

## **Complaint**

Ms P 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.

Ms P is being represented in her complaint by a Claims Management Company (“CMC”).

## **Background**

In July 2019, Startline provided Ms P with finance for a used car. The cash price of the vehicle was £12,090.49. Ms P didn’t pay a deposit and entered into a 60-month hire-purchase agreement with Startline for the entire amount of the purchase.

The loan had interest, fees and total charges of £3,295.71 (made up of interest of £3,294.71 and a credit facility fee of £1). So the total amount to be repaid of £15,386.20 was due to be repaid 59 monthly instalments of £256.42 followed by a final repayment of £257.42.

Ms P’s complaint was considered by one of our investigators. She didn’t think that Startline had done anything wrong or treated Ms P unfairly. So she didn’t recommend that Ms P’s complaint should be upheld. The CMC, on Ms P’s behalf, disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

## **My findings**

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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 Ms P’s complaint.

Having carefully thought about everything I’ve been provided with, I’m not upholding Ms P’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 Ms P 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 Ms P. During this assessment, Ms P provided details of her income and employment details. Startline says it verified Ms P's income with a copy of a payslip which it asked her to provide. It says it also carried out credit searches on Ms P which showed that she had low outstanding balances on her active credit commitments, which it says were being well maintained. That said, it did note that Ms P had defaulted on a credit account around a or so year prior to this application.

As I understand it, Startline argues that when reasonable repayments to the amount Ms P already owed plus a reasonable amount for Ms P's living expenses were deducted from the funds she received each month the monthly payments for this agreement were affordable. On the other hand, Ms P says that these payments were unaffordable. I've thought about what Ms P and Startline have said.

The first thing for me to say is that I don't think that the checks Startline carried out went far enough. In my view, the presence of a relatively recently defaulted account on the credit search means that Startline ought to have taken further steps to get a better understanding of Ms P'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 Ms P 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 Ms P. Given the circumstances here, I would have expected Startline to have had a reasonable understanding about Ms P's regular living expenses as well as her income and existing credit commitments (which it already had).

Having considered everything, the information provided appears to show that when Ms P's committed regular living expenses are combined with her credit commitments and then deducted from her income, she did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

I accept it's possible that Ms P's circumstances may have been worse than what the information she has provided showed. Indeed, I've seen what the CMC has said about Ms P being reliant on credit cards and the toll that this agreement took on Ms P's social.

However, I'm afraid that the CMC's arguments here betray a fundamental misunderstanding of the rules and a lender's obligations when considering an application. Startline was required to carry out reasonable checks and make a decision on whether to lend. It was not providing Ms P with financial advice, or required to consider a full review into Ms P's life to ascertain whether it was an appropriate time to purchase a car in the way that the CMC seems to be suggesting, with its arguments.

Furthermore, I also disagree with the notion that there were multiple red flags indicating that Startline shouldn't have lent here either. Ms P might have had credit cards but this in itself doesn't mean that she was reliant on them. Indeed the balances weren't high and Ms P had a decent repayment record. Equally, Ms P's use of her overdraft was not excessive and certainly not indicative of someone who was struggling in the way. I say this particularly as Ms P had already been maintaining payments to another car finance provider and that agreement was going to be settled.

I also have to consider the CMC's submissions in the context that they are being made in support of a claim for compensation. Whereas at the time of sale, at least, Ms P clearly wanted the car she had chosen and it's fair to say that any explanations she would have provided are more likely to have been with a view to persuading Startline to lend to her, rather than highlighting any unaffordability.

In any event, what I need to consider here what Startline is likely to have learnt if it had learned more about Ms P's living expenses, rather than relied on estimates of this. And the information I've seen is that Ms P's living expenses were relatively low. So I think that if Startline had done more here, I think it's more likely than not that it would still have concluded that the monthly payments were affordable for Ms P.

Overall and having carefully considered everything, while I don't think that Startline's checks before entering into this hire-purchase agreement with Ms P 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 my conclusions I've also considered whether the lending relationship between Startline and Ms P might have been unfair to Ms P under section 140A CCA. However, for the reasons I've explained, I don't think Startline irresponsibly lent to Ms P 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.

Overall and having carefully considered everything, I've not been persuaded that Startline carrying out further enquiries into Ms P's living expenses would have prevented it from providing these funds, or entering into this agreement with her. And I'm therefore not upholding this complaint. I appreciate that this will be very disappointing for Ms P. 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 Ms P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 2 December 2024.

Jeshen Narayanan  
**Ombudsman**