

The complaint

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

What happened

Here is a brief table of the approved loans.

Loan	Date Taken	Date Repaid	Instalments	Amount	Highest Repayment*
1	31/05/2017	08/02/2018	33	£300.00	£15.00
2	08/02/2018	13/08/2018	33	£300.00	£15.00
3	13/08/2018	19/02/2019	33	£300.00	£15.00
4	19/02/2019	22/10/2019	33	£300.00	£15.00

One of our adjudicators thought that Morses ought to have ceased lending at loan 4.

Morses disagreed and the complaint 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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Mr H could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Morses' checks could have considered a number of different things, such as how much was being lent, the size of the repayments, and Mr H's income and expenditure.

I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Morses should have done more to establish that any lending was sustainable for Mr H. These factors include:

- Mr H having a low 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 amounts to be repaid being especially high (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- Mr H having a large number of loans and/or having these loans over a long period of time (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable);

- Mr H coming back for loans shortly after previous borrowing had been repaid (also suggestive of the borrowing becoming unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable for Mr H. Our adjudicator considered this to be the case for Mr H.

Morses was required to establish whether Mr H could sustainably repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Mr H was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr H's complaint.

Borrowing consecutively for many months and without any breaks highlights the fact that Mr H was likely to be having trouble making ends meet. Morses was alert from its own research about Mr H that he had experienced a poor financial situation in the past (historic defaults and a County Court Judgment).

I think that by loan 4 Morses ought to have realised that he was filling a hole left by the repayments for the earlier loans. And the repetitive nature of the lending was otherwise unsustainable. I say this because he had been indebted to Morses for almost two years. This was a reasonably long time to be using high cost credit in itself. But at loan 4 Mr H was making a commitment to make repayments for a further 33 weeks.

I think that Mr H lost out because Morses provided loan 4:

- this loan had the effect of unfairly prolonging his indebtedness by allowing him to take expensive credit over an extended period of time.
- The number of loans and the length of time over which Mr H 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, I'm upholding the complaint about loan 4 and Morses should 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 stopped lending to Mr H at 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 H 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 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 H 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 H 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 Mr H loan 4.

A) Moses should add together the total of the repayments made by Mr H 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) Moses should calculate 8% simple interest* on the individual payments made by Mr H which were considered as part of "A", calculated from the date Mr H originally made the payments, to the date the complaint is settled.

C) Moses should pay Mr H the total of "A" plus "B".

D) The overall pattern of Mr H's borrowing for loan 4 means any information recorded about it is adverse, so it should remove loan 4 entirely from Mr H's credit file.

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

My final decision

My final decision is that I uphold Mr H's complaint in part and I direct that Moses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 20 May 2022.

Rachael Williams
Ombudsman