DRN-4357689

The complaint

Miss G complains that Startline Motor Finance Limited irresponsibly approved a hire purchase agreement with her that she couldn't afford.

What happened

In September 2017 Miss G traded her car in and – with a hire purchase agreement from Startline – acquired a used car. The agreement required Miss G to make 47 monthly payments of £236 followed by a final payment of £237. The sale price of the car was £9,130, which combined with the cost of the finance gave a total of £11,322 to pay.

Just under a year later, Miss G started to miss some of the regular payments. Not wanting to lose the car, she borrowed money from a friend and paid off the agreement in August 2019.

Miss G complained that Startline shouldn't have agreed to give her the finance. She felt they hadn't done enough to confirm her income or review her spending before lending to her.

In response, Startline explained that they'd used information Miss G provided when applying for the loan, details from a credit reference agency, and an automated tool that took account of the turnover in someone's current account. They felt this was enough to satisfy the need for a creditworthiness assessment, as set out in regulation.

Miss G didn't agree and brought the complaint to us. I wrote last time why I was inclined to uphold her complaint. I said Startline should have looked closer at Miss G's financial circumstances at the time, and if they had they likely wouldn't have lent to her.

I set out a remedy for this where Startline would have to refund any interest and fees Miss G had paid towards the agreement, and remove any negative marks the finance agreement had added to her credit record.

Miss G doesn't appear to have responded to my provisional decision. I've taken that to mean she has no additional information she'd like me to consider.

Startline have provided a new copy of the details they have from the credit record check they completed in 2017. They say this corrects an earlier error in the details they sent to us. They also explained how they compare Miss G's income and expenditure, and how that shows them she could actually afford the agreement.

I confirm I've read and considered these comments before making my final decision for the complaint.

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'm of the view my conclusion and the outcome I directed last time were right for this case. As such, I intend to repeat most of the same details. But I'll add to what I wrote last time to show how I've factored Startline's response into my final decision.

The rules that apply to credit agreements are set out in the consumer credit sourcebook ("CONC") of the Financial Conduct Authority's handbook. Section five of CONC as it applied in 2017 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.

With these rules in mind, I'm going to review Startline's actions in two stages.

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

2. If they did, was their decision to then lend to Miss G fair? If they didn't, would reasonable and proportionate checks have shown that Miss G could sustainably repay the borrowing?

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

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

Startline have shown us some screenshots of the information they received from their checks with a credit reference agency. I can see these showed Miss G was able to pay her mortgage – £503 per month – and a hire purchase agreement for her previous car – £159 per month – without missing any payments.

Startline say they took extra steps to confirm the existing hire purchase agreement would end when they provided the finance for Miss G's new car. That confirmation meant Startline could safely not factor that ongoing commitment in to their decision about the new lending.

The new details Startline have provided also show Miss G had taken out nine unsecured loans since May 2016. The previous details they provided only showed eight. Only one loan – from March 2017 – remained as of September 2017. Startline comment that these loans had been paid without issues.

While the payment history was marked as either unknown or fine, I find the relatively high number of loans over a short period should have prompted Startline to make further enquiries. The pattern appears to show Miss G had for a time used short-term lending to either boost her finances or repay earlier borrowing.

Adding to that sort of picture are three items marked "Advance Against Income" on the latest details Startline have provided from the credit check they did in 2017. These weren't present on the details they'd sent us previously. The most recent of these was from June 2017 – three months prior to the lending being considered by Startline.

Again, this should have acted as a prompt for Startline to make further enquiries about Miss G's financial circumstances as this sort of repeated short-term lending could suggest someone hasn't got enough money each month to afford all their outgoings.

So I conclude Startline should have made more enquiries about the reasons for the loans and advances, to understand what they could mean for the affordability of any future finance offered to Miss G.

As well as the remaining loan and mortgage, the information Startline have provided shows Miss G had three credit cards with a total balance owed of £1,633. Last time I noted that the record Startline gave us showed payment issues for the card with the largest amount owed in the two months prior to lending to Miss G. Startline have now provided a screenshot where the payment record for that card has changed.

The new information from Startline shows the issue with the credit card repayments happened 11 and 12 months before the creditworthiness assessment I'm considering here. I can accept that would have made the credit card appear to be less of a concern during the checking process.

With that said, the short-term borrowing I've seen – coupled with the length and cost of the finance Startline were considering offering – should have prompted Startline to get a better understanding of Miss G's financial circumstances and commitments. So I find the checks Startline carried out didn't go far enough in the circumstances of this case.

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

To fully consider Miss G's circumstances, I find it would have been reasonable and proportionate for Startline to have looked in more detail at her income and expenditure. This would have told them more about her circumstances at the time of the agreement, and given an insight on her ability to afford it for its full duration.

I'm going to use details from Miss G's bank statements to see what more detailed checks might have seen. That's not to say Startline should necessarily have looked at Miss G's bank statements. Rather, I'm treating the statements as evidence of what would most likely have been seen at the time when completing a reasonable check.

Startline haven't confirmed what they considered Miss G's monthly income to be, although they have referred to her having a job with a recruitment company. Miss G's bank statements show the salary for that job was £1,549 each month. In addition, the statements confirm Miss G received child benefit and support payments of £192 and £450 per month respectively. Altogether, that gave Miss G a reliable monthly income of £2,191.

Miss G appears to have received other payments in the months leading up to the lending decision in this complaint. But I've not seen these were linked to formal agreements, or that the Miss G could otherwise rely on the payments to persist for the full length of the finance agreement in this case. So I'm not going to consider these payments when looking at Miss G's income and expenditure.

Sitting against Miss G's income was monthly expenditure. The statements confirm her mortgage cost £503 each month, with a further £15 per month towards home insurance. Her council tax and utilities combined seem to come to £397. And I can see Miss G had a loan with a monthly repayment of £324 just prior to September 2017. Altogether this comes to £1,239 each month.

Startline have commented that Miss G's mortgage should be considered as a joint expense. They believe she was living with someone at the time of the borrowing. However, that doesn't reflect what I've seen in the bank statements, where it was Miss G alone who made the mortgage payment. I'm going to base my decision on the actual expenditure, rather than speculating about how Miss G could have handled her finances differently.

Similarly, Startline have used a lower value for Miss G's loan repayment in their analysis of her expenditure. But Miss G's bank statements confirm that the monthly loan repayment rose to £324 in the month before the finance in this case was considered. I'm going to rely on the figure I can see Miss G paid, rather than Startline's lower one.

On top of the outgoings listed above, Miss G would have had to pay for food, childcare, her credit cards, and other expenses. She's told us that food typically cost her £250 per month plus £80 for school dinners, while a childminder cost £360. Paying around 5% of the total credit card amount owed would also have cost in the region of £80.

I've decided these should be considered as regular parts of Miss G's expenditure, as the amounts sound broadly in line with what I'd expect Miss G to have to pay each month. Expenditure like this could have been expected to continue throughout the term of the finance agreement.

That means I still arrive at a total expenditure of £2,009, rather than the lower figure Startline would prefer to use. And that's before considering any running costs for the car she had or the car she was looking to purchase. Comparing this with the £2,191 I've calculated for her reliable income, I find that a reasonable check would likely have concluded Miss G couldn't afford the £236 payment this agreement called for.

Lending to her in that case would have been unreasonable. It follows that I find Startline shouldn't have given Miss G this finance.

Putting things right

Miss G has paid off the agreement in this case. That means she now owns the car that was sold to her in 2017. I've decided to leave the cost of that – £9,130 – as it was. That reflects that Miss G chose to buy the car at that price.

But I find it'll be reasonable for Startline to return the cost over and above that amount which Miss G has paid as a result of having the finance agreement with them. That can be achieved by Startline refunding Miss G any interest or fees she's paid over the £9,130 cost of the car.

I've thought about whether to have Startline pay interest on any refund. I'd typically direct that sort of remedy when a complainant's been deprived the use of their money through paying more than they should have. But I've decided that's not needed here. That's because – as I understand it – the payments to Startline have only exceeded the cash price of the car after August 2019 when Miss G borrowed money from a friend to settle the agreement. The money used wasn't therefore Miss G's and she's not been deprived the use of it.

But Startline should remove any negative reporting this credit agreement has added to Miss G's credit record. That will reflect that a more reasonable creditworthiness assessment would have meant she wasn't given the lending that caused that negative reporting.

I've also thought about compensation for the trouble and upset Miss G's been caused. But I've decided not to direct a remedy for this. I can understand that struggling to make the payments needed to meet this agreement would have been distressing for Miss G. But there was also a benefit to having the car this agreement allowed Miss G to acquire. She's commented that it was a more spacious car, and replaced one that had a developing mechanical issue. I feel ultimately the emotional impact of this case is broadly balanced out so that things aren't worse than they would have been, if the service had been reasonable.

My final decision

For the reasons given above, I've decided to uphold Miss G's complaint about Startline Motor Finance Limited. To put things right, I direct them to:

- refund Miss G the interest and fees Startline have been paid in excess of the car's purchase price; and
- remove any negative marks the finance agreement in this case has added to Miss G's credit record.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 27 October 2023.

Paul Mellor
Ombudsman