

The complaint

Miss K complains that Black Horse Limited was irresponsible in its lending to her. She wants all interest, fees and charges paid under the hire purchase agreement refunded along with interest and any adverse information removed from her credit file.

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

What happened

Miss K entered into a hire purchase agreement with Black Horse in February 2020 to finance the acquisition of a car. The agreement had a term of 48 months and Miss K was required to make monthly repayments of around £218 and a final payment of £3,855.

Miss K said that adequate checks weren't carried out before the lending was provided and had they been, Black Horse would have seen that she had other debts outstanding at the time and that one of her accounts had been passed to a debt recovery company. She then took on further debt after the hire purchase agreement which showed her dependency on borrowing. Miss K thought that had adequate checks taken place then Black Horse would have realised the finance wasn't affordable for her.

Black Horse issued a final response to Miss K's complaint dated 3 June 2024. It said that on Miss K's application she said she was employed full time with a gross annual income of £25,000. She provided her monthly costs and based on this she had a net monthly disposable income of £1,046. It said following its underwriting checks the finance was agreed. Black Horse noted that Miss K's payment history didn't show any difficulties and that the agreement was settled in January 2022. Black Horse didn't accept that it had lent irresponsibly.

Miss K referred her complaint to this service.

Our investigator noted that Black Horse completed a credit search and asked Miss K about her income and expenses before lending. It then validated Miss K's income using credit reference agency data and used third party data to determine Miss K's average living costs alongside the housing costs she had provided. Our investigator noted the results of the credit check didn't raise concerns and she thought that the checks were proportionate given the level of borrowing.

Our investigator then considered whether, based on the result of the checks, the agreement should have been considered affordable and found that Miss K had sufficient disposable income to meet the repayments. Our investigator noted the comment that had been made about Miss K having an account passed to a debt recovery company but said that this happened after this lending was provided. Taking all the evidence into account our investigator didn't uphold this complaint.

Miss K didn't accept our investigator's view. She said that Black Horse recorded her rent as being £100 but she was paying her partner at the time £850 a month to cover rent and bills

(rent was £675) and this was clearly shown in her bank statements. She said the affordability assessment wasn't accurate and adequate checks would have shown this.

As a resolution hasn't been agreed, this complaint 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 carried out a credit check. This showed that Miss K had total outstanding balances of £6,156 across six active accounts. There were no defaults or county court judgements recorded and no recent missed payments. Miss K has also provided a copy of her credit report and I do not find this raises concerns about the information gathered by Black Horse. Based on the credit check results I do not find that the lending shouldn't have been provided or that Black Horse needed to carry out additional checks.

Black Horse carried out an affordability assessment before lending. It gathered information about Miss K's employment and income and validated this with a credit reference agency. It also asked Miss K about her housing cost, and she declared rent of £100. A credit search was carried out and an amount included in the affordability assessment to reflect Miss K's existing credit commitments as well as her living costs based on third party data.

I note the concerns that Miss K raised about the income used in the assessment, but the declared amount was validated with a credit reference agency, and this returned a higher figure than Miss K had declared. I can see from Miss K's bank statements that her income from her employer was lower than the net monthly income amount derived from her £25,000 declared annual income (around £1,700) but I do not find that this was such that it would raise concerns about the declared income amount. So, in this case I find it reasonable that Black Horse included Miss K's declared income in its assessment.

Miss K has said that she was paying £850 a month to her ex-partner for rent and bills. I have looked through her bank statements and can see a regular monthly payment of £650 to an individual (rather than £850) however there are also receipts from this individual. The net monthly payments seem to be around £550. Given the size of the repayments due under the agreement compared to Miss K's income and noting the disposable income that was calculated, I do not find that Black Horse acted unreasonably by relying on the information Miss K provided alongside estimates for her living costs. However, given the declared rent amount was low, I think it could have asked more about this. Had it done so, I think it likely it would have identified that Miss K was paying her partner at the time £650 for her rent but also receiving payments from him. However, even if this was included in the assessment, I do not find that it would have shown the lending to be unaffordable.

I've also considered whether Black Horse acted unfairly or unreasonably in some other way given what Miss K has complained about, including whether its relationship might have been viewed as unfair by a court under Section 140A Consumer Credit Act 1974. However, for the reasons I've already given, I don't think Black Horse lent irresponsibly to Miss K 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

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 24 December 2024.

Jane Archer
Ombudsman