

## **The complaint**

Mr H complains about a finance agreement he took out with Black Horse Limited in respect of a holiday lodge.

## **What happened**

In September 2019 Mr H and his wife entered into an agreement with P, a holiday park business, for a holiday lodge and membership of the park. They agreed a price of just over £134,000 for the lodge. After a part exchange allowance for a static caravan which Mr and Mrs H already owned at the park and payment of a deposit, there was a balance due of a little over £114,000.

To finance the purchase, Mr H entered into an 84-month hire purchase agreement with Black Horse, under which he was to make monthly payments of a little over £1,075.

Mr and Mrs H were initially happy with the arrangements. However, the park was closed in 2020 because of Covid-19 restrictions. They say that, when it re-opened, many of the facilities had been reduced or removed, maintenance was not carried out to the previous standards, and many facilities were open to short-term visitors and not exclusively to members. They complained to P, which resolved some of the issues they raised, but Mr and Mrs H remained unhappy with many of the more permanent changes.

Mr and Mrs H decided that they no longer wanted the lodge or to remain members of the park and so tried to sell the lodge. They were unable to obtain the price they thought it was worth on the open market. P offered to buy the lodge back from them, but again they thought the price offered was too low – being significantly below what they had paid. Mr and Mrs H stopped paying the site fees and the hire purchase instalments.

Mr D contacted Black Horse. It suggested he terminate the hire purchase agreement and hand back the lodge to Black Horse. He agreed to do so. Black Horse then sold the lodge back to P. This left Mr D with an outstanding debt to Black Horse of around £10,800, being the outstanding hire purchase instalments from December 2023 to July 2024. Black Horse subsequently offered to waive that sum.

Mr D complained about what had happened. His concerns included, but were not limited to, the following issues:

- He should not have been advised to terminate the hire purchase agreement.
- Black Horse had sold the lodge back to P for less than its true value.
- Black Horse should have carried out a valuation of the lodge before agreeing to the finance. Had it done so, it would have known that it was worth far less than he had agreed to pay.

One of our investigators considered what had happened but did not recommend that Mr H's complaint be upheld. She thought the offer to write off the money due to Black Horse was reasonable. Mr H did not accept the investigator's recommendation and asked that an ombudsman review the case.

## **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.

Mrs H – who had largely run this complaint for Mr H – and the investigator went into quite a lot of detail about Black Horse's dealings with P and about what she sees as P's overall failings. I have gone into rather less detail, since the complaint here is about Black Horse's treatment of Mr H under the hire purchase agreement.

Under a hire purchase arrangement, the supplier of goods (in this case, P) transfers those goods to the creditor (here, Black Horse), who then rents them out to the consumer with an option to purchase at the end of the agreed term. Until then, the goods remain the property of the creditor. The creditor's responsibilities include supplying goods that meet their description and are of satisfactory quality.

There is in this case no suggestion that the lodge was not of satisfactory quality or otherwise did not comply with the hire purchase contract. Mr and Mrs H complained to P about the quality of some of the services and facilities at the park, but they were not the subject of the hire purchase agreement and were not supplied or financed by Black Horse. The hire purchase agreement made clear that it funded only the cost of the lodge. I therefore make no further comment about the services provided by P.

Under sections 99 and 100 of the Consumer Credit Act 1974 a debtor under a hire purchase agreement can end the agreement before early by giving notice. If he does so, the goods which are the subject of the agreement are returned to the creditor and the debtor becomes liable to pay no more than half of the total due under the agreement (after taking into account any payments already made). In this case, that meant that Mr H had to pay the outstanding monthly instalments, but no more. He could, in effect, walk away from the agreement.

Mr H says that Black Horse should not have recommended this course of action, but should have explored other options. It is not clear that Black Horse did recommend termination under section 99 – rather than suggesting Mr H consider it as an option. But, even if I were to find that it did, it does not seem unreasonable. Other options included an open market sale or a sale back to P. Mr and Mrs P had already explored those but had not been able to achieve the sale price they wanted. They could have paid the money they owed to Black Horse and to P and continued with the hire purchase agreement and membership of the holiday park, but they did not want to do that. Or they could have done nothing and waited until Black Horse took action to recover arrears and take back the lodge. That would almost certainly have been more expensive for Mr H, once legal costs were added to his debt, and it might also have resulted in adverse credit information being registered against his name. And it would be very surprising if a lender were to advise a borrower in Mr H's position to do nothing and simply wait for legal action to begin.

I note what Mr and Mrs H have said about what happened after they had returned the lodge to Black Horse. But it seems to me that any arrangements Black Horse and P had were a matter between them. The price which P was prepared to pay Black Horse for the lodge and the price at which P might have then sold it on did not affect Mr H's rights and obligations under the hire purchase agreement. Black Horse fulfilled its obligations to Mr H when it accepted the return of the lodge and stopped taking or seeking payment of the monthly instalments which would otherwise have fallen due.

Finally, I don't believe that Black Horse was under any duty to assess the value of the lodge when it agreed to finance it. It had to assess whether the payments were affordable for Mr H, but there is no suggestion that it didn't do that.

In the circumstances, I agree with the investigator's assessment that Black Horse's offer of settlement was reasonable in the circumstances. I simply leave it to Mr H to decide whether to accept it – assuming of course that Black Horse remains prepared to resolve the complaint on that basis.

### **My final decision**

For these reasons, my final decision is that I do not uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 26 March 2025.

Mike Ingram

**Ombudsman**