

The complaint

Mr U, through a representative complains that Morses Club PLC (Morses) didn't carry out appropriate affordability checks before it provided him with loans that he couldn't afford to repay.

What happened

Mr U was advanced six home collected loans between March 2017 and September 2019. 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	£300.00	08/03/2017	31/08/2017	33	£15.00
2	£500.00	31/08/2017	31/08/2018	52	£17.50
3	£300.00	31/08/2017	27/04/2018	33	£15.00
4	£500.00	31/08/2018	05/09/2019	52	£17.50
5	£200.00	31/08/2018	25/01/2019	20	£15.00
6	£600.00	05/09/2019	04/09/2020	52	£21.00

Following Mr U's complaint Morses wrote to his representative to explain that it wasn't going to uphold the complaint. Mr U's representative didn't accept the outcome and referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. He thought Morses had made a reasonable decision to provide loans 1 - 3. But he thought by the time loan 4 was granted the lending was now harmful for Mr U. The adjudicator upheld the complaint about loans 4 - 6.

Mr U's representative didn't acknowledge the adjudicator's assessment.

Morses didn't agree with the adjudicator's assessment, and I've summarised its comments below.

- Loan 4 was for the same value as loan 2, and loan 5 was smaller than loan 3.
- The amounts lent to Mr U was not unreasonable.
- Mr U had a sufficient amount of disposable income to afford these loans.
- Adequate checks were completed by Morses before these loans were granted.
- Mr U had a good repayment history.

The case was then referred to an ombudsman to make a decision about the complaint.

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Mr U 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. Morses' checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr U'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 Morses should have done more to establish that any lending was sustainable for Mr U. These factors include:

- Mr U 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 U 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 U 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 U.

Morses was required to establish whether Mr U 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 U 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 U's complaint.

Neither Mr U (or his representatives) nor Morses appears to disagree with the adjudicator's assessment that loans 1 – 3 weren't irresponsibly provided. I therefore no longer think these loans are in dispute. But for the avoidance of doubt, I also don't think Morses made an unreasonable decision to provide these loans. So, I say no more about them.

Instead this decision will focus on whether Morses made reasonable decisions to lend in relation to loans 4 - 6.

For these loans, Morses has shown that it asked Mr U for details of his income and expenditure. He declared an income of between £349 and £357 per week with outgoings of between £220 - £225 per week. This left Mr U with a weekly disposable income of £125.30 for loan 4, £124.30 for loan 5 and finally £135.50 to make his weekly repayments of no more than £32.50.

Based solely on Mr U's income and expenditure information Morses could've been confident he would be able to comfortably afford the repayments he was committed to making.

But its arguable whether these checks went far enough considering how long Mr U had been indebted to Moses, his future weekly commitment and what Moses already knew about Mr U's finances. By now, it would've been reasonable for Moses to have at the very least, started to have verified the information it was being given.

However, I don't think I need to try and establish, in this case, whether a proportionate check would've led Moses to conclude these loans were unaffordable for him because, for the reasons I've outlined below I think the lending was now unsustainable for him.

So in addition to looking at the checks that Moses did I've also looked at the overall pattern of Moses' lending history with Mr U, 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 particular circumstances of Mr U's case, I think that this point was reached by loan 4. I say this because:

- At this point Moses ought to have realised Mr U was not managing to repay his loans sustainably. This was now Mr U's fourth loan within 17 months. So, Moses ought to have realised it was more likely than not Mr U was having to borrow further to cover a long-term short fall in his living costs.
- This was now the second time that Mr U had taken two loans on the same day, with each loan having a different term. While, for loans 4 and 5 he borrowed a smaller amount than loans 2 and 3 his weekly commitment remained the same because loan 5 was due to be repaid over a smaller term than loan 3.
- Mr U was generally provided with a new loan on the same day a previous loan was repaid. By loan 4, this was the third time that this had happened. To me, this is a sign that Mr U was using these loans to fill a long-term gap in his income rather than as a short-term need.
- Over the course of the lending relationship, Mr U's weekly commitments stayed roughly the same – reaching weekly commitments of £32.50 per week. But Mr U was committed each time to repaying Moses up to a year, which I think shows that he was, more likely than not, having longer term problems with a consistent need for credit.
- Mr U wasn't making any real inroads to the amount he owed Moses. Loan 6 was taken out 30 months after Mr U's first loan. His final loan was twice the size of his first and was repayable over a longer term than the first loan. He was committing to spending at least a further year indebted to Moses. Mr U had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Mr U lost out when Moses provided loans 4 - 6 because:

- these loans had the effect of unfairly prolonging Mr U's indebtedness by allowing him to take expensive credit intended for short-term use over an extended period of time.
- the number of loans and the length of time over which Mr U borrowed was likely to have had negative implications on Mr U's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I'm upholding Mr U's complaint about loans 4 - 6.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it not provided loans 4 – 6 to Mr U, 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 U may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 U 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 U 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 provided loans 4 - 6 to Mr U.

- A. Morses should add together the total of the repayments made by Mr U towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses have already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Mr U which were considered as part of "A", calculated from the date Mr U originally made the payments, to the date the complaint is settled.
- C. Morses should pay Mr U the total of "A" and "B"
- D. The overall pattern of Mr U's borrowing for loans 4 - 6 any information recorded about them is adverse, so Morses should remove these loans entirely from Mr U's credit file.

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

My final decision

For the reasons I've explained above, I am upholding Mr U's complaint in part.

Morses Club PLC should put things right for Mr U as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr U to accept or reject my decision before 21 October 2022.

Robert Walker
Ombudsman