

## **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 January 2022, Startline provided Miss S with finance for a used car. The cash price of the vehicle was £17,699.00. Miss S didn’t pay a deposit and entered into a 47-month personal contract purchase hire-purchase agreement with Startline for the entire amount.

The loan had interest, fees and total charges of £6,887.96 (made up of interest of £6,877.96 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 £24,586.96 was due to be repaid 47 monthly instalments of £395.86 followed by an optional final repayment of £5,971.54 if Miss S wished to complete her purchase at the end of the term.

Miss S’ complaint was considered by one of our investigators. She didn’t think that Startline had done anything wrong or treated Miss S unfairly. So she 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 income and employment details. Startline says it cross-checked Miss S' income against information that it received from credit reference agencies on the amount of funds she received into her main bank account each month. It 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. However, I think that I would also have been aware that Miss S had previously defaulted on credit and that she would have had some other adverse payment information too.

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 defaulted accounts 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 I don't think that Startline carried 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).

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 her use of her overdraft meant that she shouldn't have been lent to.

However, the first thing for me to say is that there isn't a prohibition on lending to a customer who has been using their overdraft. Secondly, it appears to me that a significant proportion of Miss S' expenditure was discretionary, which I would not expect Startline to have considered as regular living costs.

If Miss S considered that her overdraft usage was problematic at this point, this is a matter she will need to take up with her bank. But the important thing here is that I don't think that Miss S' usage of her overdraft means Startline ought to have declined her application for this finance agreement.

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.

In reaching this conclusion I've also considered whether the lending relationship between Startline and Miss S might have been unfair to Miss S under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Startline irresponsibly lent to Miss S or otherwise treated her unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here. So I'm not upholding this 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.

Although I'm not upholding Miss S' complaint, I would remind Startline of its continuing obligation to exercise forbearance and due consideration, given what Miss S has now said about having difficulty making her payments.

I would also encourage Miss S to get in contact with and co-operate with any steps that may be needed to review what she might be able to repay going forward. Miss S may be able to complain to us – subject to any jurisdiction concerns – should she be unhappy with Startline's actions in relation to exercising forbearance going forward.

### **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 26 August 2024.

Jeshen Narayanan  
**Ombudsman**