

The complaint

Mr H complains that Black Horse Limited acted unfairly when it repossessed a motorbike that had been supplied to him under a hire purchase agreement it had decided to terminate.

What happened

In February 2019, Mr H was supplied with a used motorbike through a hire purchase agreement with Black Horse. Mr H paid a deposit of £3,000 leaving an amount to be financed under the agreement of £8,028. Mr H agreed to repay the borrowing through 36 monthly repayments of £114.32 together with a final repayment of £6,437. At the time it was supplied to Mr H, the motorbike was around a year old and had done 378 miles.

In 2021 Mr H made two complaints to Black Horse in relation to the motorbike. He complained that the motorbike had not been of a satisfactory quality when it was supplied. And he complained that Black Horse had provided information to the dealer about his financial situation without his permission. But to be clear, those two matters do not form part of the complaint I am considering here. In this decision I am only looking at what happened when Black Horse decided to terminate the agreement and take possession of the motorbike.

The motorbike was involved in an accident in early 2020 and taken to a main dealer for repair. It appears that Mr H was unhappy about the actions taken by the dealer and his insurance company and was disputing the repair charges he was being asked to pay. So he didn't collect the motorbike when he was told that the repairs had been completed. And Mr H appears to have stopped making his repayments to Black Horse around September 2020.

Black Horse wrote to Mr H about his arrears in September and December 2020. It then issued default notices to him in April and October 2021. And, when no further payments had been made by Mr H, Black Horse terminated the agreement and recovered the motorbike from the dealer where it was being stored. It told Mr H that he needed to pay an outstanding balance on his agreement of £2,550.44.

Mr H complained to Black Horse about what had happened. He said that he had told Black Horse that he intended to sell the motorbike to repay the agreement. And Mr H said that by recovering the motorbike without his knowledge or agreement, Black Horse had deprived him of the opportunity to recover his belongings from the motorbike including a private registration plate and a tracker.

Black Horse didn't agree with Mr H's complaint. It said that it had acted correctly in repossessing the motorbike in order to protect its value. And it said that despite Mr H saying he intended to sell the motorbike he hadn't proceeded with that course of action or made any payment of the arrears under the agreement. Black Horse said that it had allowed Mr H a period of six weeks after the motorbike had been recovered in order for him to collect any personal belongings. But Black Horse accepted that it hadn't always used Mr H's preferred method of communicating with him by letter. So it paid him £50 for the inconvenience he'd been caused. Unhappy with that outcome Mr H brought his complaint to us.

Mr H's complaint has been assessed by one of our investigators. She thought that Black Horse had acted fairly, and in line with the terms of the hire purchase agreement, when it defaulted the account and repossessed the motorbike. And she thought that Black Horse had provided Mr H with adequate opportunity to recover any possessions from the motorbike. So the investigator didn't think the complaint should be upheld.

Mr H didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr H and by Black Horse. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

At the outset I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

Mr H was supplied with a motorbike under a hire purchase agreement. This is a regulated consumer credit agreement which means we're able to look into complaints about it. The agreement that Mr H signed sets out a number of responsibilities that he has under the agreement. And it explains what will happen should the agreement be broken.

Mr H has told us about a dispute he was having with the main dealer that had repaired his motorbike. But this complaint isn't about the actions of that dealer – it is about Black Horse. So I cannot deal here with whether or not Mr H was treated fairly by the dealer.

What is clear is that the dealer had considered its relationship with Mr H had broken down. It appears to have told Black Horse that it considered the motorbike had been abandoned on its premises and that it was levying storage charges for keeping it safe.

I don't think it was unreasonable for Black Horse to collect the motorbike from the dealer. By doing so it protected the value of an asset that it owned. And having collected the motorbike it seems reasonable that Black Horse had concluded that Mr H had breached some of the terms of his hire purchase agreement. The dealer had said the motorbike had been abandoned – so it seems that it could be said it wasn't in Mr H's possession at that time. And as I have explained earlier Mr H had stopped making the contractual repayments that the agreement required.

Black Horse sent default notices to Mr H's home address by letter in April and October 2021. The address that Black Horse used was the same address that Mr H provided to us when he made his complaint. So I cannot reasonably conclude that Black Horse failed to take sufficient steps to make Mr H aware of its intention to default his account.

I have seen that Mr H discussed the sale of the motorbike with the dealer that had completed the repairs. It does seem that he did that with the intention of repaying what he owed to Black Horse. But it doesn't seem any way forward was reached in those discussions. And certainly no repayment of what was owed was made to Black Horse. I think Black Horse allowed Mr H a reasonable period of time to complete any possible negotiations before it decided to repossess the motorbike.

After Black Horse took possession of the motorbike I can see that it says it made a number of attempts to contact Mr H so that he could collect any belongings that remained with the motorbike. Ultimately Mr H didn't accept that invitation, so after a reasonable period of around six weeks, Black Horse proceeded with the sale of the motorbike at auction. Any of Mr H's belongings he had failed to collect would have either been disposed of or sold as part of the auction lot. I don't think Black Horse's actions in this regard were unreasonable.

I have been very sorry to see that Mr H suffers from a long-term mental health illness. And I have carefully considered whether Black Horse treated him fairly given what it knew about those problems. I can see that Black Horse has, when necessary, dealt with Mr H's wife to reduce the pressure on him. And I haven't seen anything that makes me think Black Horse has failed to make any other reasonable adjustments.

On balance, although I know how disappointing this decision will be for Mr H, I am satisfied that it was reasonable for Black Horse to repossess the motorbike and sell it at auction. And I think that Mr H was given sufficient notice both of his default on the hire purchase agreement and of the need to collect any belongings before the motorbike was sold at auction. So I don't think Black Horse has done anything wrong.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against Black Horse Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 January 2025.

Paul Reilly
Ombudsman