

## The complaint

Miss B is complaining that Black Horse Limited (BHL) shouldn't have lent to her – she says they were irresponsible in doing so.

## What happened

In May 2021, Miss B took out a hire purchase agreement with BHL to finance the purchase of a static caravan. She paid a deposit of £3,000 and borrowed £25,995 – the cash price of the caravan was £28,995. The agreement required Miss B to make 84 monthly repayments of £412.41. The total amount she'd have to pay to BHL was around £37,600. Miss B made all her repayments on time until October 2023 when she chose to terminate the agreement due to financial difficulties.

In November 2023, Miss B complained to BHL, saying that she thought the loan was unaffordable as she was on benefits at the time.

In response, BHL said when she'd applied, Miss B told them she had income of £30,000 per year. They said they used this and her expenditure to calculate she had disposable income of around £800, meaning that the repayments of £412 would be affordable for her. They told Miss B they'd carried out underwriting checks and were prepared to offer her the finance. And they said they'd looked at Miss B's bank statements when investigating her complaint and thought these supported their view that the loan was affordable at the time. BHL noted that Miss B had suffered bereavements and a consequential change in her financial circumstances which she'd informed them of in March 2022. They didn't think the loan had been unaffordable before this.

Miss B was unhappy with BHL's response and brought her complaint to our service. In doing so she said she'd had to scrimp and save in order to meet the repayments. And she felt BHL hadn't taken into account all her expenditure when considering whether the loan would be affordable for her. She said it was irresponsible to lend that amount of money to a single mother of children with additional needs. One of our investigators looked into it but also didn't uphold the complaint. Our investigator thought BHL hadn't done proportionate checks but if they had, they could have fairly decided the loan was affordable.

Miss B didn't agree with our investigator's assessment. She said although she hadn't missed payments on the account, she'd had to take out other credit in order to make the payments. She was concerned that Black Horse had taken disability living allowance (DLA) into account in their assessment of her income. Miss B asked for a decision and the complaint was passed to me.

I issued a provisional decision on 12 June 2024. In that I said I didn't think BHL had done proportionate checks. I then went on to look into what I thought BHL would have found if they had done proportionate checks as follows:

*"I've looked at the statements BHL provided for Miss B's bank accounts for the two months leading up to her application for finance. In the absence of other information, bank statements provide a good indication of Miss B's expenditure at the time the lending decision was made."*

*The statements show that Miss B had income averaging around £2,200 per month. This excludes child benefit and DLA which BHL have said they don't take into account in an income assessment. This aligns with the amounts Miss B gave BHL at the outset for her salary, benefits and child maintenance.*

*In relation to expenditure, the bank statements show Miss B was paying rent of around £400 per month, council tax of £110 per month and other regular direct debits for utilities, telecoms and insurance of £464 per month. I can also see some payments to existing creditors, but I'm satisfied BHL's estimate of £121 per month for these was reasonable.*

*BHL added on £300 per month for site fees for the holiday park where the static caravan was situated. I can see from the park agreement that this would have been £316 per month with additional costs for utilities and I think if BHL had made reasonable enquiries they could have found this out. So I think it would have been more reasonable to add at least £350 instead of £300.*

*Deducting these amounts from Miss B's £2,200 per month income suggests she would have had around £750 available from which to cover the repayments of £412, as well as essentials such as food, fuel and any emergency expenditure. This suggests she'd only have had around £338 for those essential items and any discretionary spending. With two dependent children, I'm inclined to say BHL wouldn't have been able to fairly say £338 per month was enough. So in summary, I think if BHL had done proportionate checks they wouldn't have fairly been able to decide to lend to Miss B. It follows I'm inclined to uphold her complaint."*

I then said BHL should terminate the agreement with nothing further to pay and refund to Miss B all amounts she'd paid in respect of the agreement in excess of a fair usage estimate of £10,000.

Miss B accepted my provisional decision but said that her income hadn't been £2,200 excluding benefits – she said she was earning less than £1,300 per month at the time.

BHL didn't accept my provisional decision – they conceded that their checks hadn't been proportionate but said that if they had done proportionate checks they'd have been able to fairly lend to Miss B. They made the following points:

- Miss B made a total of £9,900 in income from renting out the static caravan over the time she had it.
- Miss B received income from a number of individuals as well as her salary and benefits. The regularity of income from one of these in particular suggests it would have been included in an affordability assessment.
- Miss B was also receiving other benefits – DLA and child benefit - which would have been available to help with her essential or discretionary spending.
- The actual site fees Miss B paid averaged around £86 per month, not the £350 I'd said they should have included.

I asked for more information and evidence from both parties and then emailed both parties on 7 August 2024 with a revised opinion. In that email I said I still thought BHL shouldn't have lent to Miss B, but I thought it would be appropriate to change my proposed redress to take into account the income BHL had identified. I explained that:

- I didn't think BHL would have been able to fairly include income from renting out the static caravan in their affordability assessment because Miss B's testimony and the inconsistency of the income both suggest that it wasn't Miss B's intention to rent out

the caravan.

- I had already factored into my assessment the regular income from another individual.
- I didn't think it was appropriate to factor DLA into an affordability assessment as this benefit is intended to cover the additional costs of looking after a child with a disability – so it seems reasonable to assume that the income isn't available to cover regular living expenses.
- In deciding what BHL should have included in their affordability assessment, I needed to look at what they would have found out about site fees at the time of the lending decision – which was set out in the holiday park agreement. I didn't think the actual amount Miss B had paid for site fees was relevant.
- In my provisional decision I said if BHL had done proportionate checks, they'd have found Miss B was left with around £338 for her food, fuel, and any discretionary spending. Even if the £150 per month child benefit income was added on to this, they'd have found she had around £488 per month – which didn't strike me as enough to cover food, fuel, discretionary and emergency spending, and the inevitable unexpected costs of running a second home. So I still felt BHL wouldn't have been able to fairly decide to lend to Miss B.
- However, I did need to take the income Miss B had earned into account. I thought the figure should have been around £9,600 rather than £9,900, taking into account refunds Miss B had given. This was income that Miss B wouldn't have received if she hadn't had the static caravan. And whilst the subletting would have reduced Miss B's own usage of the caravan, she's told us she used the caravan for around 10-12 weeks per year in total. So her personal usage was still significant. However, Miss B also incurred additional costs of ownership and I've had to take those into account as well.
- Having thought about Miss B's overall usage, income, and costs, I thought the fairest outcome would be that BHL write off the balance owing and arrange to remove any adverse information from Miss B's credit file. This would mean Miss B would have effectively paid around £11,548 for her use of the caravan and any profits she's made from it but that she's no longer impacted by it going forward.

BHL accepted my revised view. Miss B explained some of the apparent transactions in relation to the caravan weren't for income from subletting but instead paying for damages. And she said her expenses were higher than I'd estimated, and the holiday park was still chasing her for money but she was unclear of the amount or what it was for.

### **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.

Having done so, I've not changed my mind - I'll explain why. I appreciate Miss B's disputed some of the income and expenses figures. The receipts she's specifically said weren't for use of the caravan total £1,100, and so reduce her income from £9,600 to £8,500. Whilst Miss B says the remainder of this was received from family and friends, it is still income she has made from the caravan. My analysis of Miss B's expenditure in relation to the caravan suggested it was around £2,400, taking into account what was showing on her bank statement and the holiday park statement of account. Whilst Miss B says her actual

expenditure was higher, and I don't doubt this, I still think she'd have been left with a significant profit.

Miss B accepted my first provisional decision which suggested £10,000 was a fair amount for her usage of the caravan. And although the actual profit she's made from it is disputed, I'm satisfied it's likely her profit was at least £1,500. So I remain of the opinion that the fairest outcome is for BHL to write off the remaining balance and to arrange to have any adverse information relating to the account removed from her credit file.

### **My final decision**

As I've explained above, I'm upholding Miss B's complaint. Black Horse Limited need to write off any outstanding balance and arrange to have any adverse information relating to the account removed from Miss B's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 26 September 2024.

Clare King  
**Ombudsman**