

The complaint

Mr M complains about how Black Horse Limited trading as Land Rover Financial Services treated him, when they ended a hire purchase agreement he had with them.

What happened

In September 2020, Mr M took out a hire purchase agreement with Black Horse to get a used car. The agreement was scheduled to last for around two years and under it, Mr M was contracted to make monthly payments of around £980.

Just over a year later, the car was stolen while it was parked at a retail park. However, the car was recovered by the police and then impounded. Mr M paid for the cost of the impoundment, but the police kept the car for further investigation.

Before Mr M was able to get the car back from the police, unfortunately, he suffered the bereavement of a close relative living overseas. So, in November 2021, Mr M travelled abroad to assist his family.

While Mr M was away, the police had finished their investigation. And in January 2022, the police told Black Horse the car would be destroyed, if they didn't collect it. To avoid this from happening, Black Horse collected the car and took it to an auction house. They say they tried to contact Mr M, but didn't get a response. So, Black Horse decided to terminate Mr M's agreement and made preparations to sell the car.

Mr M says he couldn't return back to the UK when he planned to, because of travel restrictions imposed at the time, in light of the global pandemic. He says he wasn't able to return home to collect the car from the police until late February 2022.

Once Mr M had returned home and found out Black Horse had collected the car, he says he tried to get it back. Mr M offered to pay the costs of the collection and storage, if Black Horse was able to reinstate his agreement. Black Horse wasn't prepared to do that and went on to sell the car. The proceeds of the sale satisfied the outstanding amount Mr M owed under the agreement, but Black Horse held him responsible for the collection and storage costs.

Mr M complained to Black Horse and said they should have waited until he was able to get back to the UK. In their response to Mr M's complaint, Black Horse said he had breached the hire purchase agreement, by allowing the car to be seized. They said they were able to terminate the agreement and hold Mr M responsible for the collection and storage costs. Mr M didn't accept Black Horse's response and brought his complaint to us.

One of our investigators looked into Mr M's case and initially found that Black Horse had treated Mr M fairly. However, after further discussion, Black Horse decided to offer Mr M a payment of £12,920.74 to settle his complaint. Mr M didn't accept Black Horse's offer and said they should refund all the money he had paid to them while the agreement was in place, less the collection and storage costs.

Because Mr M didn't accept Black Horse's offer, his case has been passed to me to make a

final decision.

I sent Mr M and Black Horse my provisional decision on this case, on 24 November 2023. I upheld Mr M's case and explained what I thought Black Horse should do to put things right. A copy of my provisional findings is included below:

This case is about a hire purchase agreement with Black Horse, which is a regulated financial product. As such, we are able to consider complaints about it.

The events leading to the sale of the car

In their final response to Mr M, Black Horse said the car had been seized by the police and that meant Mr M had breached the terms of his agreement. I've thought about this further to decide if Black Horse treated Mr M fairly.

All the parties involved with this complaint agree that the car came to be impounded by the police, because it had been stolen. Mr M says the car was recovered by the police on the same day as the theft, but the police wanted to keep it for further analysis.

I've not seen any evidence or suggestion to show that the actions of the police, were down to something Mr M had done. Indeed, the evidence shows he was a victim of a crime, where the police needed to complete their investigation.

Overall, I don't think the car was seized from Mr M in a way Black Horse could interpret that he had breached the agreement he had with them. So, I don't think it was fair for Black Horse to have terminated the agreement on this basis.

There was also a suggestion from Black Horse, that Mr M had abandoned the car. They say he left it with the police from late November 2021, until he returned from abroad in late February 2022.

While I agree that Mr M didn't contact the police or Black Horse during his time abroad, I can see that he maintained repayments due under the agreement throughout that time. He also paid the £290 storage costs, charged by the police. And Black Horse's contact notes don't show any dissatisfaction or reluctance from Mr M to keep the car, in the weeks before he needed to travel abroad. Furthermore, the car was in a police compound, rather than an unknown third party's address or simply left with the dealer.

So, I don't think Mr M abandoned the car, to an extent where Black Horse could assume he didn't want to continue with the hire purchase agreement.

However, while I think Black Horse could have treated Mr M more fairly, I think Mr M could have done more during his time abroad to make Black Horse aware of his circumstances. Mr M says he didn't make any arrangements for someone to talk to the police on his behalf, or to monitor what was happening with the car. Additionally, he didn't make any contact with Black Horse or the police, in the two months he was away.

I acknowledge that Mr M was dealing with some very sad personal circumstances while abroad. But, I think it would have been reasonable for him to have either arranged for someone to monitor the situation with his car, or to have regularly checked on what was happening himself.

Black Horse's records show they tried to call Mr M in late January 2022, after they were told by the police that they may dispose of the car. The car was subsequently taken to an auction house and stored. I think this was a reasonable step for Black Horse to have taken, as they

wanted to stop the loss of their asset.

In all the circumstances, I think Black Horse had the information available to look into Mr M's situation further, before they decided to terminate his hire purchase agreement. I think Mr M could also have sought to keep Black Horse informed with what was happening and that may have widened the opportunity to sort things out on his return home.

To help me decide what would have been fair and reasonable, once Mr M made Black Horse aware of his circumstances, I've thought about the possible actions they could have taken.

Black Horse's options in February 2023

By the time Mr M returned from abroad and had made contact with Black Horse, the car had been collected from the police compound and taken to an auction house. Black Horse had added the collection and storage fees to the amount owed under the hire purchase agreement and had told Mr M the agreement would be terminated.

But, it would be another three months before the car was sold at auction and the proceeds used to pay off the outstanding balance. So, I think there was a significant timeframe where Black Horse was able to consider the fairest outcome for both them and Mr M.

I've already found that Black Horse didn't treat Mr M fairly, when they looked to terminate the agreement following the time where the car was held by the police for analysis. So, I've considered Mr M's position during the three month timeframe, before the car was sold.

Mr M has provided proof that he and other close family members went abroad in November 2021. He's also provided us with evidence to show where his planned return date was changed, extending his trip into February 2022. On balance, I'm persuaded by the unfortunate reasons why Mr M travelled from the UK and why he couldn't return when as planned.

Black Horse's records show that where upon discovering the car had yet to be sold, Mr M suggested that he would settle the outstanding amount due under the hire purchase agreement. This included the collection and storage fees that had been added by Black Horse.

Overall, I think Black Horse were given reasonable explanations why the car may have been left with the police. I also think Mr M was efficient in trying to sort things out on his return and that he made a sensible offer to Black Horse, to get the car back.

I can see where Black Horse may not have wanted to reinstate the hire purchase agreement. But, having considered everything, I think Black Horse were able to treat Mr M's circumstances more fairly and prevent the car from being sold. I think it would have been fair and reasonable at this point to have returned the car to Mr M, in line with his offer to settle what he owed.

The car at the centre of the complaint has since been sold. It then follows that returning the car to Mr M now, is not an option I can consider. So, I've thought about how Black Horse can fairly settle Mr M's case.

The settlement to this complaint

While we were investigating Mr M's case, Black Horse made an offer to pay him £12,920.74 to settle his complaint. Mr M declined this offer and said he'd like a refund of all the payments he's made to Black Horse since the start of the hire purchase agreement.

Including the deposit, I can see that Mr M paid around £25,000 to Black Horse. I can see he had use of the car for around 17 months, from September 2020 until February 2022. I think it's fair for Mr M to pay for the usage he's had of the car, so I don't think Black Horse should refund all what he's paid.

To think further about Black Horse's offer, I've considered the cost of leasing a car similar to the one Mr M had. I've also thought about the monthly repayments due under the agreement. And while I recognise this won't be an exact comparison, I think it's the fairest way to decide the cost of Mr M's usage.

Having done so, I can see the monthly cost of leasing a similar car is around the same as the monthly repayments Mr M made to Black Horse. On balance, over the 17 month period, I think the cost of Mr M's usage of the car was around £16,000.

Black Horse's records show they collected the car from the police compound on 14 February 2022 and took it to an auction house. They say they incurred a cost for collection and subsequent storage, which they added to Mr M's outstanding balance.

However, before making their recent offer to Mr M, Black Horse said they're no longer looking to hold Mr M responsible for the collection and storage costs. So, should Mr M accept this settlement, I don't think there would be anything else for him to pay.

Having considered all the evidence, I think Black Horse's offer to pay Mr M £12,920.74 is fair and reasonable. The offer means Mr M would have paid a fair cost for the usage he had from the car, and that Black Horse wouldn't pursue him for any further payment relating to the collection and storage.

I've not seen anything to suggest that Mr M's credit file has been effected by any adverse information. But, I'm aware that Black Horse sent Mr M arrears letters when the agreement was terminated. I've concluded that Black Horse didn't treat Mr M fairly, when they chose to terminate his agreement. I think Mr M was prepared to pay for the storage and collection costs, which were subsequently satisfied when the car was sold in May 2022.

After careful consideration, I don't think Mr M should suffer from any adverse information Black Horse may have recorded with credit reference agencies, about the hire purchase agreement. So, I think it's fair for Black Horse to remove any adverse information they may have registered on Mr M's credit file.

Lastly, I can understand where Mr M says he found it distressing when he returned home, from an already challenging situation, to find he couldn't access his car. And after three months of trying to find a solution with Black Horse, he needed to find alternative arrangements.

While Mr M has suggested he found an alternative solution, I think he has been caused distress and inconvenience by Black Horse. So, I think they should make a payment to him in reflection of that. In all the circumstances, I think it's fair that Black Horse pays Mr M £300 for the distress and inconvenience he has experienced.

Both Black Horse and Mr M responded to the provisional decision and accepted it.

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.

Both parties have accepted my provisional findings about how this complaint should fairly be resolved. So, I see no reason to come to a different conclusion.

Putting things right

For these reasons, Black Horse Limited trading as Land Rover Financial Services should:

1. pay Mr M £12,920.74;
2. remove any adverse information about the hire purchase agreement in Mr M's name, from the records held with credit reference agencies; and
3. pay Mr M £300 for the distress and inconvenience caused.

Black Horse must pay these amounts within 28 days of the date on which we tell them Mr M accepts my final decision. If they pay later than this, they must also pay interest on the settlement amount from the date of the final decision to the date of payment at 8% a year simple.

If Black Horse deducts tax from any interest they pay to Mr M, they should provide Mr M with a tax deduction certificate if he asks for one, so he can reclaim the tax from the tax authorities if appropriate.

My final decision

My final decision is that I uphold this complaint and require Black Horse Limited trading as Land Rover Financial Services to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 4 January 2024.

Sam Wedderburn
Ombudsman