

The complaint

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

What happened

Mr B took three loans from Morses between March 2020 and July 2020. I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£250.00	05/03/2020	20/07/2020	34	£12.50
2	£200.00	26/05/2020	outstanding	34	£10.00
3	£250.00	20/07/2020	outstanding	34	£12.50

Mr B has had some problems repaying his final two loans and the statement of accounts provided by Morses show outstanding balances remain due.

Morses considered Mr B's complaint and issued its final response letter on this matter. Morses concluded it hadn't done anything wrong when it approved these loans for Mr B.

Mr B didn't agree with the outcome reached by Morses and his representative referred the complaint to this Service in June 2021.

The complaint was considered by an adjudicator who didn't think it was wrong for Morses to have granted loan 1. But the adjudicator thought that loans 2 and 3 shouldn't have been lent.

He said, the repayments for these loans represented a significant proportion of Mr B's declared weekly income. In the adjudicator's view, this meant Mr B would've been unlikely to repay his loans while still being able to meet his existing commitments.

Morses agreed with the adjudicator's assessment and offered to put things right for Mr B in line with what was recommended. But, as Mr B still owed Morses money, it agreed to reduce the balance so that Mr B would only need to repay the capital which is still outstanding. Morses said Mr B would still owe it £351.27.

The offer was put to Mr B's representative. But the representative contacted us to let us know Mr B didn't want to accept the offer because He thought he would receive a cash refund.

Mr B then requested an ombudsman consider the complaint.

As no agreement has been reached, the case 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.

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.

Mr B doesn't appear to disagree with our adjudicator's findings that Moses wasn't wrong to lend loans 2 and 3 and Moses have already accepted that something went wrong when these loans were approved, because it has offered to put things right for Mr B in line with the adjudicator's opinion.

Instead, it appears the dispute (although Mr B hasn't said this) is whether loan 1 should be upheld as well as the redress that is due to be carried out, because Mr B says he thought he would be due a cash refund.

For completeness, I've included what Moses needs to do to put things right for Mr B in relation to loans 2 and 3 at the end of this decision.

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

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

- Mr B 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 B 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 B 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 B.

Moses was required to establish whether Mr B could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr B was able to repay his 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 in particular, 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 B's complaint.

Loan 1

This was Mr B's first loan with Morses. Before the loan was approved, Mr B told Morses he earned £155.22 per week and Morses seems to have used his credit report in order to verify this amount.

He also declared that he had weekly expenditure of £88, leaving him with £65.22 per week in order to meet his contractual loan repayments of £12.50.

Based on the information Mr B declared Morses could've been confident he was in a position to afford the contractual repayments. Given this was the first loan, I think the checks that Morses did were proportionate and it was reasonable for Morses to have relied on the information it was given by Mr B. So, I don't think it needed to do any further checks such as reviewing his bank statements before agreeing to the loan.

As this is the case, I'm not upholding Mr B's complaint about loan 1.

Loans 2 and 3

As I said at the start of the decision, I won't comment further on whether Morses was right or wrong to approve these loans because it has already been accepted that something did go wrong. So, there is nothing further for me to decide about whether these loans should've been provided.

I appreciate Mr B would like a cash refund but I'm satisfied the approach that both the adjudicator and Morses have proposed to take in redressing loans 2 and 3 is in line with what this Service typically does with cases of this nature.

When this Service decides something has gone wrong we try, as far as possible, to put the consumer back into the position they would've been had the error not been made. For example, in this case loans 2 and 3 ought to not have been provided.

But, in unaffordable lending cases it isn't always straightforward because the money has been advanced and spent. Where this has happened, we don't think a lender should be able to benefit from the mistake – which is why we'd ask that any interest, fees or charges that were levied be refunded. And if there were these charges, we'd also ask for 8% simple interest to be added to this sum – but only where the loan has been repaid.

However, what would be expected is that any sums borrowed should be repaid. So, in this case, Mr B was advanced a total of £450 for loans 2 and 3. Mr B shouldn't repay any more than this back to Morses. But as Mr M hasn't repaid more than this, it is only correct that Morses reduces his balance by the value of the payments he has made and not charge him any interest. This is why, Morses says the current balance (once the deductions are taken into account) will be £351.94.

This approach to compensation is well established, and I don't see any reason to depart from the approach in this case. I acknowledge that Mr B wants a cash refund, but I don't think it's appropriate to do so, when an outstanding balance remains due to Morses.

Putting things right

Morses has already accepted that loans 2 and 3 shouldn't have been provided and I've outlined below what it has already agreed to do to put things right for Mr B.

If Morses have sold the outstanding debts it 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 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 B 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 B which were considered as part of "A", calculated from the date Mr B 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 B as though they had been repayments of the principal on all outstanding loans. If this results in Mr B 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 principal due on outstanding loans. If this results in a surplus then the surplus should be paid to Mr B. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mr B. Morses shouldn't pursue outstanding balances made up of principal you have already written-off.
- E. Morses should remove any adverse information recorded on Mr C's credit file about loans 2 and 3.

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

Finally, I'd remind Morses to treat Mr B fairly and with forbearance if he needs a repayment plan to repay what is owed.

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 for Mr B 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 10 March 2022.

Robert Walker
Ombudsman