

## **Complaint**

Mr R complains that Black Horse Limited ("Black Horse") unfairly entered into a hire-purchase agreement with him. He's said that the monthly payments to this agreement were unaffordable and so he shouldn't have been lent to.

## **Background**

In February 2019, Black Horse provided Mr R with finance to facilitate the purchase of a used car. The purchase price of the vehicle was £15,509.00. Mr R paid a deposit of £800 and entered into a 'personal contract purchase' ("PCP") style hire-purchase agreement with Black Horse, which had a term of 48 months, for the remaining £14,709.00.

The loan had hire purchase charges (effectively interest) of £4,066.28 and a £10 option to purchase fee. This meant that the balance of £18,785.28 (the total amount repayable not including Mr R's deposit) was due to be repaid in 48 monthly instalments of £269.36 followed by an optional final payment of £5,856.00 which Mr R had to pay if he decided he wished to keep the car. Mr R decided to settle the finance in full and take ownership of the car in December 2022.

In October 2023, Mr R complained that the monthly payments for this agreement were unaffordable and so Black Horse should never have agreed to provide finance to him. Black Horse didn't uphold the complaint. It said that its checks confirmed that the finance was affordable and so it was reasonable to lend.

Mr R's complaint was considered by one of our investigators. He didn't think that Black Horse had done anything wrong or treated Mr R unfairly. So he didn't recommend that the complaint should be upheld.

Mr R disagreed with our investigator and the complaint was passed to an ombudsman for a final decision.

## **My findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've explained how we handle complaints about irresponsible and unaffordable lending on our website. And I've used this approach to help me decide Mr R's complaint.

Having carefully considered everything, I've decided not to uphold Mr R's complaint. I'll explain why in a little more detail.

Black Horse needed to make sure that it didn't lend irresponsibly. In practice, what this means is that Black Horse needed to carry out proportionate checks to be able to understand whether any lending was sustainable for Mr R before providing it.

Our website sets out what we typically think about when deciding whether a lender's checks were proportionate. Generally, we think it's reasonable for a lender's checks to be less thorough – in terms of how much information it gathers and what it does to verify that information – in the early stages of a lending relationship.

But we might think it needed to do more if, for example, a borrower's income was low, the amount lent was high, or the information the lender had – such as a significantly impaired credit history – suggested the lender needed to know more about a prospective borrower's ability to repay.

Having carefully thought about everything I've been provided with, I'm not upholding Mr R's complaint. I'd like to explain why in a little more detail.

Black Horse says it agreed to Mr R's application after Mr R provided details of his monthly income, which it verified with copies of bank statements, and some details on his expenditure. It says it also carried out searches with credit reference agencies which showed that Mr R had no significant adverse information such as defaults or County Court Judgements ("CCJ") recorded against him. And the amount of unsecured credit that Mr R did have outstanding was well maintained and low in comparison to his income.

In Black Horse's view, when the reasonable repayments to the amount Mr R owed plus what Mr R declared for his living expenses were deducted from his monthly income, the monthly payments were affordable. On the other hand, Mr R says that his non-discretionary expenditure already exceeded his income, so these payments were unaffordable and there was no way he was going to be able to maintain them.

I've thought about what Mr R and Black Horse have said.

The first thing for me to say is that Black Horse didn't just rely on what it was told as it as it obtained copies of bank statements from Mr R. And as far as I can see, the information in the bank statements obtained appear to show that when Mr R's committed regular living expenses and existing credit commitments were deducted from what he received each month, he did have the funds, at the time at least, to sustainably make the repayments due under this agreement.

Mr R has said that the information doesn't accurately reflect his financial position and that his non-discretionary expenditure significantly exceeded his income. However, the bank statements provided clearly show him having a surplus amount, well above the amount of the monthly payment, left at the end of each statement period.

I've also seen the income and expenditure calculation that Mr R has provided. However, it is difficult for me to place much weight on this given it is not supported by the bank statements obtained at the time. Furthermore, while I accept that this in itself is not definitive, I simply don't understand how Mr R would have been able to make all of his monthly payments on time and also the optional final payment early if his non-discretionary expenditure exceeded his income in the way that he's said.

I'd also add that it's only fair and reasonable for me to uphold a complaint in circumstances where a lender did something wrong. And I don't think that Black Horse could possibly be expected to have realised that this agreement might have been unaffordable for Mr R having considered the information he provided at the time, the deposit that he was able to pay and also what has happened in the period he purchased the vehicle in question.

I'm therefore satisfied that not only did Black Horse carry out reasonable and proportionate checks but the information it obtained before lending to Mr R showed that the payments to

this agreement were affordable. As this is the case, I'm therefore satisfied that Black Horse didn't act unfairly towards Mr R when it agreed to provide the funds.

In reaching my conclusions, I've also considered whether the lending relationship between Black Horse and Mr R might have been unfair to Mr R under section 140A of the Consumer Credit Act 1974 ("CCA").

However, for the reasons I've explained, I don't think Black Horse irresponsibly lent to Mr R or otherwise treated him unfairly in relation to this matter. And I haven't seen anything to suggest that section 140A CCA or anything else would, given the facts of this complaint, lead to a different outcome here.

So overall and while I've considered everything that Mr R has said, I don't think that Black Horse acted unfairly or unreasonably towards him. And I'm not upholding this complaint. I appreciate that this will be disappointing for Mr R. But I hope he'll understand the reasons for my decision and at least consider that his concerns have been listened to.

### **My final decision**

My final decision is that I'm not upholding Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 3 January 2025.

Jeshen Narayanan  
**Ombudsman**