

## The complaint

Mr R complains that STARTLINE MOTOR FINANCE LIMITED (“Startline”) unfairly took back a vehicle he acquired through a hire purchase agreement with them.

## What happened

In February 2022, Mr R acquired a vehicle and paid for this using a hire purchase agreement with Startline.

Startline sent Mr R a default notice on 27 July 2022 which set out that he was in arrears of £513.94 and needed to repay £578.94 by 14 August 2022 or they would terminate the agreement. Startline subsequently terminated the agreement and sent Mr R notice of this on 17 August 2022.

Mr R says that by February 2023, he was fully up to date with the repayments he needed to make but he was contacted by a third party who said they had been appointed by Startline who wanted to inspect the vehicle. The third party told Mr R that Startline felt that he had breached the terms of his hire purchase agreement. Mr R says he was then harassed daily by phone and e-mail asking for the car to be inspected and subsequently was told that the vehicle would be seized.

Mr R told Startline that the vehicle had been stolen by a third party and he’d reported this to the police. Both parties, and the third party appointed by Startline, then entered into significant e-mail dialogue with each other. Mr R says that he did all he could to help Startline find and retrieve the vehicle and that he was ultimately forced by them to surrender his possession of this which led to Startline eventually retrieving the vehicle, selling it at auction without his agreement and holding him unfairly liable for the outstanding balance remaining under the hire purchase agreement after those sale proceeds were deducted. He says this has left him with a significant debt and adverse information on his credit file.

Mr R complained to Startline, but they didn’t feel they had done anything wrong. So, he referred the matter to our service. Our investigator felt that Startline had acted fairly and within the terms of the hire purchase agreement.

Mr R didn’t agree and so the complaint was passed to me to decide.

I issued my provisional decision on 10 September 2024, an extract of which I include below and which forms part of my final decision.

*‘Mr R used a regulated hire purchase agreement with Startline to acquire the vehicle that is the subject of this complaint. Our service can consider complaints relating to these sorts of agreements.*

*This complaint has several complexities, in that there has been police involvement as Mr R reported the vehicle stolen, some form of allegation from Startline that Mr R sub-let the vehicle to a third party which was against the terms of the hire purchase agreement, and allegations of hostility by that third party to Mr R and Startline’s agents.*

*It also appears that Startline allowed Mr R to continue to keep possession of the vehicle after they terminated the hire purchase agreement. I say this noting, as I set out earlier in my decision, that Startline terminated the agreement in August 2022. This potentially complicates what terms and conditions Startline can rely upon in taking the vehicle back and in leaving Mr R with a financial liability. In other words, what terms were still valid once the agreement was terminated.*

*I note also that Startline told us that they felt Mr R broke the terms and conditions of the agreement he signed, because he failed to maintain his payments, comply with their requests to sight the vehicle, provide a valid driving license, avoided recovery efforts to return the vehicle and, on the balance of probability, had leased the vehicle to a third party without permission.*

*It seems to me that Startline has used a variety of different reasons for the actions they took without being particularly clear on how this applied to Mr R.*

*For example, Startline at one point mentioned that Mr R was in breach of term and conditions 6.1.4 and 6.1.8, which are set out as follows:*

*'6.1.4 – You will allow us to enter any premises under your control at any reasonable time so that we can have access to the Vehicle wherever it is garaged or parked and allow us access to the Vehicle whenever we reasonably ask; if we point out any necessary repairs or maintenance, you will ensure these are carried out as soon as possible;*

*6.1.8 – You will not let anyone drive the Vehicle who does not hold a*

*• valid, current driving licence in the appropriate classes notify us promptly of any loss of or damage to the Vehicle and hold any insurance monies received or is not covered by the insurance referred to in Condition 8, nor let it be used for racing, pace-making, rallying, any form of motor sport, driving tuition or for the carriage of persons or property for hire or reward, unless we have given you our prior written consent;'*

*I'm not persuaded that Startline has reasonably shown that Mr R was in breach of the above terms and conditions though. Mr R had reported the vehicle as stolen so it wasn't relevant for him to allow Startline to enter any premises under his control so they could access the vehicle, as set out in 6.1.4, as it wasn't in his possession and wasn't, as far as I can tell, being kept in any 'premises under his control'. Nor have I seen that Mr R blocked Startline from allowing them access to the vehicle. In fact, Mr R seems to have done what he could to help them reacquire the vehicle by reporting it stolen.*

*I'm also not persuaded that Startline has shown that Mr R allowed someone else to drive the vehicle who didn't 'hold a valid, current driving licence', as per term and condition 6.1.8. However, my remit is to consider what is fair and reasonable to determine the outcome of this complaint. While I don't think Startline necessarily went about matters in the best way (examples of which I have given above), what is clear to me is that they had significant, and in my view, legitimate concerns about the vehicle that they owned.*

*Mr R reported the vehicle as being stolen so I can see how Startline would have had reasonable concerns that they couldn't get their goods back, particularly bearing in mind that the police had pulled the car over while it was being driven by someone other than Mr R. So, I think Startline were within their rights to recover this from the third party; it wasn't as if they were unfairly attempting to recover it from Mr R. Startline also had concerns that Mr R had sub-let it to that third party, which, if true, was a breach of the agreement. I'm not suggesting that's what happened, but I can see why Startline were concerned about that.*

*It's also important to note that Startline had already terminated the hire purchase agreement because of non-payment. I think Startline were entitled to do this bearing in mind Mr R hadn't remedied the breach as set out in the default notice by the date given in that notice. This meant that Startline, could in theory, have repossessed the vehicle upon termination. But they decided not to and allowed Mr R to continue driving it, which to me shows that Startline acted quite reasonably at that time.*

*I also note that Mr R hadn't paid over a third of the total amount repayable under the agreement by the time Startline sought to recover the vehicle. This is relevant because, in such circumstances, and as set out in the agreement, Startline could take back the vehicle without needing consent to do so, if that action was reasonable. And I would reiterate that Startline had, by that time, legitimate concerns about recovering the goods they owned bearing in mind that Mr R said it had been stolen.*

*So, taking the above into account, I think Startline were entitled to recover the vehicle. I also think it was reasonable for them to then sell it at auction and hold Mr R liable for the outstanding balance that remained under the agreement once that had happened. I say this having thought about whether it would have been reasonable for Startline to return the vehicle back to Mr R. However, it seemed clear to them that Mr R didn't want the vehicle because of what the third party had done to it while he was driving it. I don't think it would fair for Startline to then have to accept the losses that accrued from what happened, which would be to write off the sum outstanding that Mr R is now required to pay.*

*Overall, while I don't think Startline did the best job in how it went about things, for the reasons set out above I don't think it's unreasonable for Startline to hold Mr R liable for what now remains to be paid under the hire purchase agreement. Nor do I think it unreasonable for them to report any adverse information on Mr R's credit file with the relevant credit reference agencies as a result of what happened, assuming that information is accurate.*

I asked Mr R and Startline to send me any further evidence or comments they wanted me to consider.

Startline didn't respond to my provisional decision. Mr R replied saying that he disagreed with it. He said I had incorrectly said he offered the car to a family member. He also said that he was fully up to date with his repayments, yet Startline confiscated the car without good reason, and then sold it for 80% less than the price he paid for it.

### **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.

Mr R is unhappy that I referred to the third party as a 'family member' in my provisional decision. I mentioned this only because I saw an e-mail from Mr R to Startline and their agent from 1 March 2023 in which he said: '*As I am not using the vehicle at the moment and I have allowed a family member to use it in the meantime...*'.

I assumed this to be the same third party who Mr R alleges stole the vehicle. If I have got that wrong, I apologise. However, I don't consider that to make a material difference to my decision. I say this because I'm still satisfied that Startline was entitled to have reasonable concerns that they wouldn't be able to get the car back, which they owned, for the reasons I set out in my provisional decision.

As a result, I'm still of the view that Startline was entitled to recover the car. And as the car was owned by them, they were entitled to sell that at auction. I've not seen anything

persuasive that they didn't try to achieve the best price they could for it at that time.

So, for the reasons I've given above including those I gave in my provisional decision, I don't uphold this complaint.

**My final decision**

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 23 October 2024.

Daniel Picken  
**Ombudsman**