

The complaint

Mr H complains that Black Horse Limited unfairly applied a default to his account

What happened

Mr H entered into a hire purchase agreement with Black Horse in April 2019. The agreement required 35 monthly payments of around £253 to be made followed by a balloon payment of £9,309. Mr H made the monthly repayments and then contacted Black Horse. He says he was told to cancel his direct debits and that someone would contact him about setting up a repayment plan. Mr H says he made a couple of payments online to reduce the outstanding debt and that a few months later a repayment plan was agreed. However, he then discovered that his account had been defaulted without him being told this would happen.

Black Horse didn't uphold Mr H's complaint. It said it issued an arrears letter dated 2 September 2022 which said that if the arrears weren't paid it may send a default notice. It said that Mr H was informed on three calls in September 2022 that his credit file would be impacted due to the outstanding arrears on his account. It noted that Mr H said he was applying for finance externally and would make monthly payments but that this wasn't an agreed plan.

Mr H referred his complaint to this service. Our investigator didn't uphold this complaint. He said that Mr H had wanted to refinance his balloon payment, but this was declined. He said Mr H had been informed on several occasions of the impact not paying the balloon could have on his credit file.

Mr H didn't agree with our investigator's view. He said he told Black Horse he wanted to settle the balloon payment with another agreement and while telephone appointments were agreed these didn't happen. In June 2022 a default notice was issued, and Mr H made several calls about this, and Black Horse agreed to remove the default due to the delays in its refinancing team contacting him. He said he then made several payments to lower the balance outstanding. After five months a new agreement was discussed and declined by Black Horse for reasons Mr H doesn't know and he said he would try to seek alternative finance elsewhere. While he received letters about the balloon payment, Mr H said he didn't receive a default notice. In October 2022, Mr H received a letter saying his case had been taken over by the recoveries team and it wanted to try to resolve the issue. Mr H said it was agreed he would settle the balloon payment at end November 2022 or as a second option over two payments in November and December 2022 and Mr H says there was no mention of a default. However, he then received an email from a credit reference agency saying a default notice had been issued. Mr H says that had the recoveries team and Black Horse been communicating it would have seen this was a mistake.

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.

Mr H entered into a 36 month hire purchase agreement with Black Horse in April 2019. He

made the monthly payments due and in March 2022 contacted Black Horse about the final balloon payment. I can see that an appointment was made, and that Black Horse called Mr H in March, April and May 2022 but wasn't able to speak to him until 13 June 2022 when an appointment was made for a call the following day. Unfortunately this call didn't happen and a default notice was issued dated 13 June 2022.

Mr H raised a complaint about the calls not taking place at the required times and this was upheld. It was agreed that any adverse information recorded on Mr H's credit file for April, May and June 2022 would be removed.

Following this Black Horse made further unsuccessful call attempts in June and July 2022. This shows that it was trying to discuss the situation on Mr H's account with him. Mr H has explained that he discussed the possibility of a new agreement with Black Horse, but this wasn't accepted. On 26 July Black Horse spoke with Mr H and the call notes show that Mr H was provided with his options, and he said he would get finance from elsewhere to settle the agreement.

As an alternative finance agreement hadn't been accepted, Mr H had no agreement in place and so it is reasonable that Black Horse would contact Mr H about the need to settle the outstanding balance. Black Horse said it issued an arrears notice to Mr H dated 2 September 2022 that explained if payment wasn't made then a default notice might be sent. At this point, as Mr H had previously received a default notice in June 2022, I think he should have been aware of the implication of not making the payment required to settle his account.

Three calls then took place between Mr H and Black Horse in September 2022. On these, Mr H explains that he is still looking for alternative finance and would continue to make monthly repayments while doing this. The advisers welcome Mr H's monthly payments and explain this will reduce his outstanding balance but they also explain that his account is in arrears and that this could affect his credit file. Mr H notes the previous issues which meant adverse information was removed from his credit file, but it is confirmed that as that happened before the refinance was declined and Mr H was in arrears his credit file could still be affected. Given this I find that Black Horse made Mr H aware of the status of his account and that his credit file would be affected if the outstanding balance wasn't repaid.

I understand that the default was applied in October 2022 and that Mr H discovered this from a credit reference agency rather than Black Horse. I can understand how upsetting this would have been. I also understand that Mr H feels he was being reasonable by still making monthly payments while looking for external finance. But, given the time that had passed since the balloon payment had fallen due, that no new agreement had been put in place and that Mr H had been given time to find alternative finance but hadn't done so, I do not find I can say Black Horse was wrong to take further action. And as Mr H was told of the impact not paying his arrears could have, I do not require Black Horse to make amendments to Mr H's credit file.

Mr H received a letter dated 5 October 2022. This letter was from the Legal Recoveries team, and it is explained it is sent on behalf of Black Horse. I note Mr H's comments about receiving letters from this team and the actions not being co-ordinated, but the letters are clear that the actions are being taken on behalf of Black Horse. The letter dated 5 October 2022, warns Mr H that court proceedings could be started if an adequate response isn't received. As Mr H still had a large balance outstanding, I do not find that Black Horse was wrong to start considering options for reclaiming this. I do not find this letter, or the subsequent letters mean the default shouldn't have been applied to Mr H's credit file in October 2022.

In conclusion, for the reasons set out above, I do not uphold this complaint..

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 Mr H to accept or reject my decision before 8 November 2023.

Jane Archer
Ombudsman