



## **The complaint**

Ms F has made a complaint through a third-party professional representative. Ms F's complaint is that Black Horse Limited ("BH") entered into a car finance agreement she couldn't afford in 2018. Ms F also complains that BH paid commission to the broker and that commission payment wasn't disclosed to her.

Ms F has said to put her back in the position she'd have been but for BH's actions/inactions, she wants a refund of the fees and charges paid on the car finance loan agreement with statutory interest of 8%. She also wants a refund of commission paid to the broker plus statutory interest.

## **What happened**

BH considered Ms F's complaint but initially didn't uphold the complaint. When Ms F referred her complaint to the Financial Ombudsman Service, BH reviewed its original decision and accepted the car finance loan wasn't affordable for Ms F and it shouldn't have lent. So, it offered to refund her deposit, interest payments plus statutory interest at 8% per annum. It also offered to amend her credit file entry.

Our investigator thought BH's offer was fair in the circumstances. He explained to Ms F that the offer put her back in the position she'd have been had the agreement never been entered into. He also explained the offer unwound the effect of the any commission payment received by the broker. Overall, our investigator thought the offer addressed the unfairness in both elements of Ms F's complaint.

In response, Ms F's representative said Ms F accepted the offer on the affordability element of Ms F's complaint but has insisted the commission element needs to be considered further.

## **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.

From the information I've seen Ms F has fully repaid the car finance loan. BH has acknowledged it shouldn't have lent to her and the redress it has offered is in line with what the Financial Ombudsman Service will direct in circumstances similar to Ms F's. BH's offer is to refund;

- Interest Ms F paid on the loan plus 8% interest per annum.
- Remove the loan entry from Ms F's credit file.

I think this offer is fair and reasonable in the circumstances of this case.

Ms F's representatives has said the commission the broker received should also be investigated as a separate element of her complaint, but I don't think this is something that needs to be done in this case.

The effect of the redress offered by BH is that Ms F is put back in the position she'd have been had she not entered into this car finance loan agreement. If that was the case, Ms F wouldn't have paid the £500 deposit, any interest on the loan and there wouldn't have been an entry about this loan on her credit file.

The sum total of these outweighs the commission amount that was paid to the broker in this case and in my opinion, the redress offered by BH fairly and reasonably puts Ms F back in the position she'd have been but for the car finance loan. It also makes the commission payment of no effect in this case and as such Miss F isn't disadvantaged by any commission payment.

This redress offer unwinds the car finance agreement and the effects of the commission paid to the broker. On that basis, there isn't a reason to investigate the commission issue separately as Ms F has been offered a redress that puts her back in the position she'd have been.

So I won't be asking BH to do anymore than it has already offered to do.

### **Putting things right**

BH should pay Ms F compensation in line with its offer. It should;

- Refund Ms F's deposit of £500.
- Refund the interest she paid on the loan.
- Add 8% interest per annum on both the above payments from the date they were paid to the date of settlement†.
- Remove the car finance loan entry from Ms F's credit file.

† HM Revenue & Customs requires Black Horse Limited to take off tax from this interest. It must give Ms F a certificate showing how much tax it's taken off if she asks for one.

### **My final decision**

For the reasons given above, I uphold Ms F's complaint and direct Black Horse Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 6 November 2023.

Oyetola Oduola  
**Ombudsman**