

## **complaint**

Mr J complains that Black Horse Limited mis-sold a finance agreement to him. He wanted it to be in the name of his business rather than his name. Mr J says that the finance arrangement has affected his credit rating.

## **background**

Mr J entered into a hire purchase agreement with Black Horse in March 2013 to acquire a car. After signing the document, he realised the agreement was in his name rather than his business name. Mr J says this has affected his ability to take out personal loans.

Mr J complained to Black Horse. It did not uphold his complaint. Black Horse said that the finance agreements signed by him made it clear that the finance was being taken out in his name.

In early 2014, Mr J made some of the payments that were due after the payment date. He was charged late payment fees and interest, and details were recorded on his credit file. Mr J complained to Black Horse. It did not uphold his complaint. Black Horse said that fees and interest had been applied to his balance in line with the terms and conditions of the agreement. As a goodwill gesture it agreed to waive the collection activity fee and interest. Black Horse would not remove the information from Mr J's credit file. It said it had not told him that he could make late payments and his credit file would not be affected. Black Horse paid him £20 for trouble and upset.

Mr J was also unhappy that Black Horse's Interactive Voice Recognition Service (IVR) does not recognise that he had one open and one closed agreement. Black Horse told him that he has to input the agreement number as he has had more than one agreement with it.

Mr J was charged a returned cheque fee in mid 2015. He queried this with Black Horse. It explained that two payments had been made to close the account. Black Horse waived the fee. The double payment delayed the closing of the account however. Black Horse paid Mr J £75 for trouble and upset.

Mr J was unhappy with this response and brought a complaint to us to consider.

The adjudicator did not recommend that Mr J's complaint should be upheld. She considered that the delay in closing the account was due to the fact that two final payments were made. The adjudicator considered that Black Horse had acted reasonably in waiving the returned cheque fee, and paying him £75 for trouble and upset.

The adjudicator was of the opinion that we can't tell Black Horse to change its IVR system so it can distinguish between open and closed accounts.

The adjudicator was not persuaded that Black Horse had told Mr J he could make late payments and it would not affect his credit file.

The adjudicator considered that the hire purchase agreement makes it clear that finance is being taken out in Mr J's name rather than that of his business. As such, it had not been mis-sold to him. Further the terms and conditions of the agreement say that details of it will be recorded on his credit file.

Mr J does not agree. He says, in summary, that he asked for the agreement to be in his business' name not his. Mr J had no contact with Black Horse. All the discussions took place through an agent. The agent should have got Mr J a better finance deal. The sales team should not deal with the financing of the sale. The credit implications of the agreement were not explained to him. His business closed, and this caused problems for him.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence.

I appreciate Mr J's strength of feeling about this matter. I can also see that he's spent a lot of time communicating with Black Horse about his complaint. And, he's had the embarrassment and inconvenience of having loan applications turned down. I have dealt below with the matters he is not happy with.

#### Mis-selling

I note that Mr J's intention was for the hire purchase agreement to be in his business' name. The agreement was however set up in Mr J's name and he signed it. By doing so he agreed to its terms and conditions. The agreement is clear that Mr J is the agreement owner and he has provided bank details. Mr J also signed to confirm he had read and understand the Pre Contract Credit Information which explained the agreement was in his name. Therefore, on balance, I find that Mr J was provided with enough information to understand the agreement he was signing and the role he was taking.

If Mr J was not happy with the finance terms offered to him, he could have declined them and looked for a better arrangement.

#### Interactive Voice Recognition

Black Horse has explained that the system keeps details of old and new agreements as a customer may have an enquiry on either. As such, a person who has had more than one agreement with Black Horse has to enter details of the arrangement he or she would like to discuss. I consider this is reasonable, and I don't consider that Mr J has been treated unfairly in this respect.

#### Late payment

I have not seen enough to persuade me that Black Horse told Mr J he could make payments late with no adverse implications. I note that it has removed interest and late fees as a good will gesture. I find this is reasonable.

#### Credit file

The agreement Mr J signed makes it clear that information about it will be recorded on his credit file. As such I consider it was reasonable for Black Horse to enter details of it. Further, it was fair to record when Mr J made late payments as this was a true reflection of the way the account had been run.

Agent

I note that Mr J says that all the finance discussions were carried out by the agent rather than with Black Horse. Black Horse sometimes uses agents to arrange finance with customers on its behalf. This is a commercial decision for it to take, and it is not a matter we would usually interfere with. Mr J may wish to raise his concerns with the regulator, the Financial Conduct Authority. We are not a regulator and so cannot decide if this practice should be stopped. It does not appear that Mr J said he was unhappy to deal with the agent when he agreed to enter into the hire purchase agreement.

Customer Service

Black Horse has paid Mr J £75 for any trouble and upset caused by the fact that two final payments were made. This delayed the closure of his account. I consider that this payment is reasonable compensation. I note the returned cheque fee had been refunded.

**my final decision**

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 9 November 2015.

Rosemary Lloyd  
**ombudsman**