

## The complaint

Mr A complains that Black Horse Limited trading as Jaguar Financial Services hasn't responded positively to his requests for help and offers of settlement in regard to the balloon payment due under his hire purchase agreement. He also thinks that the interest and charges applied to his agreement have been excessive.

## What happened

Mr A entered into a 48 month hire purchase agreement with Black Horse in April 2019 to acquire a used car. Mr A paid a deposit of £1,500 and was required to make monthly repayments of around £385 and a final payment of £9,939 if he wished to keep the car.

Mr A says he wrote to Black Horse in June 2023 outlining his financial difficulties. He explained that due to long-term health complications he had suffered a substantial decrease in his income. He says he included evidence from his mental health advocate, but that Black Horse didn't respond to him. Mr A then sent a second letter but still didn't receive a response. He says this issue is causing him constant anxiety and he wants a fair resolution agreed which recognises the severity of his health conditions.

Black Horse said that it contacted Mr A on 10 July 2023 to acknowledge his complaint and said it wasn't able to accept the options he had put forward to settle his agreement because these were outside of its business policy. It said it explained options to hand the vehicle back, but Mr A wanted to keep the car and noted it had also been damaged. Black Horse issued a final response letter dated 4 August 2023. It upheld Mr A's complaint as it hadn't responded to his letters and awarded him £100 compensation.

Mr A confirmed that he wanted his complaint considered by this service. He didn't think Black Horse had treated him fairly by not accepting the offers he put forward and pursuing him for the balloon payment.

Our investigator didn't uphold this complaint. She noted that Black Horse had explained that the options put forward by Mr A weren't acceptable and had offered the balloon payment be repaid in two payments but that this wasn't affordable for Mr A. She noted the balloon payment was an 'optional' payment and didn't think that Black Horse was wrong to explain that if this wasn't paid or the car returned that it would likely follow its arrears policy. She noted the damage to the car and said that if the car was returned then we would expect Black Horse to treat Mr A with forbearance and due consideration in considering affordable repayments for the cost of the damage. Regarding the delay in Black Horse responding to Mr A she thought the compensation offered was reasonable.

Mr A didn't accept our investigator's view. He didn't think it adequately addressed the distress, financial hardship and exacerbation of his medical conditions that he had endured. He said that despite his communication about his health issues Black Horse hadn't taken this into consideration and that under the Equality Act 2010 it was required to make reasonable adjustments for customers with long-term health conditions. He didn't think that Black Horse had acted in line with the Consumer Credit Sourcebook that required it to exhibit understanding and forbearance for customers facing financial difficulties and said it

hadn't offered feasible solutions for him given his deteriorating financial circumstances and health conditions. He said the investigation didn't address his complaint about unfair late fees and the interest rate that was charged and that the delay in Black Horse acknowledging receipt of the sensitive data he had sent left him anxious and distressed.

#### *My provisional conclusions*

I issued a provisional decision on this complaint. My findings are set out below.

*Mr A's complaint has two parts. The first is that Black Horse hasn't provided Mr A with the support it should have when he explained he couldn't make the final balloon payment. The second is that he was charged excessive late fees and interest rates throughout his agreement. I have dealt with both parts of this complaint separately.*

#### *Final payment of £9,939*

*Mr A has said that Black Horse hadn't provided reasonable adjustments as required by the Equality Act 2010 due to his long-term health conditions. I note this comment, but we are an informal dispute resolution service, meaning we don't have the power to decide whether or not Black Horse is in breach of the Equality Act 2010, as only a court has the power to do this. What we can do is take relevant law and regulation into account when deciding what's fair and reasonable in the circumstances of a complaint and I have done this in this decision.*

*Mr A entered into a hire purchase agreement and was required to make a balloon payment at the end of the agreement if he wished to keep the car. If the payment wasn't made, then the car would need to be returned. While I understand that Mr A wants to keep the car and note his concerns about the damage that happened to the car, it is a choice at the end of the agreement as to whether the balloon payment is made, or the car returned.*

*Mr A wrote to Black Horse in June 2023 to explain his situation and that he couldn't afford to make the final balloon repayment. Mr A re-sent his letter and then called Black Horse on 7 July 2023. On this call, Mr A explained that he had written to Black Horse twice with no response and a complaint was logged for him. Black Horse upheld Mr A's complaint and said a payment of £100 would be made for the upset caused. Given Mr A's circumstances and his health conditions, I can understand that it was particularly distressing for him that he didn't receive a response to his letters, and I note his concern about the sensitive data he had included with his correspondence. But as Mr A was able to discuss his issues with Black Horse on 7 July, just over a month after the first letter was sent, I find that £100 compensation for not responding to the letters before Mr A made the call is reasonable.*

*Mr A wants to keep the car and put forward offers of how to resolve the issue with the balloon payment. While we would expect Black Horse to treat Mr A positively given his circumstances, it wasn't required to accept the offers Mr A put forward and has explained these fell outside of its business policy. Instead, it did provide Mr A with the options available to him in regard to voluntary termination or making the final payment over two months. I appreciate that these options weren't suitable for Mr A but I cannot say that Black Horse treated Mr A unfairly by providing him with the options that were available.*

*I understand that this isn't the outcome that Mr A wants but I cannot say Black Horse has made a mistake or treated Mr A unfairly by not accepting his offers in regard to the balloon payment and I find the compensation it offered for not responding to his letters was reasonable.*

#### *Interest and charges*

*Mr A has also raised concerns about the interest and charges that have been applied throughout his agreement. Our investigator didn't include this part of the complaint in her view and said it could be raised separately. But as Black Horse noted in its case file that Mr A had said that he wanted an examination of the interest rates and charges applied to his agreement and it addressed this issue within the case file I find I have enough to include this aspect of Mr A's complaint as part of this decision.*

*I understand that Mr A is concerned about the interest and charges applied to his agreement. I have looked at the agreement Mr A signed, and this clearly set out the interest rate being charged and the payment amounts. The agreement terms and conditions then set out the charges that would be applied if repayments were missed. Mr A also signed the regulatory requirements document confirming that he had been made aware of the key features of the agreement including the payments and charges. Therefore, I cannot say that Mr A wasn't made aware of the costs involved in the agreement and as he signed this, he agreed to the terms.*

*Black Horse said that during the term of the agreement Mr A requested payment deferrals and these were applied on 3 April 2020, 18 May 2020 and 15 June 2020. Black Horse said that payment deferrals weren't part of its terms and conditions, but these were applied in response to the Coronavirus pandemic and the guidance provided by the Financial Conduct Authority (FCA). It said the guidance allowed businesses to charge interest during the deferral periods and the charges it had made were in line with the guidance and that Mr A was made aware of these when he applied for the payment deferrals.*

*I have looked through Mr A's payment history and these show him making the monthly payments in line with the agreement up to March 2020 when the payment deferrals were put in place. He then restarted his monthly payments in July 2020 and made these until July 2023 when the final repayment was due. I have also looked through the notes regarding the payment deferrals and these set out the charges that will be applied at the end of the agreement. Given this I do not find I have anything to suggest that Mr A wasn't charged the correct interest and fees in line with the agreement. Therefore, I do not find I can uphold this part of Mr A's complaint.*

*In conclusion I find that the £100 Black Horse said would be paid in response to it not responding to Mr A's letters is reasonable and I do not find I have enough evidence to uphold Mr A's complaint in regard to the interest and charges applied throughout his agreement.*

Mr A responded to my provisional decision. He said that the late payment charges applied to his account were excessive and punitive. He felt that his financial hardship and long-term health conditions, which Black Horse was aware of, hadn't been taken into account and that the application of such high late payment fees on a vulnerable customer's account contradicted the principles of fair and considerate treatment.

Mr A asked if the offer to pay the balloon amount over two months was still available as he was considering all options. He asked if a longer repayment period would be possible and said he was open to discussing and negotiating mutually agreeable terms. He also said that he had recently reviewed his account and found that there was an option to refinance his agreement. He said this hadn't been communicated to him previously.

### **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 am sorry to hear of the difficult circumstances Mr A has been experiencing both in regard to his financial situation and also his physical and mental health. As I explained in my provisional decision, I kept this in mind while considering this complaint, but I have also needed to establish whether Black Horse has made any mistakes in how it has dealt with Mr A and / or whether its actions meant that Mr A was treated unfairly.

Mr A has said that after recently reviewing his account he found an option to refinance his agreement which he hadn't been made aware of previously. I note his comment about this but having looked at the screenshot Mr A has provided, this sets out that Black Horse will decide if this option is available to Mr A after application and that this would involve a credit search.

This complaint is about the actions Black Horse took when Mr A raised his issues with making the balloon payment. Having looked through Black Horse's responses in July and August 2023, I find that Black Horse explained to Mr A that the options he had put forward weren't acceptable and provided him with the options available to him at that time. These included spreading the payment over two months. So, while I note Mr A's comments, I do not find that Black Horse did anything wrong when Mr A raised his concerns about the balloon payment by providing him with the options available to him at that time.

Mr A has asked whether the offer of payment over two months is still available and whether a longer repayment period would be possible. As I have found that Black Horse did offer reasonable options to Mr A, I do not require it to do anything further. That said, I would expect Black Horse to treat Mr A positively and sympathetically regarding the outstanding balance on his account. If Mr A wishes to take the option of the two-month repayment or discuss other possibilities with Black Horse, he should do this directly.

Mr A said that the late payment fees he had been charged were excessive. Looking at the amounts he has referred to these appear to relate to the charges made for the payment deferral periods. While I understand that Mr A feels these are excessive, Black Horse has said these were applied in line with the guidance at the time. It has also explained that Mr A was informed of the charges before he could proceed with the payment deferral request. Given this, while I note Mr A's comment, I find he was made aware of the charges and in this case, I do not find I can say Black Horse has done anything wrong by applying these.

### **My final decision**

My final decision is that the payment of £100 compensation by Black Horse Limited trading as Jaguar Financial Services as noted in its final response letter is a reasonable resolution to this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 11 January 2024.

Jane Archer  
**Ombudsman**