

The complaint

Mr L says Morses Club PLC (“Morses”) irresponsibly lent to him. Mr L says he was offered the lending regardless of whether he could afford it. He also said he had to take out more lending as a result.

What happened

This complaint is about three home collected credit loans provided to Mr L between January 2014 and October 2016. The loans ranged from £200 to £600 and each loan was repayable weekly over 32 or 33 weeks for amounts of £10 to £30 per week.

Morses bought Mr L’s account from another business. And prior to Morses taking over the account Mr L had taken out six loans with the previous lender. Those loans have been considered under a separate complaint.

Our adjudicator reviewed Mr L’s complaint and thought that the loans should be upheld. The adjudicator said this because they thought the overall pattern of Mr L’s borrowing indicated he was reliant on this type of loan and the borrowing was becoming unsustainable. Morses didn’t agree with the adjudicator. It said it carried out sufficient checks prior to the lending to ensure they were affordable for Mr L. It was also satisfied that Mr L used its product as intended.

Morses comments didn’t change the adjudicator’s opinion, so the complaint has been passed to me for a final 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.

We’ve set out our general approach to complaints about irresponsible lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses needed to take reasonable steps to ensure that it didn’t lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr L could repay the loans in a sustainable manner.

These checks could consider several different things, such as how much was being lent, the repayment amounts and the consumer’s income and expenditure. In the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Morses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a consumer’s income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a level of income);
- the *greater* the number and frequency of loans, and the longer the period during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

I think that it is important for me to start by saying that Moses was required to establish whether Mr L could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, the loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the relevant regulations define sustainable as being without undue difficulties and the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've carefully considered all the arguments, evidence and information provided in this context and what this all means for Mr L's complaint. Having done so, I am upholding the complaint. I'll explain why.

Like the adjudicator, I'm satisfied that it would be reasonable to assume that Moses should have been aware of the six earlier loans Mr L had taken with the previous business. And it should have taken that lending history into account when it was deciding whether to carry on lending to Mr L. So, while I won't be making any finding on the earlier lending, I will be taking those loans into consideration when considering the overall lending pattern.

I've looked at the overall pattern of Mr L's lending history, with a view to seeing if there was a point at which Moses should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Moses should have realised that it shouldn't have provided any further loans.

Given the circumstances of Mr L's case, like the adjudicator, I think that this point was reached at loan one (of the Moses loans). I say this because:

- At this point Moses ought to have realised Mr L was not managing to repay his loans sustainably. When taking Mr L's earlier lending into account he had taken out a total of seven loans in 28 months. So, it should have realised it was more likely than not Mr L was having to borrow further to cover the hole repaying his previous loan was leaving in his finances and that Mr L's indebtedness was increasing unsustainably.
- I note that loan three (Mr L's ninth loan overall) was taken out before loan two (Mr L's eighth loan overall) was repaid and the concurrent repayments would have been increasing his weekly outgoings.

- In response to the adjudicator's assessment Moses pointed out there was a break in lending of five months between loan one (Mr L's seventh) being paid off and loan two (Mr L's eighth) being taken. But bearing in mind how long Mr L's borrowing relationship was in total, I don't think this was a sufficient enough amount of time for Moses to have reasonably concluded that Mr L had overcome whatever the financial circumstances were that caused him to take this type of credit.
- Mr L wasn't making any real inroads to the amount he owed Moses. Loan three was taken out over two and half years after his first with Moses and more than five years since he had started lending from the previous business. Mr L had paid large amounts of interest to, in effect; service a debt to Moses over an extended period.

I think that Mr L lost out because Moses provided the borrowing because:

- These loans had the effect of unfairly prolonging Mr L's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period.
- The number of loans and the length of time over which Mr L borrowed was likely to have had negative implications on Mr L's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I'm upholding Mr L's complaint about loans one to three. Moses should put things right as laid out below – making sure to provide Mr L with a breakdown of its calculations.

Putting things right

- refund all interest and charges Mr L paid on loans one to three;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid (if they were) to the date of settlement†;
- the number of loans taken means any information recorded about them is adverse. So, all entries about the loans should be removed from Mr L's credit file.

† HM Revenue & Customs requires Moses Finance Limited to take off tax from this interest. Moses Finance Limited must give Mr L a certificate showing how much tax it's taken off if he asks for one.

My final decision

I'm upholding Mr L's complaint. Moses Finance Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 September 2020.

Catherine Langley
Ombudsman