DRN-5798673

The complaint

Mr H complains that Black Horse Limited ('Black Horse') entered into a Hire Purchase agreement with him when it was unaffordable.

What happened

In March 2018, Mr H acquired a vehicle, which cost £17,905.00. He borrowed the full amount through a Hire Purchase agreement with Black Horse.

The agreement was due to run for 48 months, with 47 payments of £334.31 and a final optional payment of £4,861.00, which Mr H only had to pay if he decided he wanted to keep the car at the end of the term. This meant the total amount payable under the agreement was £20,573.57, of which £2,668.57 was interest, fees and charges.

In November 2023, Mr H complained that when Black Horse granted the credit, he was struggling financially with a number of debts and he didn't have sufficient disposable income to sustainably make the repayments to the agreement.

Black Horse responded in April 2024, saying when he applied for the finance Mr H declared his employment and that his income was £1,463.00 per month. It says it calculated Mr H's disposable income would be £421.69 per month after the repayments under this agreement were made. It also said the credit check it carried out didn't show any adverse information. So it maintained its lending decision was fair.

An investigator considered Mr H's complaint. They felt that Black Horse's checks didn't fully consider Mr H's expenditure and it should have asked him about his housing costs. But they found that even if Black Horse had asked further questions, the repayments would still have seemed affordable.

Mr H felt as though he wouldn't have had enough disposable income after the monthly repayments were made. And having such a narrow margin didn't allow enough of a buffer for unexpected emergency costs and meant that the monthly payments weren't sustainable.

As Mr H disagreed with the investigator's opinion, the complaint has been passed to me to make a final 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.

I'll make my decision based on the balance of probabilities – that means what I consider to have more likely than not happened – given the available information, including where information or evidence is missing or contradictory.

In order to reach my decision, I will first consider whether the checks were proportionate given the circumstances of the lending. If they were, I will go on to consider whether Black

Horse made a fair lending decision. If they weren't, I will consider what proportionate checks would've told Black Horse.

Did Black Horse carry out proportionate checks to ensure Mr H could make the monthly repayments to this agreement?

Before lending, Black Horse needed to ensure it wasn't lending irresponsibly. In doing so, it had to carry out proportionate checks to establish the repayments were affordable for Mr H.

There are no specific checks that lenders must carry out, but they should have been proportionate to the circumstances based on what Black Horse knew about Mr H. You might expect checks to be more thorough for a consumer, for example, with lower income or previous debt issues. But the expectation of more detailed checks being carried out may be lower where, for example, the amount borrowed is low or the borrower has a long history of maintaining credit well. But there's no hard and fast rules and what's proportionate will vary depending on the circumstances.

In responding to Mr H's complaint, Black Horse said that it asked Mr H about his income and expenditure. But I can't see that it took any steps to cross-check or verify any of that information. The credit check it carried out has limited information and it's not clear that Mr H had an entirely positive credit record either. What the credit check does show is that the total amount he already owed was almost £21,000 and his monthly repayments to this were roughly £370.

The proposed repayments for this agreement were £334.31. I think this is important because that constitutes over 20% of Mr H's declared monthly income figure. And along with his existing debts, this would be nearly 50% of his income going towards unsecured debts.

In those circumstances, I would expect a lender to do more to verify a borrower's income and ensure it knew enough about their committed expenditure. The evidence provided by Black Horse does not persuade me that it carried out proportionate checks in this way.

What would proportionate checks have shown?

As I've concluded that Black Horse's checks weren't proportionate in these circumstances, I've gone on to consider what would've more than likely been found out if it had carried out such checks.

I've explained that for Black Horse's checks to have been proportionate, it needed to find out about Mr H's actual living costs and carry out some form of check on Mr H's declared income. I can't guarantee what information it would have been provided with or what would have been evidenced in this information, if requested, at the time. However we've been provided with a copy of Mr H's bank statements which cover the months leading up to the application.

I wish to be clear in saying that Black Horse was not required to request this specific information before it lent to Mr H. Nonetheless, I consider this information to be a reliable resource as it contains all I now need and is information I can reasonably consider in order to recreate what a proportionate check would more likely than not have shown at the time.

The overall income and expenditure figures Mr H used in his complaint seems to include a significant amount of discretionary spending - areas of spending that are non-essential and that Mr H isn't bound to make or that aren't part of normal essential living costs. This indicates on the face of it that Mr H has a reasonable amount of disposable income once his essential expenditure, including the proposed repayment for this agreement, is accounted for. However, I'm not necessarily persuaded those figures are accurate.

Looking at the bank statements Mr H has provided, based on all of the income and all of the committed expenditure, there is more than enough disposable income to cover the monthly payments for this agreement. This is even the case before considering the fact that the vehicle for an existing motor finance agreement, which had only slightly lower monthly repayments, was being traded in as part of this transaction.

I can see Black Horse noted Mr H's income as being £21,000.00 per year, equating to £1,463.00 per month. Mr H's bank statements in the lead up to the application show regular incoming payments averaging roughly £3,900. He says that some of these payments were his partner's wages – and these equate to roughly £2,000 per month.

It's not immediately apparent that the provided statements are for a joint account. So it's unclear why the account is being used in this way. Nonetheless, it's clear that this account contains the income and expenditure for Mr H's partner. Given that both the income and expenditure for both parties is, to some extent, being pooled, I don't think that it would be reasonable to completely ignore those payments when considering Mr H's overall ability to make the repayments. Indeed in expressing his own complaint, Mr H originally said the agreement "*…ended up being unaffordable for me and my partner. We took out this agreement and never did we think it would put us into financial difficulty*". In my view, this adds weight to the argument that Mr H was operating joint finances with his partner.

When our service was investigating his complaint, while outlining the areas of expenditure he was responsible for, Mr H said he paid the energy, council tax and water bills in full each month, but he was only responsible for half of the mortgage payment of £445. However this arrangement isn't reflected in his bank statements.

Instead all income payments go into the account and those funds are used to cover all the payments which are going out. There doesn't seem to be any apparent division of payments or moving of funds which would demonstrates Mr H was responsible for certain payments and not others. The overall expenditure figures described by Mr H during his complaint hadn't been split in this way either.

The only time the division of payments was mentioned was after the investigator queried how the utilities and mortgage payments might have been split. However the description provided by Mr H isn't borne out in the evidence I've seen.

Given the way the account is being used, I think it's fair to say that considering the disposable income from the account as a whole is fair in terms of assessing Mr H's ability to make the repayments under the agreement, rather than solely the payments Mr H might hypothetically be responsible for if only payments directly connected to him were included.

I also think the alternative approach, only considering Mr H's income and dividing the expenditure on the account proportionately, wouldn't result in a significantly different outcome. And I've considered Mr H had been paying for an existing motor finance agreement up to that point for almost the same amount, so I don't see this new agreement as drastically impacting his existing financial situation.

I'm also mindful of the fact that Mr H explained that he required the car for his work – and I think it would be unlikely that he would have presented his financial position in a way that would have seen him viewed in a less favourable light when it came to his application. I think he would have presented the information in a way that demonstrated that he'd be able to maintain the monthly repayments – and given the evidence I've seen, I think it would have been reasonable and accurate to do so.

The evidence I've seen shows there is more than enough disposable income, such that if Black Horse had carried out additional checks into Mr H's financial position, it would have likely found the agreement to be affordable.

In reaching my conclusions, I've also considered whether the lending relationship between Black Horse and Mr H might have been unfair to Mr H 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 H 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 I'm not upholding this complaint.

My final decision

My final decision is that I do not uphold Mr H's complaint against Black Horse Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 October 2025.

Scott Walker
Ombudsman