

## **The complaint**

Mr S is complaining about Startline Motor Finance Limited's decision to lend to him – he says the loan was unaffordable. His complaint was brought to our service by a representative but for ease I've written as if we've dealt directly with him.

## **What happened**

In June 2018, Mr S took out a hire purchase agreement with Startline to finance the purchase of a car. He paid a deposit of £251.12 and borrowed £17,826.88 – the cash price of the car was £18,078. The agreement required Mr S to make 59 monthly repayments of £455.33 followed by a final repayment of £465.33.

In February 2023 Mr S complained to Startline, saying they shouldn't have lent to him - but Startline didn't uphold his complaint. They said they support applicants who have a lower credit rating and said they'd done a proper assessment of affordability before deciding to lend to Mr S.

Startline said the application data showed Mr S was a single tenant with no dependents and was self-employed as a consultant. They asked for proof of income before lending to Mr S and received a bank statement showing £4,000 being transferred from his business to his personal account. Startline also said the credit reference agency (CRA) data they'd looked at showed he had an acceptable payment history with all active accounts being well paid. That included two credit cards and an existing hire purchase agreement. This hire purchase agreement had monthly instalments of around £348 and was required to be settled as a condition of the proposed agreement. Startline also noted Mr S had previously had six defaults, one of which had a reduced balance but said that some historical adverse data doesn't mean a customer wouldn't be able to obtain finance.

So, they said, they'd completed a reasonable assessment of creditworthiness, identifying no material risk of affordability issues.

Mr S wasn't happy with Startline's response so he brought his complaint to our service. He said Startline had been irresponsible in providing him with finance and had failed to conduct proportionate checks at the time. During the course of our investigation, Mr S told us he'd struggled with a gambling addiction for the past six years and struggled to make the necessary payments to Startline as a result.

Our investigator looked into things and upheld the complaint – she said she thought Startline hadn't carried out proportionate checks and if they had they'd have realised how much he was spending on gambling and wouldn't have fairly been able to lend to Mr S.

Mr S accepted our investigator's view overall but Startline did not. They said they felt they had done proportionate checks, noting the amount of income shown on Mr S's business bank statement, the amount transferred to his personal bank statement and the limited amount of credit commitments on his credit report. They said Mr S had significant headroom

to meet his cost of living and discretionary spending so they didn't need to do additional checks. They asked for an ombudsman's decision and the matter's come to me.

I issued a provisional decision on 24 January 2024, saying I didn't think the complaint should be upheld. In that, I said:

*"The Financial Conduct Authority (FCA) sets out in a part of its handbook known as CONC what lenders must do when deciding whether or not to lend to a consumer. In summary, a firm must consider a customer's ability to make repayments under the agreement without having to borrow further to meet repayments or default on other obligations, and without the repayments having a significant adverse impact on the customer's financial situation.*

*CONC says a firm must carry out checks which are proportionate to the individual circumstances of each case.*

*Did Startline carry out proportionate checks?*

*Startline told us their checks comprised:*

- *a review of Mr S's credit file including using this to estimate his monthly credit commitments; and*
- *verification of his income using a CRA affordability tool and a review of one month's bank statements for his business.*

*CONC allows businesses to use statistical data and tools like the CRA affordability tool when carrying out affordability assessments. Whether or not this is proportionate depends on the circumstances of the lending and any other information a business is aware of at the time.*

*Mr S was looking to borrow a significant amount, with payments of around £430 a month for five years. So it was a significant financial commitment. Having said that, he had told Startline his net income was around £5,000 per month, so at first glance it would be reasonable to expect the agreement to be affordable.*

*I've thought about what information Startline found in the checks they carried out and whether this should have prompted them to do more.*

*I've looked at Startline's copy of Mr S's credit file. It shows he had three active credit accounts – two credit cards and one hire purchase agreement. Both credit cards were relatively new, but the total of the balances was under £400, and around 80% of Mr S's credit limit, with no evidence of late payments. Mr S's hire purchase agreement also showed no evidence of late payments, and it was due to be replaced by this agreement. So it's fair to say Mr S was managing his active credit well.*

*The credit file also showed six defaulted accounts, which might have caused more concern. However, the most recent of these was in late 2015, two and a half years before the start of the agreement, and before Mr S started his most recent employment. Whilst it's clear he was making very few payments against quite significant default amounts (totalling over £8,000), this isn't unusual and I'm inclined to say wouldn't have been an indicator that Mr S was in any financial difficulties at the time of taking out this agreement with Startline.*

*Startline verified Mr S's income at £4,000 using a combination of the CRA affordability tool and a business bank statement. Looking at the bank statement I can see Mr S paid £5,000 in dividends as well as around £550 in salary in one month in May 2018. The income into the business account is regular and significant and from one source, a well reputed company. So I haven't seen anything to suggest Startline should have had any concerns about Mr S's sources of income.*

*Mr S had income of at least £4,000, minimal amounts to pay to creditors each month, and no indications from his credit file that he might be in any financial difficulties, so I'm inclined to say Startline didn't need to do additional checks. Once the repayments on this agreement and his other credit commitments were made he'd still have around £3,500 each month for other expenditure. Mr S's application said he was a single tenant with no dependents so it's reasonable to expect his non-discretionary expenditure wouldn't be more than this amount.*

#### *Did Startline make a fair lending decision?*

*Having concluded that Startline did proportionate checks, I have to think about whether they made a fair lending decision. Given the amount of disposable income they calculated, I'm inclined to say they did make a fair lending decision.*

*I appreciate Mr S has told us he's struggled with a gambling addiction since around 2017. And I can see from his bank statements that he was gambling significant amounts in the months leading up to this lending decision. But I've seen nothing to suggest he disclosed this when applying for this hire purchase agreement, and no other indicators which should have prompted Startline to ask for his bank statements or otherwise become aware of the issue. So I'm inclined to say there's no reason Startline should have been aware that Mr S was struggling with gambling or should have taken this into account when deciding whether to lend to him.*

*In summary, Mr S's income far outweighed his existing credit commitments, the payments he'd have to make under this agreement and his likely non-discretionary expenditure, so I'm inclined to say Startline did proportionate checks and fairly decided to lend to Mr S."*

Startline had no comments on my provisional decision. But Mr S wasn't happy. In summary, he said all guidance in relation to self-employed lending refers to tax documents and Startline hadn't requested these before approving the lending. He queried how the checks could be proportionate if Startline hadn't conducted any checks other than requesting one bank statement. He added that if checks had been proportionate, Startline would have discovered his gambling problem.

#### **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 not upholding Mr S's complaint. My reasons are essentially unchanged from those set out in my provisional decision, but I'll add a couple of points below to address Mr S's concerns.

Firstly, Startline didn't rely solely on one bank statement to check Mr S's income. They also used a CRA affordability tool. This tool takes current account turnover data from an

applicant's bank and is widely used in the industry to validate declared income. CONC 5.2A.16 (3) specifically mentions this type of verification:

*“For the purpose of considering the customer's income under CONC 5.2A.15R, it is not generally sufficient to rely solely on a statement of current income made by the customer without independent evidence (for example, in the form of information supplied by a credit reference agency...).”*

I'm satisfied that using this tool in conjunction with checking one month's statement was enough to validate the amount of income Mr S had declared on his application and I stand by my provisional conclusions that the checks were proportionate.

Secondly, it's clear from Mr S's bank statements that his income from his business was substantial – he transferred around £29,000 from his business to himself across the four months from March to June 2018. I appreciate this doesn't account for tax deductions but nevertheless I'm satisfied that even if Startline had done more to verify Mr S's income they could have still fairly approved his application without looking at his bank statements. And I can't say they'd have discovered Mr S's difficulties with gambling any other way – it's unlikely he'd have disclosed a problem when looking for funding to buy a car.

### **My final decision**

As I've explained above, I'm not upholding Mr S's complaint about Startline Motor Finance Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 29 February 2024.

Clare King  
**Ombudsman**