

The complaint

Mr A's complaint is about the financial support he received from Black Horse Limited trading as Jaguar Financial Services (Black Horse) when he experienced issues with his repayments due to the Covid-19 pandemic.

What happened

Mr A entered into a finance agreement in March 2018 which was repayable over 37 months. In February 2021, he contacted Black Horse to ask for financial support as he wasn't able to withdraw from his pension at that time and wasn't receiving his usual income due to the pandemic. He says he was told he could have a six-month payment deferral which he could start straight away or defer until April. Mr A decided to wait until April but when he called Black Horse to arrange this, he was told this option was no longer available. He says the options given to him of either returning the car or paying the full amount weren't viable. He was then offered a refinance agreement which he agreed to but made clear he wasn't happy due to the increase in the interest rate.

Black Horse says that Mr A's agreement didn't offer the facility for payment deferrals but in response to the pandemic, temporary support was put in place and payment deferrals were offered. However, on 1 April 2021 a business decision was taken to no longer allow these. It says when Mr A called in February 2021 the information provided was correct at that time as the adviser wouldn't have been aware of the forthcoming policy change. When Mr A called in April 2021, payment deferrals were no longer an option and it was agreed that Mr A would proceed with a new refinanced agreement. Based on this it upheld Mr A's complaint about the information provided around the payments deferrals and the service he had received and paid him £200 compensation.

Our investigator accepted that Mr A was told in February 2021 that he could have a payment deferral starting in April but said that the guidance provided by the Financial Conduct Authority (FCA) meant these were no longer available:

'Consumers will have until 31 March 2021 to apply for an initial or a further payment deferral. After that date, they will be able to extend existing deferrals to 31 July 2021, provided these extensions cover consecutive payments, and subject to the maximum 6 months allowed. If borrowers who have not yet taken a deferral think they need the full 6 months, they should apply in good time before their February 2021 payment.'

Our investigator thought the February 2021 call could have been handled better. However, he didn't think Black Horse was wrong not to provide the payment deferral in April 2021. He said Mr A was provided with the options available under his agreement, but these didn't suit him, and a refinance was agreed. He said that Black Horse was under no obligation to offer the refinance. Based on this he thought the £200 compensation paid was reasonable and didn't require it to do anything else.

Mr A didn't agree with our investigator's view. He reiterated that Black Horse agreed to provide a payment deferral and for him to call back in April to start this. He said that he acted on this advice and Black Horse should honour this. He said he didn't have the option to look

elsewhere for alternative finance as he didn't have an income. Mr A didn't think he had been treated fairly and thought the financial detriment he had experienced by taking the new agreement should be refunded.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- Mr A called Black Horse in February 2021 to ask about financial support. Based on this call he believed he could call back in April and set up a six-month payment deferral. However, when he called back, he was told this option was not available. I note Mr A's comment about having a verbal agreement, but I do not find that the call that took place meant an agreement was in place that was binding on the parties.
- Black Horse explained that Mr A's agreement didn't allow for payment deferrals and so the offer being made was in response to the temporary arrangements put in place due to the pandemic. The FCA guidance issued in November 2020 said that firms should not be giving deferrals under the Covid guidance that extend beyond 31 July 2021 and that customers applying for their first payment deferral should approach their firm before the February 2021 payment is due if they wish to be considered for the maximum six months' deferral. Therefore, I didn't find I could say that Black Horse was wrong in April 2021 to say that a payment deferral was no longer available.
- A recording of the February call wasn't available, but the call notes showed that Mr A was told he could have a six-month payment holiday and to call back in April to set this up. I noted Black Horse's comment that the business decision hadn't been made at that time regarding ongoing payment deferrals. However, given the FCA guidance was in place and Mr A's agreement wouldn't allow for payment deferrals in usual circumstances, I didn't think it was reasonable to suggest that he could take the payment deferral in April and I think on balance the information given was misleading.
- I accepted that Mr A relied on the information about being able to set up a payment deferral in April and his actions were based on this.
- Where incorrect information has been given and relied on, the redress is not to require the business to deliver based on the incorrect information and so I didn't find that Black Horse was required to give a payment deferral from April 2021. Instead I considered what was most likely to have happened had Mr A not been told he could have a payment deferral starting in April.
- I thought it more likely than not given Mr A's circumstances he would have taken the payment deferral in February 2021 (or before the deadline of end March) had he known it wouldn't be available in April. Had this happened, Mr A wouldn't have needed to make any payments for six months. His payments would then restart and would have needed to be made until he received his money from his pension and could settle his agreement. As Mr A was able to make a couple of months payments in February 2021, I thought it reasonable that had the payment deferral started around that time then he could have used the funds available to make the payments for the couple of months after the payment deferral ended until he settled his agreement.

- Therefore, while I agreed that Black Horse provided Mr A with the correct options in April 2021 and then tried to assist him by offering a refinance agreement which Mr A accepted, I thought on balance, that had the correct information been given in February 2021 this option wouldn't have been needed.

Based on my conclusions I considered what was reasonable redress in this situation. Had Mr A received a six months' payment deferral, he would still have been liable for the interest during this period. I noted the interest rate on the refinanced agreement was higher and based on this Mr A believed he has suffered a financial loss. I thought it reasonable that any financial loss - calculated as the difference between the payments Mr A would have made under his original agreement based on the payment deferral being in place for six months and the agreement being settled in October 2021 and the payments made under the new agreement - was refunded to Mr A.

Black Horse had agreed that the service it provided wasn't as it should have been and paid Mr A £200 because of this. Having looked at the issues raised I thought this was reasonable.

Mr A accepted my provisional decision. Although he noted the length of time he had spent on this issue and the stress he had been caused and asked if the compensation amount could be reconsidered.

Black Horse noted that had the payment deferral been applied Mr A would have been required to pay additional interest. It provided a calculation which showed the amount Mr A had paid due to the refinancing was higher than the amount he would have paid had his original agreement remained in place and the payment deferral been provided. It calculated the payment deferral based on this starting in April and confirmed this was more positive result for Mr A than the deferral starting in February. It agreed the difference would be refunded.

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.

As I set out in my provisional decision, I think Mr A was provided with misleading information on the call in February 2021 and because of this he wasn't able to benefit from the payment deferral. While I acknowledge Black Horse did then try to assist Mr A this resulted in him paying more than he would have done had he kept his original agreement with the deferral holiday and settled in October 2021 as he had intended (he settled the new agreement in October 2021).

Therefore I uphold this complaint and find that additional to the compensation already paid, Black Horse should refund Mr A the difference between the amount he paid under his agreement and the amount he would have paid had the original agreement remained in place with a six-month payment deferral. Black Horse has provided a calculation for this difference which I think reasonable.

I understand the comment Mr A has made about the length of time taken for his complaint to be resolved and I appreciate this will have been a stressful process. However, in this case I think the compensation of £200 that was paid along with the refund of the difference in the amount he paid and the amount he would have paid under the agreements provides a reasonable resolution to this complaint.

Putting things right

Black Horse Limited trading as Jaguar Financial Services should, additional to the £200 compensation paid, refund Mr A the difference between the amount he paid and the amount he would have paid had the payment deferral been set up on the original agreement and the agreement then settled in October. I note a calculation for this amount has been provided.

My final decision

My final decision is that I uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 September 2022.

Jane Archer
Ombudsman