

The complaint

Mr C complains that STARTLINE MOTOR FINANCE LIMITED (“Startline”) didn’t take reasonable steps to ensure he could afford the repayments towards a hire purchase agreement.

What happened

In December 2021, Startline provided Mr C with a hire purchase agreement for a used vehicle. The cash price of the vehicle was £8,584 and a £99 deposit was paid. This led to £8,485 being financed. With interest, fees and charges Mr C was due to pay Startline a total of £14,060.80. Mr C was due to make 59 monthly repayments of £232.53 followed by a final payment of £242.53. Mr C said he had trouble repaying the finance and he voluntarily surrendered the vehicle which was then sold at auction and Startline says he still owes £1,133.15.

Startline considered Mr C’s complaint and didn’t uphold it. Startline concluded adequate checks were conducted which showed the agreement to be affordable. Unhappy with this response, Mr C then referred the complaint to the Financial Ombudsman Service.

Mr C’s complaint was considered by an investigator, and he upheld the complaint because he said at the time Startline didn’t have a full enough understanding of Mr C’s financial situation. The investigator concluded that Mr C was using payday loans at the time and so was likely to need to borrow in order to meet his repayments to Startline. A detailed review of Mr C’s bank statements would’ve shown he was spending more each month than he had coming in and so the agreement wasn’t affordable.

Startline disagreed with the investigator’s outcome. These comments didn’t change the investigator’s assessment and so the complaint was passed to me, and I then issued a provisional decision explaining why I was intending to not uphold Mr C’s complaint.

Both parties were asked for any further submissions as soon as possible, but in any event, no later than 28 November 2024.

Startline didn’t provide any further submissions. Mr C did provide further submissions including that he’s currently not working having been signed off sick and he’s currently in a debt arrangement scheme.

A copy of the provisional findings follows this and forms part of this final decision.

What I said in my provisional decision:

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 Mr C’s complaint. Having thought about everything I’ve been provided with I’m intending to not uphold Mr C’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 conduct proportionate checks to be able to understand whether any lending was sustainable for Mr C before providing it.

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.

In the circumstances of this complaint, I'm satisfied the checks conducted by Startline were proportionate, and demonstrated to it that the agreement as likely affordable to Mr C. So, while the investigator said further checks were needed, perhaps by reviewing the copy bank statements Mr C has provided, I disagree with this and have concluded that Startline could rely on the information given to it by Mr C and the results of its own checks.

Mr C declared he worked full time, and his gross monthly income was £2,085. Startline worked this out to be a net monthly income of £1,721. This figure was then cross referenced with a tool provided by a credit reference agency and the results of this check indicated that the net figure was likely to be accurate. Taking account of the regulations at the time, it was reasonable for Startline to have relied on the results of this check.

Startline also conducted a credit search and it's provided a copy of the results that it received from the credit reference agency. Startline says that it discovered Mr C's active accounts had been managed well and he only had three credit cards, two loans and an existing hire purchase agreement costing £226 per month. His loan accounts were costing a combined £275 per month, and he had credit cards balances totalling £1,899.

Overall, at the point the agreement was made Startline ought to have reasonably concluded his existing credit commitments came to around £595 per month – or £369 without the hire existing hire purchase agreement, which I come on to below.

Startline knew of an existing hire purchase agreement that was costing Mr C £226 per month. The credit check results indicated that this had been repaid well with no obvious repayment problems or other difficulties.

Startline says a condition of being accepted for this agreement was the existing agreement needed to have been repaid before it would accept Mr C. I think this was a reasonable position to take and the fact that Mr C had previously repaid a hire purchase agreement for broadly the same monthly sum would've given Startline confidence that Mr C could afford his repayments for this hire purchase agreement as well.

There were some historic defaults but those were too far removed from the start date of the agreement to have given Startline any cause for concern. Indeed, given the default dates for some of the accounts, they were likely connected to the start date of Mr C's bankruptcy that happened in March 2018 and he was subsequently discharged from in September 2018. The investigator said that Mr C was repaying payday lenders at the same time, but while the credit file shows that before July 2021 Mr C had been using them fairly regularly – there wasn't any indication at the time when he applied for the loan that he was still in receipt of, or still making payments towards, payday lenders.

Finally, taking account of Mr C's checked income, the credit file data Startline received as well as its own hire purchase payment, it considered what it calls a "cost-of-living model". This takes data from the ONS includes living costs, transport, utilities and an additional buffer of £100.

In the circumstances of this complaint, Startline concluded that Mr C had around £1,100 per month after taking account of his hire purchase payment and his other credit commitments in order to repay his other costs – which Startline says was more than sufficient.

Overall, I don't see a reason why Startline would've thought, given everything it had gathered and what it saw in the credit file, that Mr C wouldn't be able to sustainably make his repayments towards this agreement.

I am therefore intending to not uphold Mr C's complaint because Startline conducted out proportionate checks that showed the loan to be affordable and sustainable for him. I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Startline lent irresponsibly to Mr C or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

Finally, I understand that there still maybe an existing balance for Mr C to pay and I would encourage him to discuss this with Startline to see what help and support it can offer. But I would remind Startline of its obligation to treat Mr C fairly and with forbearance.

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.

I've considered the further comments that Mr C has provided, and while I'm sorry to hear about his personal and financial situation at the moment that hasn't, given the checks Startline did before entering the agreement, led me to change the outcome that I reached in the provisional decision and which is set out above.

I thank Mr C for sharing with the Financial Ombudsman about currently being unable to work, and he is correct, in that he should speak to Startline to see what if anything else it can do. And Startline does have a regulatory obligation to treat Mr C fairly and with forbearance – which will likely include taking account of his current personal situation. Indeed, Startline will also need to be aware of and consider the fact Mr C is currently in a debt arrangement scheme.

So, for the same reasons set out in the provisional decision which has been duplicated above, I do not uphold Mr C's complaint but I would encourage him to discuss his situation with Startline.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Startline lent irresponsibly to Mr C or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 3 January 2025.

Robert Walker
Ombudsman