

## The complaint

Miss Y says Morses Club PLC lent to her irresponsibly.

## What happened

This complaint is about five home credit loans Morses provided to Miss Y between July 2017 and November 2019.

loan number	date started	amount borrowed	term (weeks)	date ended
1	18/07/2017	£400	33	06/04/2018
2	01/12/2017	£400	33	20/07/2018
3	20/07/2018	£400	33	22/03/2019
4	21/12/2018	£300	52	22/11/2019
5	22/11/2019	£500	53	outstanding

Our adjudicator partially upheld the complaint. She thought that Morses shouldn't have approved loans 4 and 5. This was because she thought the lending pattern had become unsustainable by that point.

Morses disagreed with the adjudicator's opinion. It said that there was no indication that Miss Y was struggling financially at loan 5. And it verified that each of the loans were affordable before it issued them.

As no agreement has been reached the complaint has been passed to me, an ombudsman, to issue 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 of 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 Miss Y could repay the loans in a sustainable manner.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, 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 Moses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer'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 particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time 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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines sustainable as being without undue difficulties and in particular 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 decided to uphold Miss Y's complaint in part and have explained why below.

Miss Y didn't disagree with our adjudicator's opinion about loans 1 to 3. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be making a decision about this lending. But they were part of the borrowing relationship Miss Y had with Moses. So, they are something I will take into account when considering the other loans she took.

I haven't recreated individual, proportionate affordability checks for loans 4 and 5 because I don't think that it is necessary to do so. I've looked at the overall pattern of Moses' lending history with Miss Y, 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 Miss Y's case, I think that this point was reached by loan 4. I say this because:

- Miss Y had been indebted to Moses for around 17 months and there seemed to be no indication that she would be able to fully repay her loans in the near future.
- Miss Y's first loan was for £400 and loan 4 was for £300. But Miss Y hadn't repaid loan 3 at this point, which was also for £400, so her indebtedness seemed to be increasing.
- Right from the start Miss Y was provided with a new loan very shortly after the previous one had ended or while she was still making repayments to the loan she had.
- Taking all of this together Moses ought to have known that Miss Y was borrowing to meet an ongoing need and it was more likely than not that Miss Y's indebtedness was unsustainable.

- Miss Y wasn't making any real inroads to the amount she owed Moses. Loan 5 was taken out over two years after Miss Y's first. Miss Y had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Miss Y lost out because Moses continued to provide borrowing from loan 4 onwards because:

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

So, overall, I'm upholding the complaint about loans 4 and 5 and Moses should put things right.

### **Putting things right**

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it stopped lending to Miss Y from loan 4, as I'm satisfied it ought to have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Miss Y may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Miss Y in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss Y would more likely than not have taken up any one of these options. So it wouldn't be fair to now reduce Moses' liability in this case for what I'm satisfied it has done wrong and should put right.

Moses shouldn't have given Miss Y loans 4 and 5.

If Moses has sold the outstanding debts Moses should buy these back if it is able to do so and then take the following steps. If Moses is not able to buy the debts back then Moses should liaise with the new debt owner to achieve the results outlined below.

A) Moses should add together the total of the repayments made by Miss Y towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything it has already refunded.

B) Morses should calculate 8% simple interest\* on the individual payments made by Miss Y which were considered as part of "A", calculated from the date Miss Y originally made the payments, to the date the complaint is settled.

C) Morses should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss Y as though they had been repayments of the principal on all outstanding loans. If this results in Miss Y having made overpayments then Morses should refund these overpayments with 8% simple interest\* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Morses should then refund the amounts calculated in "A" and "B" and move to step "E".

D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus then the surplus should be paid to Miss Y. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss Y. Morses shouldn't pursue outstanding balances made up of principal Morses has already written-off.

E) The overall pattern of Miss Y's borrowing for loans 4 and 5 means any information recorded about them is adverse, so it should remove these loans entirely from Miss Y's credit file. Morses does not have to remove loan 5 from Miss Y's credit file until these have been repaid, but Morses should still remove any adverse information recorded about these loans.

\*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Miss Y a certificate showing how much tax Morses has deducted, if they ask for one.

### **My final decision**

For the reasons I've explained, I partly uphold Miss Y's complaint.

Morses Club PLC should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss Y to accept or reject my decision before 3 June 2021.

Andy Burlinson  
**Ombudsman**