

The complaint

Mr B (through a representative) has complained that Morses Club PLC provided him with loans he couldn't afford to repay.

What happened

Mr B took six home credit loans from Morses between March 2017 and October 2019. A summary of his borrowing, based on the information provided to us from Morses can be found below:

loan number	loan amount	received date	repayment date	term (weeks)
1	£100.00	21/03/2017	06/11/2017	33
2	£100.00	07/08/2017	12/03/2018	33
3	£300.00	12/03/2018	29/10/2018	33
4	£100.00	05/11/2018	03/06/2019	33
5	£400.00	22/01/2019	16/09/2019	33
6	£400.00	07/10/2019	15/11/2019	34

One of our adjudicators looked at Mr B's complaint. He didn't uphold the complaint about loans 1 and 2. But, he did think by loan 3 that Mr B was committed to spending a significant portion of his come repaying the loan and from loan 5 the adjudicator thought the pattern of lending was harmful for Mr B. Overall, the adjudicator upheld loans 3 – 6.

Mr B appears to have agreed with the adjudicator's opinion.

Morses disagreed with the adjudicator and in summary it said;

- Morses doesn't consider five loans in 22 months to be excessive.
- Loan 4 was for a smaller sum because Mr B had a smaller amount of disposable income at the time.
- At most, the repayments were 20% of Mr B's disposable income.
- There were some gaps between the loans, for example, a month between loans 5 and 6.
- All the loans were either repaid on time or early.

As no agreement could be reached the complaint has been passed to me for a 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.

I've also taken into account the law, any relevant regulatory rules and good industry practice at the time the loan was provided.

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 B 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 Morses should fairly and reasonably have done more to establish that any lending was sustainable for Mr B. 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 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.

I think that it is important for me to start by saying that Morses was required to establish whether Mr B 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 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 do so without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all mean for Mr B's complaint.

Loans 1 and 2

The adjudicator didn't uphold Mr B's complaint about these loans, and Mr B doesn't appear to disagree with the outcome. So, I won't comment further about these loans, or the level of individual checks Morses completed before approving them, as I don't think there is any ongoing disagreement about them.

But I have kept these loans in mind when thinking about Mr B's overall lending relationship with Morses.

Loans 3 and 4

The adjudicator upheld Mr B's complaint about these loans, because in his view, Mr B was committed to paying Morses a significant portion of his income and that led to the loans

being unsustainable for him. Taking into account the individual circumstances of the case, I agree with the adjudicator and I've explained why below.

When loan 3 was approved, Mr B seems to have declared a drop in weekly income compared to loans 1 and 2. His income had dropped from around £160 per week to £139 per week for loan 3, and he had the same weekly outgoings for loan 3 as he did for loan 1. So, by loan 3, Moses was aware, based on what Mr B declared, that his income was being squeezed, he wasn't earning as much but also had the same outgoings.

So Moses, knew that with a smaller disposable weekly income Mr B was committed was paying £15 per week – each week for 33 weeks. This was the largest amount that Mr B had committing to repaying to Moses club. Loan 3 was also taken on the same day that loan 2 was repaid, and it was for a larger sum.

So, there was a developing picture of Mr B taking larger loans, with a larger increased weekly commitment at the same time, as having a decrease in his income. Moses ought to have realised that Mr B there was a significant risk that he wasn't going to be able to fully meet his existing commitments without having to borrow again. Which has led me to conclude that Mr B wouldn't be able to sustainably make his weekly repayments for this loan or any subsequent loans.

Loans 5 and 6

In addition to assessing the circumstances behind each individual loan provided to Mr B, Moses also needed to consider the overall pattern of lending and what unfolded during the course of its lending relationship with Mr B.

Having looked at the overall pattern of Moses's lending history with Mr B, I agree with our adjudicator that Moses should reasonably have seen that further lending was unsustainable, or otherwise harmful, at the time it provided loan 5. I say this because;

- At this point Moses ought to have realised Mr B was not managing to repay his loans sustainably. Mr B had taken out 5 loans in 22 months and he had been indebted to Moses for most of this time. So Moses ought to have realised it was more likely than not Mr B was having to borrow further to cover an ongoing need and that Mr B's indebtedness was increasing unsustainably.
- Mr B's overall indebtedness was generally increased. In my view, Mr B's loan history up until this point was an indication that his underlying financial situation didn't seem to be improving.
- Mr B's first loan was for £100 and loan 5 was for £400. At this point Moses ought to have known that Mr B was not likely borrowing to meet a temporary shortfall in their income but to meet an ongoing need.
- Mr B took some loans around the same time previous ones were repaid, for example, loans 3 and 4. Moses ought to have realised it was more likely than not Mr B, on these occasions, was having to borrow further to effectively cover a long-term financial need. To me, this is an indicative of his indebtedness not being sustainable;
- Mr B wasn't making any real inroads to the amount he owed Moses. Loan 6 was taken out over 30 months after Mr B's first loan. And it was for the joint largest capital amount he borrowed of £400 – this also led to Mr B having the largest weekly repayments. Mr B had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I've thought about what Morses says about the gaps between loans, but in this case, I don't think that those gaps are significant enough to have led Morses to conclude that either there is a break in lending, or that Mr B was no longer reliant on this type of credit.

I think that Mr B lost out when Morses provided loans 5 and 6 because:

- these loans had the effect of unfairly prolonging Mr B's indebtedness by allowing him to take expensive credit over an extended period and;
- the number of loans and the time in debt was likely to have had negative implications on Mr B's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, overall, I'm upholding the complaint about loans 3 - 6 and I'll go on to set out what Morses should do to put things right.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it not provided lending from loan 3, 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 Mr B 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 Mr B 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 Mr B would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses's liability in this case for what I'm satisfied it has done wrong and should put right.

Morses should:

- refund all interest and charges Mr B paid on loans 3 - 6;
- pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement* and
- remove any negative information about loans 3 and 4 from Mr B's credit file. The number of loans taken from loan 5 onwards means any information recorded about them is adverse. So, all entries about loans 5 and 6 should be removed from Mr B's credit file.

*HM Revenue & Customs requires Morses to take off tax from this interest. Morses must give Mr B a certificate showing how much tax it has taken off if he asks for one.

My final decision

For the reasons I've explained above, I'm upholding Mr B's complaint in part.

Morses Club PLC should put things right as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 November 2021.

Robert Walker
Ombudsman