

The complaint

Mr N says Moses Club Plc lent to him irresponsibly. He says that Moses didn't make proportionate checks before approving the loans. Mr N says that if it had done it wouldn't have lent to him.

What happened

This complaint is about three home collected loans Moses provided to Mr N between April 2017 and February 2018. Some of the information I have been provided about the lending is in the table below.

loan	date taken	amount	weekly instalments	date repaid
1	22/09/2017	£300	33	24/04/2018
2	28/11/2017	£2,000	52	19/01/2018
3	02/02/2018	£300	33	13/07/2018

Our adjudicator partially upheld the complaint. He thought that Moses should've looked into Mr N's circumstances in greater detail before approving loan 2. And if it had done this it would have seen he had a significant amount of other high cost credit. So, it shouldn't have approved loans 2 and 3.

Moses disagreed with the adjudicator's opinion. It said that:

- Mr N's repayment record was always good and he seemed in charge of his finances, he had a good relationship with the agent.
- The information provided at the time of sale showed that the loans were affordable, it verified his wages.
- Mr N needed loan 2 as his other debts were causing him problems repaying his mortgage. So, there was a genuine need for the lending.

As no agreement has been reached the complaint has been passed to me.

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.

Moses 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 N 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 Mr N's complaint in part and have explained why below.

Mr N didn't disagree with our adjudicators opinion not to uphold loan 1. Because of this, I don't think there is any ongoing disagreement about this loan. So, I won't be making a decision about this lending. But it was part of the borrowing relationship Mr N had with Moses. And it's something I will take into account when considering the other loans, he took.

Loan 2 was a significant increase in amount and term over Mr N's first loan. And it was a commitment for a further year. Added to this it was established that Mr N's other credit was impacting his ability to repay his mortgage. As I've outlined above one aspect of sustainable borrowing is that a consumer shouldn't need to borrow to repay other lending. And this is clearly what is happening here.

So, I think Moses should've been aware that Mr N had some longer-term financial problems rather than just using the loans to help with a temporary cash flow problem. Moses should've also become concerned about whether it knew enough about Mr N's true financial situation.

So, I think that it would've been proportionate to fully review Mr N's financial situation and I think that Moses needed to verify the information it found out where possible. This is to make sure Mr N was in position to make the repayments sustainably.

I don't think Moses did this. So, I need to think about what Moses would've seen if it had carried out proportionate checks. I think if Moses has made these more detailed checks it

would've seen that Mr N did have a number of other home credit loans that he would need to repay at the same time as the Morses loan.

It's clear that Mr N was having problems managing his money, particularly with this priority bills. And Morses seemed to have been aware of this. I don't see how taking more high cost credit would improve this situation over the longer term. And think it's reasonable to say a proportionate check would've confirmed this.

I think Morses would've seen that Mr N wouldn't have been able repay the loans in a sustainable way. So, I think that Morses shouldn't have given loans 2 and 3 to Mr N and I think he's lost out as a result of this. So, I'm upholding Mr N's complaint about loans 2 and 3.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Mr N from loan 2, 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 N may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him and this particular lender which he may not have had with others. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he 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 N 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 N 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 shouldn't have given Mr N loans 2 and 3.

A) Morses should add together the total of the repayments made by Mr N towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.

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

C) Morses should pay Mr N the total of "A" plus "B".

D) Morses should remove any adverse information it has recorded on Mr N's credit file in relation to loans 2 and 3.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mr N a certificate showing how much tax Morses has deducted, if he asks for one.

My final decision

For the reasons I've explained, I partly uphold Mr N'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 Mr N to accept or reject my decision before 8 November 2021.

Andy Burlinson
Ombudsman