

The complaint

Mr M, through his representative, complains that Morses Club PLC lent to him when he could not afford it.

What happened

Morses has provided some information about the loans and here is a brief loan table:

Reference	Date Taken	Date Repaid	Instalments	Amount	Repayment
1	25/09/2014	09/04/2015	34	£200	£10.00
2	05/03/2015	26/11/2015	34	£150	£7.50
3	09/04/2015	03/12/2015	34	£200	£10.00
4	03/12/2015	11/11/2016	52	£500	£17.50
5	11/11/2016	07/09/2018	52	£500	£17.50

Morses did not uphold Mr M's complaint. After it had been referred to the Financial Ombudsman Service, one of our adjudicators thought that loan 5 ought to be upheld as it had got to the stage where the overall pattern of lending meant that Morses ought to have realised and ceased lending at loan 5.

Morses disagreed. It said that it was the second loan at £500, which was higher than others, but the evidence indicated that Mr M had repaid the earlier loans without any problems. Mr M had declared his weekly income as £280 a week and it said that the loan repayment for loan 5 was only 8.7% of his '*uncommitted and available income to meet the repayments*'.

It also said that Mr M had a good repayment history, he had regular contact with the Morses agent and never said he had a problem with his finances. He had received one arrears letter.

The unresolved 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 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 M 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 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 M's complaint in part and have explained why below.

Mr M didn't disagree with our adjudicator's opinion about loans 1 to 4. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be making a decision about this lending. But they were part of the borrowing relationship Mr M had with Moses. So they are something I will take into account when considering the other loans he took.

I haven't recreated individual, proportionate affordability checks for loan 5 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 M, 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 M's case, I think that this point was reached by loan 5. I say this because:

- At this point he had been indebted to Moses for over two years.
- Mr M's first loan was for £200 and loan 5 was for £500. So the amount Mr M was borrowing had more than doubled as well as him being indebted to Moses for a significant time.
- At this point Moses ought to have known that Mr M was likely borrowing to meet an ongoing and increasing need. And this indicates his problems may have been worsening.

- So, because of these factors, Morses ought to have realised it was more likely than not Mr M's indebtedness was unsustainable.
- Leading up to loan 5 Mr M was provided with a new loan a very short time after he settled his previous loan.
- Mr M wasn't making any real inroads to the amount he owed Morses. Mr M had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I appreciate that Morses feels that the checks it did were enough to show the lending was affordable. But I think the lending pattern itself shows the loans weren't sustainable.

I think that Mr M lost out because Morses continued to provide borrowing at loan 5 because:

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

So, overall, I'm also upholding the complaint about loan 5 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 M at loan 5, 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 M 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 M 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 M 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 M loan 5.

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

C) Morses should pay Mr M the total of "A" plus "B".

D) The overall pattern of Mr M's borrowing for loan 5 means any information recorded about them is adverse, so it should remove these loans entirely from Mr M's credit file. If Morses has sold any of the loans Morses should ask the debt purchaser to do the same.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mr M 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 M's complaint in part and I direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 24 November 2022.

Rachael Williams
Ombudsman