

## The complaint

Mr L, through his representative, complains that Morses Club PLC lent to him irresponsibly.

## What happened

Using information provided by Morses here is a brief table of the approved loans.

Loan	Date Taken	Date Repaid	Instalments	Amount	Weekly Repayment
1	01/07/2016	07/10/2016	20	£200.00	£15.00
2	07/10/2016	23/05/2017	33	£300.00	£15.00
3	23/05/2017	03/11/2017	33	£300.00	£15.00
4	03/11/2017	06/07/2018	33	£500.00	£25.00
5	06/07/2018	14/12/2018	33	£500.00	£25.00
6	14/12/2018	01/11/2019	33	£700.00	£35.00
7	01/11/2019	Outstanding*	53	£1,000.00	£35.00

After Mr L had complained, Morses sent to him its final response letter (FRL) in which it said that it had not done enough checks for loans 5 to 7 and the writer of that FRL explained:

***My conclusions are as follows:***

*As a responsible lender we should [sic] conducted further checks or gathered additional information at the time of your application and I have upheld the accounts highlighted above.*

It had highlighted loans 5 to 7 in its loan table set out in the FRL indicating:

*'I have conducted a detailed review of your accounts and believe that we should have requested additional information and probed further into your individual circumstances before agreeing to provide you with the accounts highlighted in the table below.'*

One of our adjudicators reviewed the complaint and using the evidence it had received thought that Morses should also put things right for loan 4.

Morses responded with an unusual reply in which it said that it agreed with loan 7 and gave fresh calculations about that uphold, but it disagreed that loans 3 to 6 had been mis-sold. So, our adjudicator wrote again to explain his view further. Our adjudicator repeated that its FRL

had conceded on loans 5 to 7 and so the only additional loan upheld by our adjudicator was loan 4. But Morses has asked for an ombudsman to issue a decision on the case.

The complaint remained unresolved and was passed to me to decide.

### **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 D 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. 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 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 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 L's complaint in part and have explained why below.

Mr L 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 have not reviewed those three loans.

But they were part of the borrowing relationship Mr L had with Morses. So, I took those into account when considering the lending relationship.

And I consider that the FRL conclusion to resolve Mr L's complaint was emphatic and I set out the two paragraphs from that FRL in the 'what happened' part of this decision to demonstrate Moses' conclusions. In my view loans 5 to 7 were resolved at that point. And Moses has given no reason as to why it appears to have altered its resolution conclusion set out clearly in the FRL it wrote to Mr L. But for the avoidance of doubt I have reviewed all the loans from loan 4 onwards.

I do note that Moses' recent correspondence indicates that it does agree that loan 7 ought not to have been lent to Mr L. And so, I have included that in the 'putting things right' section of this decision for completeness.

I haven't recreated individual, proportionate affordability checks for loans 4 to 7 because I don't think that it is necessary to do so. I've looked at the overall pattern of Moses' lending history with Mr L, 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, I think that this point was reached by loan 4. I agree with the conclusions reached by our adjudicator and I say this because:

- At this point he had been indebted to Moses for about 16 months
- Mr L's first loan was for £200 and loan 4 was for £300. So, the amount Mr L was borrowing had increased as well as him being indebted to Moses for a significant time.
- At this point Moses ought to have known that Mr L was likely borrowing to meet an ongoing and increasing need. And this indicates his problems may have been worsening.
- So, because of these factors, Moses ought to have realised it was more likely than not Mr L's indebtedness was unsustainable.
- From loan 4 onwards Mr L was provided with a new loan a very short time after he settled his previous loan – often on the same day and often he had refinanced part of that loan into the new one
- Mr L wasn't making any real inroads to the amount he owed Moses. Loan 7 was taken out over three years after Mr L's first. And it was for a larger amount. 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 continued to provide borrowing from loan 4 onwards because:

- these loans had the effect of unfairly prolonging Mr L's indebtedness by allowing him to take expensive credit over an extended period.
- the length of time over which Mr L borrowed was likely to have had negative implications on his 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 4 to 7 (of which I think that Moses has already conceded in relation to loans 5 to 7) and Moses should put things right.

I understand that money is still owed on loan 7 and that is addressed in the next section.

### **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 Mr L 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 L may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him and this 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 L in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr L 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 L loans 4 to 7. If it has sold the outstanding debts Morses should buy these back if it's able to do so and then take the following steps. If Morses is not able to buy the debts back then it 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 L towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses has already refunded.
- B) Morses should calculate 8% simple interest\* on the individual payments made by Mr L which were considered as part of "A", calculated from the date he 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 L as though they had been repayments of the principal on all outstanding loans.

If this results in Mr L 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 L.

However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with him.

Morses shouldn't pursue outstanding balances made up of principal Morses has already written-off.

E) The overall pattern of Mr L's borrowing for loans 4 to 7 means any information recorded about them is adverse, so Morses should remove these loans entirely from his credit file.

Morses does not have to remove loan 7 from Mr L's credit file until these have been repaid, but Morses should still remove any adverse payment information recorded about these loans.

If Morses intends to use the refund to reduce an amount Mr L owes, it must do this after tax.

Morses cannot carry out a set-off unless it owns the debt.

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

### **My final decision**

My final decision is that I uphold Mr L's complaint in part and I direct that Morses Club PLC should do as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 29 December 2021.

Rachael Williams  
**Ombudsman**