

Complaint

Miss S 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 unaffordable and so she shouldn’t have been accepted for it.

Background

In April 2019, Startline provided Miss S with finance for a used car. The cash price of the vehicle was £10,956.00. Miss S didn’t pay a deposit and entered into a 36-month personal contract purchase hire-purchase agreement with Startline for the entire amount.

The loan had interest, fees and total charges of £3,238.32 (made up of interest of £3,228.20 and an option fee of £10, which needed to be paid if Miss S exercised her option to purchase the vehicle) at the end of the term. So the total amount to be repaid of £14,194.32 was due to be repaid 35 monthly instalments of £288.62 followed by an optional final repayment of £4,082.62 if Miss S wished to complete her purchase at the end of the term.

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

Miss S 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 Miss S’ complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Miss 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 Miss S 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 Miss S. During this assessment, Miss S provided details of her employer and employment details. Startline says it also carried out credit searches on Miss S which showed that she did have active commitments, which it says were being well maintained. There was also a default recorded against Miss S which it considered to be historic given it was recorded in 2014.

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

I've thought about what Miss S 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, the presence of an albeit historic defaulted account on the credit search coupled with the amount advanced means that Startline ought to have taken further steps to get an appreciation of Miss S' actual living costs, rather than relying on estimates of this. Startline did not do this, So I don't think that its checks before lending to Miss S were sufficient.

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 Miss S. Given the circumstances here, I would have expected Startline to have had a reasonable understanding about Miss S' regular living expenses as well as her income and existing credit commitments (which it already had).

To be clear, notwithstanding the debate between Miss S and our investigator over what Miss S' statements actually showed, I'm not going to carry out a forensic analysis of the 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 Miss S' living expenses. I think this is an important point for me to make because Miss S argues that payments which didn't show on the credit check and which were made to private individuals should be treated as ongoing non-discretionary commitments. However, even if these were such commitments, I can't see how Startline could have known this as I simply wouldn't expect a lender to request bank statements on every occasion in the way that Miss S appears to be arguing.

Considering what Startline needed to get a better understanding of, rather than what a forensic analysis of Miss S' financial position would show, I think that Startline is likely to have concluded that when Miss 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 my conclusions might not accurately reflect Miss S' actual financial position at the time. But what I have to consider is what Startline ought to have known about at the time when it was making its decision on whether to lend to Miss S. The truth is Startline did

not know and would not have known about much of what our investigator and Miss S have been debating about. This is especially as they are disputing how bank statement information sometime after the event, which I don't think proportionate checks would, in any event, have seen Startline obtain, should be interpreted.

Furthermore, as Miss S 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 full extent of her financial position if probed for more information.

So having carefully considered everything, I'm satisfied that the available information makes it appear, at least, as though proportionate checks would have shown that Miss S could make the monthly payments to this agreement 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 found out the further information that I think it needed to here.

Overall and having carefully considered everything, while I don't think that Startline's checks before entering into this hire-purchase agreement with Miss S 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 Miss S when it lent to her and I'm not upholding the complaint. I appreciate that this will be very disappointing for Miss S. 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 Miss S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 8 July 2024.

Jeshen Narayanan
Ombudsman