But Startline's own case notes show that Mr H had a series of temporary delivery driver jobs from December 2020 onwards. So, not only am I satisfied that Mr H advised them of alternate employment, the FCA guidance didn't require them to validate this before agreeing any payment deferral.

What's more, Startline did offer Mr H a payment deferral, but this was only for one-month (backdated) and was offered part way through the period of his financial difficulties. And I've seen nothing in the evidence to show me why this was approved when other requests had been declined, given that Mr H's financial circumstances hadn't changed.

Given this, I'm satisfied that Startline should've provided Mr H with a payment deferral by no later than December 2020 (when he told them about his temporary employment), backdated to September 2020 (when he first requested assistance). And, given Mr H's circumstances, I'm also satisfied that this should've been extended by three-months after the initial payment deferral period ended i.e. the payment deferral should've run from September 2020 to February 2021 inclusive.

For completeness, I've also considered what actions Startline actually took. When they declined the initial request for a payment deferral, they didn't offer Mr H any additional assistance. And this includes his request to make part-payments. Instead they put a payment plan in place that required Mr H to make additional payments while he was still in financial difficulties, and they continually contacted him about his arrears – something that

wouldn't have happened if a payment deferral has been approved – to the detriment of his mental health.

As such, I'm satisfied that Startline didn't follow the existing FCA forbearance guidance as an alternative to the temporary Covid-19 guidance. So, I'm satisfied that Startline should now do something to put things right.

Putting things right

Taking all the above into account, I'm satisfied that Startline haven't treated Mr H fairly or reasonably. I have seen they've already removed all fees and charges from Mr H's account, but I think his credit file should also be altered to reflect the payment deferral that should've been put in place.

While I appreciate that the additional payments Mr H made to clear the arrears caused him additional financial difficulties at the time, refunding these to him would only increase the balance he owes, and add to any financial burden. So, I won't be asking Startline to do this. Instead they should:

- reinstate the agreement,
- remove any adverse entries from Mr H's credit file relating to arrears that built up during the period from September 2020 to February 2021, when the payment deferral should've been in place, and
- pay Mr H an additional £300 for the inconvenience and upset the incorrect this matter has caused him.

Finally, if Mr H is still in arrears, then Startline should also treat him with forbearance in line with the FCA guidance.

My final decision

For the reasons explained, I uphold Mr H's complaint and Startline Motor Finance Limited need to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 7 June 2022.

Andrew Burford
Ombudsman