

The complaint

Mr C complains that Black Horse Limited was irresponsible in its lending to him. He wants all interest and charges he paid under his hire purchase agreement refunded along with 8% simple interest and any adverse information recorded on his credit file removed.

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

What happened

Mr C took out a hire purchase agreement with Black Horse in February 2023. The agreement term was 60 months and the total amount payable £15,105.20. Mr C paid a deposit of £8,000 and was required to make monthly repayments of £118.42.

Mr C said that reasonable affordability checks weren't carried out before the lending was provided and that had these happened, Black Horse would have seen that he had other debts outstanding at the time.

Black Horse issued a final response to Mr C's complaint dated 23 July 2024. It said that in his application, Mr C said he was employed full time with a gross annual income of £42,900. It deducted amounts for his monthly costs and found that Mr C had monthly disposable income of £468. Black Horse noted that Mr C hadn't had any payment difficulties with the agreement which was still ongoing. It said that Mr C contacted it in June 2024 saying the car had been written off, but his claim had been declined by his insurance company and he was in dispute over this. Black Horse said there was no evidence to suggest the agreement was unaffordable at the point of supply.

Our investigator thought that Black Horse conducted proportionate checks before the lending was provided. He then considered the information gained through the checks and found that this suggested the agreement was affordable. Therefore, he didn't uphold this complaint.

Mr C didn't agree with our investigator's view. He said that the expenditure included in the assessment was based on estimated figures and given this was a 60-month agreement these amounts should have been verified. He said his credit report showed he had exceeded his credit limit, had taken out cash advances and had a high amount of existing debt. He said further checks should have taken place.

Our investigator responded to Mr C's comments but as they didn't change his view, this case has been passed to me, an ombudsman, to issue a decision.

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 C's employment and income and his monthly rent and other expenses. A credit check was also carried out. Mr C's income of £42,900 a year (£2,704 net income a month) was validated using a credit reference agency tool and Mr C declared his housing costs as £500 and his other expenses as £300 a month. The credit checks showed Mr C had other existing credit commitments with payments for non-revolving credit recorded as £231 and revolving credit as £698. Estimates were then used for his share of living costs. This left Mr C with disposable monthly income of £468.

Mr C's credit check showed he had nine active accounts with no judgments recorded or other adverse data noted. Considering the size of the repayments under the agreement compared to Mr C's net monthly income and noting the results from the other information gathered, I find the checks carried out before the lending was provided were proportionate. I have therefore considered what these showed to assess whether the lending should have been considered responsible.

I note the comment Mr C has made about cash advances and exceeding his credit limit, but based on Black Horse's credit check I do not find that this raised concerns that meant further checks were needed. That said, I have looked at the credit report Mr C has provided, and I do not find that this showed signs that he was struggling to manage his existing credit commitments at the time.

Mr C's income was validated using a credit reference agency tool and I find this reasonable. However, I also note that had Mr C's bank statements been checked I don't think these would have raised concerns about the income declared. Given the size of the repayments compared to Mr C's income and noting the other information received through checks, I do not find it was unreasonable to rely on estimates for Mr C's general living costs.

As I find that the checks carried out before the finance was provided were reasonable and these suggested the lending to be affordable, I do not uphold this complaint.

I've also considered whether Black Horse acted unfairly or unreasonably in some other way given what Mr C has complained about, including whether its relationship with Mr C might have been viewed as unfair by a court under Section 140A of the Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Black Horse lent irresponsibly to Mr C 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 C to accept or reject my decision before 14 February 2025.

Jane Archer

Ombudsman