

The complaint

Mr S complains that the hire purchase agreement provided to him by Black Horse Limited was unaffordable. He wants all interest, fees and charges he has paid under the agreement refunded along with interest.

Mr S is represented by a third party but for ease of reference I have referred to Mr S throughout this complaint.

What happened

Mr S was provided with a hire purchase agreement buy Black Horse in January 2019 to finance the acquisition of a car. The total amount repayable under the agreement was around £31,947 and Mr S was required to make 48 monthly repayments of around £442 followed by a final repayment of £10,723.

Mr S said that adequate affordability and credit worthiness assessments weren't carried out before the finance was provided and that the agreement wasn't clearly explained to him. He said that had suitable checks been carried out his application for finance would have been declined.

Black Horse issued a final response to Mr S's complaint dated 18 January 2024. It said that Mr S declared in his application that he had a gross annual income of £16,000 and a net monthly income of £1,188. A credit check was carried out and following this Mr S's monthly net disposable income was calculated to be £1,037. As the repayments due under the agreement were for around £442 it said it was confident in providing the finance to Mr S. It said Mr S had made the payments on time for the duration of the agreement and noted that a further review of Mr S's bank statements showed the agreement to be affordable.

Mr S referred his complaint to this service.

Our investigator thought that the checks carried out before the lending was provided were proportionate. As these didn't raise concerns about the affordability of the agreement or any other issues that meant the agreement shouldn't be provided, she didn't uphold this complaint.

Mr S didn't accept our investigator's view. He said that Black Horse should have identified that he was financially vulnerable given his limited disposable income and existing financial commitments which included another car finance agreement. He said the costs of running the car weren't included in the affordability assessment and no provisions made for any emergency expenses. He said if these were included his disposable income would be reduced to around £20 a day. Mr S said this lending caused him financial strain and affected his physical and mental health and he was forced to borrow from family members.

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.

Our general approach to complaints about unaffordable or irresponsible lending – including the key rules, guidance and good industry practice – is set out on our website.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But while it is down to the firm to decide what specific checks it wishes to carry out, these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments, and the total cost of the credit.

Before the finance was provided, Black Horse gathered information about Mr S's employment and income and his living costs. It also carried out a credit check. Mr S said he was employed full time with an annual income of £16,000. This was calculated to be £1,188 a month. Black Horse has said Mr S's income was verified with the credit reference agencies which I find reasonable. And I note that his bank statements support the declared amount.

Mr S declared living costs of £151. The credit check didn't record any adverse information such as defaults or county court judgments. It recorded Mr S as having total balances outstanding of £7,916 and monthly payments to his creditors of £380.

I think that the information gathered as part of the application was reasonable, and I accept that this suggested the agreement was affordable. However, in order to assess whether the lending was responsible, I have considered the information that was received through Black Horse's checks to understand whether this should have raised concerns that meant the lending shouldn't have been provided or more questions should have been asked.

Mr S has said that he had existing credit commitments at the time he applied to Black Horse for finance including another car finance agreement. Black Horse's credit check identified his existing commitments (totalling £7,916) and these are supported by the copy Mr S has provided of his credit report. The credit report shows Mr S's existing car finance, but it further shows this as being settled in February 2019, around the time the Black Horse finance was provided, and I think this would have been identified at the time. Mr S also had a loan outstanding with monthly repayments of around £193 and this needed to be included in his affordability calculation.

Mr S recorded monthly living costs as £151. This is low but I note that Mr S has said he was living at home at the time and contributing to bills when he could afford to. While I do not think that Black Horse was required to ask Mr S for copies of his bank statements, these don't show any housing costs. So I find that had further questions been asked about his living costs this wouldn't have raised concerns about the figure included in the assessment.

Mr S's statements show regular payments for tools as well as living costs such as food. Mr S also had the cost of running the car such as tax, insurance and fuel. However, taking all of this into account, as well as the payments for Mr S's existing credit commitments (and noting Mr S's low expenses due to living at home), I do not find I can say that Black Horse should have identified this lending to be unaffordable.

I've also considered whether Black Horse acted unfairly or unreasonably in some other way given what Mr S's has complained about, including whether its relationship with Mr S might have been unfair under Section 140A Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Black Horse lent irresponsibly to Mr S or otherwise treated him unfairly in relation to this matter. I haven't seen anything to suggest that Section 140A would, given the facts of this complaint, lead to a different outcome here.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 30 December 2024.

Jane Archer
Ombudsman