

The complaint

Mr H complains about how Black Horse Limited trading as Land Rover Financial Services (Black Horse) handled matters when his car finance agreement came to an end.

What happened

The details of this case is well known to both parties so I will focus on my reasons for the decision.

In March 2025, I issued a provisional decision, I said:

“Mr H has raised a number of complaint points. I wish to reassure him that I’ve carefully considered what he’s said but in this decision, I will focus on what I consider to be the key points. Our powers allow me to do this. I don’t intend any discourtesy by this – it just reflects the informal nature of our service. But I want to assure Mr H and Black Horse that I’ve reviewed everything on file.

But first, I’m aware there has been court action in this case. In June 2024, a court determined Mr H failed to comply with the terms of the finance agreement. A Judgement for the Delivery of Goods Order was ordered and the car was returned in July 2024. As a court has already determined the same, it wouldn’t be appropriate nor necessary for me to consider this further.

However the court didn’t consider costs and whether Mr H owed money to Black Horse, that matter was adjourned should either party decide to pursue it at a later date. Black Horse has told our service as the car has been returned, they don’t currently intend on taking any further court action unless Mr H appeals the court order but they do intend on holding him liable for the outstanding balance.

When the car was returned, Black Horse sold it at auction and the net proceeds was put towards the balance however it left a shortfall of £15,464 which they say Mr H must pay. Mr H argues now the car has been returned, he shouldn’t be held liable for any sum. However Black Horse say given the time that’s elapsed since the agreement ended, the option of simply returning the car without having to pay anything more is no longer an option to Mr H. So that’s the key issue I’ve considered in this decision.

I’ve reviewed the terms of the agreement and it says the following:

GOODS RETURN OPTION

6 This clause applies only if the ‘GOODS RETURN OPTION’ section on page 1 (including the Guaranteed Future Value) has been completed and you have paid all the repayments shown on page 1 (except the final repayment for the goods) and all other amounts due under this agreement .

6.1 Instead of paying the Final Repayment for the Goods you may return them to us on or before the date when it is due.

In this case, this is a 48 month personal contract purchase agreement (PCP). As per the above terms when it ends Mr H can either keep the car and pay the final amount of £33,798

or return it. The terms state the final payment became due 48 months after the start of the agreement. Mr H signed these terms when he entered into the agreement so I'm satisfied he was aware of the same.

So if by the time the agreement ended, the car was returned on time and all monthly contractual payments were paid, Mr H would've been able to walk away from it with no further payments to make (with the exception of applicable charges such as excess mileage fees, end of contract fees, damage charges, etc). This would've meant he wouldn't need to pay the final amount. However that's not what happened here. The car remained in Mr H's possession and the final payment wasn't paid.

Mr H is likely to argue he was considering his options such as buying the car, refinancing or getting a new car. However I would've expected that to have happened before the agreement ended, not after. I say this because the final payment became due 48 months after the start of the agreement.

Based on the evidence provided to me including calls that I've listened to, Black Horse made it clear on more than one occasion to Mr H that they wouldn't extend the agreement as he had requested (unless there was confirmation of a new vehicle order). They said the car needed to be returned or the final payment made otherwise further action would be taken. So I don't agree with Mr H's comments that he kept the car with Black Horse's agreement or invitation, that clearly wasn't the case.

There was much back and forth between him and Black Horse in the months that followed. However as the final payment wasn't paid nor the car returned, Black Horse issued a default notice in October 2023 and I find that was a reasonable course of action. By that time, it was at least two months after the agreement ended so I can't say Mr H wasn't given sufficient time to exercise one of the PCP end of contract options as outlined above.

Having read the default notice, I'm satisfied it was made clear to Mr H that he needed to pay the final payment of £33,798 by 15 November 2023 and if he didn't, the account would be defaulted. So it was evident, he was being held liable for that amount and he needed to take immediate action to comply with the notice otherwise there would be serious consequences but there's no indication he did.

In December 2023 (some five months after the agreement ended), Mr H he said he wanted to return the car and he intended to do so by the end of January 2024. However by that point, the default notice deadline had already passed weeks prior. Therefore I can't say Black Horse acted unfairly by defaulting the account, reporting it to the CRAs and taking further action as they said they would. Equally I can't say they acted unreasonably by saying the two end of contract PCP options were no longer available to him given the time that had passed since the agreement ended.

Although the car was eventually returned I must take into account that was only following a court order issued several months later. In my opinion that doesn't negate Mr H's liability for the payment of the final amount, as per the terms, he was liable to pay it. I also need to take into account Mr H continued to use the car after the agreement ended and before it was collected and he done so without paying a cost to VWFS.

In order to lower Mr H's overall liability for the outstanding balance, Black Horse sold the car and put the net sales proceeds (£18,765) towards the balance. By doing so, it significantly lowered what Mr H owed. Black Horse has confirmed the outstanding balance is £15,464, that's less than half of what he was initially liable for. So on that basis, I can't say Black Horse has acted unfairly, I find this is a reasonable course of action.

Overall, I'm satisfied Black Horse has acted fairly and in line with the terms of the agreement by saying Mr H owes the outstanding balance on the account.

Although I find Mr H was liable for the full outstanding balance, there's an indication that he may be suffering financial hardship. Therefore as part of my investigation, I asked Black Horse whether they would be willing to hold him liable for the months he had use of the car from when the agreement ended in August 2023 up to when it was returned in July 2024, calculated at the rate of the monthly contractual payments (£716). Based on my calculation, I said that would be £7,876 (£716 x 11 months) which is around 50% of the balance owed.

In response, Black Horse said whilst they maintain they've acted in accordance to the terms, they are willing to consider an adjustment to the account in order to support Mr H.

They've said they previously agreed to a six month payment holiday during the Covid-19 pandemic which meant the agreement ended later than it was supposed to and due to Mr H not returning the car when required, this impacted the resale value of the car. Hence the significant shortfall in balance. They've also said as Mr H continued to use the car after the agreement ended, he's covered more mileage than he was contractually entitled to however they are not looking to recover this cost (excess mileage fees) in order to support Mr H. however this would've also impacted how much the car sold for at auction.

Black Horse has confirmed they are willing to accept my proposal for Mr H to pay £7,876 to reflect his continued use of the car. However in addition he will be held liable for six months worth of interest that they initially removed during the Covid-19 payment holiday (£600) and £432 for court costs. They've calculated that as a total £8,908 for Mr H to pay to settle the agreement. As that's considerably less than what they are contractually entitled to under this agreement, I find this to be a fair resolution. So I urge Mr H to carefully consider the same. I wish to make it clear should he decide not to accept this offer, it is likely to mean Black Horse will continue to hold him liable for the full outstanding balance of £15,464 which for the reasons outlined above, they are entitled to do.

Either way, the balance owed by Mr H is a significant amount and I would like to remind Black Horse that in the event he can't pay it as a lump sum and/or he's experiencing financial hardship, I expect them to show forbearance and due consideration. This may mean setting up an affordable payment plan for Mr H to pay it.

Information reported to the credit reference agencies (CRA)

Mr H complains Black Horse are incorrectly reporting adverse information to the CRAs about this account. He maintains throughout the entire agreement there was only one late payment in September 2021. He also alleges Black Horse have retrospectively added this adverse information due to this ongoing dispute.

He's provided a screenshot of his credit report summary and I can see a number of adverse entries throughout the history of the agreement, namely in 2020, 2021 and 2024. Mr H has specifically highlighted the entries for 2021 where I can see four adverse entries have been reported (missed/late payments). Black Horse has told our service that the most recent late payment status was recorded for September 2019 and June, July, August and October 2021. They said this is because the agreement was one payment in arrears in each of these months.

Financial businesses like Black Horse are expected to report fair and accurate information to the CRAs. In this case, I find they have. I say this because based on the agreement, Mr H was required to pay the monthly instalments of £716 by 26th of each month. I've looked at the 2021 bank statements he's provided and the transaction history on the account and on occasions, some payments weren't received by that date. For example, I can see payments

received on 30 June 2021, 30 July 2021, 29 October 2021. The account statement also shows missed or late payments in 2020 so I can't agree there was only one instance of Mr H not making the payments on time. The evidence presented to me shows otherwise.

As payments weren't received on time when it became due, it's fair for Black Horse to report the same to the CRAs as that's a true reflection of how the account was managed. However I would expect that to be reported promptly following the event and not years later as it appears to be the case here. In any event, it still remains a reflection of how the account was managed.

I note Mr H's comments that he was told via email that as long as the payments were made by the end of the month it wouldn't be reported to the CRAs. However I haven't seen evidence of the same so I can't reasonably say he was told this by Black Horse.

Black Horse also said the most recent manual CRA amendment was in February 2024, when they removed adverse information for October 2022 and December 2023 as per a request from the Complaints Department as a gesture of goodwill.

Even though the final payment went unpaid for a significant amount of time, I can't see this was reported to the CRAs although Black Horse were entitled to do so. Black Horse said they decided to remove such adverse information in support of Mr H as he was considering his end of contract options. I can't say that's unfair.

On review of the account statements and when payments were made, I can't say Black Horse has unfairly reported adverse information to the CRAs about how this account was managed. So I won't be asking them to remove the adverse information nor the default recorded about this agreement.

Call recordings

Mr H also complains he has asked Black Horse for a copy of the calls he's had with them, in particular the calls from December 2023. He said he first made this request in February 2024.

I've been provided with a copy of that correspondence. I can see Mr H said he had kept a detailed record of the discussions with Black Horse but he would like a copy of "all records since the start of this agreement that was sent via recorded delivery". I find this request to be quite specific and there's no mention of his request for calls, it appears he wanted a copy of all the written correspondence sent to him. Black Horse say this was responded to as a Data Subject Access Request (DSAR) in March 2024 meaning it was sent within the expected timeframe. I accept this in good faith as I have nothing to say that wasn't the case.

From my understanding a further DSAR request was made in January 2025 in which Mr H also asked for a copy of the calls. Black Horse say this is due to be provided to him in February 2025. I also note, our service's investigator provided a number of calls to Mr H in January 2025 so I'm satisfied he has them.

Summary

Taking everything into account, I'm satisfied Black Horse has acted fairly and in line with the terms of the agreement by holding Mr H liable for the outstanding balance owed. However they are willing to accept a lesser amount of £8,908 to settle the agreement in support of Mr H which I consider to be fair and reasonable offer.

I also find the information Black Horse has reported to the CRAs to be a fair reflection of how the account was managed so I won't be asking them to remove any adverse information from Mr H's credit file".

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.

Black Horse accepted the provisional findings. Mr H said:

- Black Horse had the advantage of legal representation which was not feasible for him;
- He doesn't agree with all of the points made in the provisional findings;
- However to be pragmatic and to resolve this matter, he's wants:
 - o Black Horse to accept £8,908 in full and final settlement of the agreement;
 - o Black Horse to remove the default from his credit file.

I thank both parties for their responses. I'm glad to see both are in agreement that Mr H can pay the reduced amount of £8,908 to settle the finance agreement in full.

As far as Mr H's comments about the default being removed, I won't be saying Black Horse needs to remove this from his credit file. As already outlined above, I find Black Horse acted fairly in defaulting the account.

On the basis I haven't been provided with any further information to change my decision I still consider my provisional findings to be fair and reasonable in the circumstances.

My final decision

For the reasons set out above, I've decided to resolve this complaint Black Horse Limited trading as Land Rover Financial Services should:

- Allow Mr H to pay ££8,908 to settle the agreement in full. If necessary and appropriate, they should set up an affordable payment for him to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 April 2025.

Simona Reese
Ombudsman