DRN-5659594

The complaint

Ms D complains Black Horse Limited (Black Horse) irresponsibly lent to her because it didn't complete reasonable and proportionate checks to ensure the lending was affordable for her.

What happened

Ms D entered into a hire purchase agreement with Black Horse in May 2022 in order to acquire a car. The cash price of the car was £15,999 and Ms D didn't pay a deposit. The total payable under the agreement for the car was £19,973.96. She also purchased optional extras including warranty, gap insurance and part exchange shortfall. This was included in the agreement and the total amount payable for these products was £1,476.48. The duration of the agreement was 49 months, and Ms D was to make monthly payments of £316.53 with an optional final payment of £6,257.

Ms D is represented in her complaint but for ease of reading I'll simply refer to Ms D throughout this decision. Ms D complained to Black Horse in July 2024 about its decision to lend to her. Black Horse didn't uphold the complaint and explained why it reasonably lent to Ms D.

Ms D referred the matter to our service. Our Investigator looked into things and explained why he felt Black Horse's affordability checks were reasonable and proportionate. He felt Black Horse had made a fair lending decision based on the information obtained.

Ms D didn't agree with our Investigator's view. In summary, she said:

- The use of statistical data was not appropriate in the circumstances. Ms D provided information about her expenditure at the time including that she had three dependent children, council tax and rent. She said she didn't declare that she had no rent, and this is shown on her bank statements.

- The credit search carried out did not capture the entirety of Ms D's financial commitments including ongoing debt repayments to other creditors, reliance on non-discretionary benefit income, and significant living expenses arising from her household circumstances. Our Investigator said there were no defaults, but this is inconsistent with the information on the statements which showed repayments towards debt collectors. She is concerned we have not been provided with a complete copy of the credit search.

- Her income came from universal credit, disability living allowance and child benefit, as well as income support from third parties. These benefits represent fixed, non-flexible income streams incapable of absorbing sudden increases in outgoings.

As Ms D didn't agree, the complaint has been passed to me to decide.

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 approach to irresponsible lending complaints is set out on our website. There are some key questions I need to ask in order to decide what's fair and reasonable. This includes:

1. Did Black Horse carry out reasonable and proportionate checks to satisfy itself that Ms D was in a position to sustainably repay the credit?
    - If so, did it make a fair lending decision?
    - If not, what would reasonable and proportionate checks have shown at the time?
2. Did Black Horse act unfairly or unreasonably towards Ms D in some other way?

Black Horse had to carry out reasonable and proportionate checks to satisfy itself that Ms D would be able to repay the credit sustainably. It's not about Black Horse assessing the likelihood of being repaid, but it had to consider the impacts of the repayment on her. There isn't a set list of checks that it had to do, but it could take into account several different things such as the amount and length of the credit, the amount of the monthly repayments and the overall circumstances of the borrower.

During the application process, Black Horse obtained details about Ms D's circumstances. Ms D declared an annual income of £47,000 The notes also confirm Black Horse checked what the income was made up of (salary payments, universal credit and so on). This was verified by Black Horse through an affordability check carried out by a credit reference agency (CRA). This check included an assessment of Ms D's current account turnover. Therefore, Black Horse took Ms D's monthly net income as being £2,958. I don't think there was anything which ought to have suggested to Black Horse that Ms D was receiving less than what had been declared.

Black Horse also completed a credit search, and it assessed Ms D's payments towards revolving credit as being £14 and payments towards non revolving credit as being £178. I appreciate Ms D's concerns around the information on her defaults, and I can see from her statements she was making payments to debt collectors. The search did note she had no county court judgments, and she had no missed payments/arrears in the last six months. Therefore, Black Horse understood she had been managing her credit without issue for at least six months. She also had a pre-existing car finance agreement with Black Horse which she had been maintaining. I can see from the system notes that the agreement was only approved by Black Horse subject to the pre-existing car finance agreement being settled.

Black Horse also considered Ms D's other non-discretionary expenditure. She had declared no housing costs such as rent. I appreciate Ms D has said she did pay rent at the time and wouldn't have declared otherwise. However, Black Horse have outlined its process to ask for declared housing costs and has provided its lending screens confirming the information it had at the time of the application. Overall, I'm satisfied its reasonable for Black Horse to have relied on the information it had at the time.

Outside of housing costs, Black Horse used data from the Office of National Statistics (ONS) to estimate Ms D's other non-discretionary spend. It estimated Ms D's living expenses as being around £478. Lenders are able to use statistical data when thinking about a consumers' non-discretionary spend unless the data is unlikely to be reasonably representative of the customer's situation. It estimated she would be left with £2,288 disposable income per month and felt this was sufficient to afford repayments of £316.53.

Overall, I'm satisfied Black Horse's checks were reasonable and proportionate here. Ms D had declared income which was verified. It also seems reasonable to me for Black Horse to rely on the information it had about Ms D's housing costs. As it understood she did not pay rent/mortgage and she had been managing her existing credit, I think it was then reasonable for it to use ONS data to estimate her other expenditure. I have taken into account the terms of the agreement including the duration of the agreement, the total amount payable and the size of the monthly repayments. I've also considered Ms D's existing credit commitments and note this agreement was replacing an existing car finance agreement which had seemingly been well managed (although I acknowledge the new monthly repayment was higher).

Having decided the affordability checks carried out by Black Horse were proportionate, I'm also satisfied it made a fair lending decision. Based on the information it had, it seemed Ms D would have sufficient disposable income to demonstrate the lending was affordable and sustainable for her. And, based on how she was managing her existing credit, there doesn't seem to have been anything else which would lead me to conclude Black Horse's decision to lend was irresponsible. Even noting what Ms D has said about her rent at the time, the checks were still likely to have shown she had sufficient disposable income to afford the repayments.

I do appreciate what Ms D has said about the affordability of the agreement, and she feels strongly Black Horse shouldn't have lent to her. I also note what she has said about her housing costs and defaulted accounts. I want to reiterate that I think Black Horse's checks were proportionate here, so I don't think it needed to do anything more. However, for completeness I have thought about what was likely to have been disclosed to Black Horse had it asked her about her other specific essential spending (bills, utilities, food, debt repayments and so on).

To do this, I have reviewed Ms D's bank statements from the period leading up to the lending. Again, I'd reiterate I don't think Black Horse needed to go as far as to obtain the statements and review all the information contained within them. Nevertheless, I'm satisfied had it asked Ms D about her specific essential spend then the agreement was still more likely than not to have seemed affordable and sustainable. This is because it remains likely Black Horse would have discovered she had sufficient disposable income remaining following her ongoing commitments to sustainably afford the repayments.

I've also thought about whether Black Horse treated her unfairly or unreasonably in some other way. However, having reviewed the evidence I have, I can't say Black Horse have done so. I note the repayments were maintained until the agreement was settled early in March 2023.

Additionally, I've thought about whether the relationship might have been unfair 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 Ms D or otherwise treated her 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

For the reasons outlined above, I'm not upholding the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 19 January 2026.

Laura Dean
Ombudsman