

The complaint

Mr N says Morses Club PLC (Morses) lent to him irresponsibly. He says that he couldn't afford the loan repayments and he had a history of poor credit. He thinks that Morses should've seen this and not lent to him.

What happened

This complaint is about five home collected loans Morses provided to Mr N between September 2017 and December 2018.

loan number	date started	amount borrowed	term (weeks)	date ended
1	28/09/2017	£200	33	25/05/2018
2	12/12/2017	£150	33	10/08/2018
3	27/04/2018	£400	33	18/12/2018
4	18/12/2018	£600	52	outstanding
5	18/12/2018	£200	33	18/02/2021

Our adjudicator partially upheld the complaint. He thought that Mr N was due to repay too high an amount towards loans 4 and 5, given his circumstances.

Morses disagreed with the adjudicator's opinion. It didn't think that the repayments for these loans were too much for Mr N. They were only a fraction of his disposable, and total, income.

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 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 I've explained why below.

Mr N accepted our adjudicators 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 these loans. But, they were part of the borrowing relationship Mr N had with Moses. So, they are something I will take into account when considering the other loans he took.

Given Mr N's circumstances, I think it's reasonable to say that any further expenditure could potentially cause him financial difficulty. I'll explain why I think this is in relation to loans 4 and 5.

The point of sale information for loan 4 shows that Mr N's income was around £190 a week from benefits. This had fallen very sharply from loan two when it was recorded as being over £300. So, as a starting point, Mr N's income was modest.

Mr N's expenditure was shown as zero for this month which I don't think is likely a true picture. This is because Mr N's expenditure was recorded as being around £150 for loan 3 which was started only a few months earlier. It seems unlikely that Mr N did not now need to spend any money on groceries or rent, for example, as Moses now recorded. I think it's likely he already had very little left over, if any, before he started the loans.

And despite Mr N's income falling by a significant amount loans 4 and 5 were both started together. And they were for £800 in total which is far higher amount than Mr N had ever borrowed before.

Taking all what I've said into account I think the weekly repayments for loans 4 and 5 together meant that Mr N was probably paying too much and Moses shouldn't have approved these loans.

Morses said that the repayment was low, and it was only a small proportion of Mr N's disposable income. I don't agree with this as it's around 16% of his income. And, this isn't the only important factor here as I've outlined above. I think when all of Mr N's circumstances are considered approving loan 4 and 5 isn't responsible.

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 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 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 he had done that, the information that would have been available to such a lender and how he 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' 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 4 and 5.

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

A) Morses should add together the total of the repayments made by Mr N 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 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 remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr N as though they had been repayments of the principal on all outstanding loans. If this results in Mr N 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 Mr N. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mr N. Morses shouldn't pursue outstanding balances made up of principal Morses has already written-off.

E) Morses should remove any adverse information recorded on Mr N's credit file in relation to loans 4 and 5.

*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 21 April 2022.

Andy Burlinson
Ombudsman