

## The complaint

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

## What happened

Using information from Morses' records here is a brief loan table, into which I have added the information Morses obtained from Mr K about his income and his expenditure.

Loan	Approved	Capital	Settled	Repayment and terms	Weekly income	Weekly expenditure
1	23 Oct 2015	£200	5 Feb 2016	20 x £15	£200	£142.50
2	5 Feb 2016	£300	13 Sept 2016	33 x £15	£200	£150
3	16 June 2016	£200	27 Jan 2017	33 x £10	£200	£150
4	13 Sept 2016	£200	17 March 2017	33 x £10	£200	£166.50
Short break in lending						
5	25 May 2017	£600	16 April 2018	33 x £30	£200	£148
Second short break						
6	22 June 2018	£200	26 November 2018	33 x £10	£313.95	£189.39
7	26 Nov 2018	£500	31 July 2017	33 x £25	£279.07	£170

In its final response letter, Morses did not uphold Mr K's complaint. After it had been referred to the Financial Ombudsman Service, one of our adjudicators looked and thought as follows:

*'With this in mind I think from the point of loan five you should've reasonably questioned whether continuing to offer further loans to a customer who appears to be reliant on this form of lending was unsustainable or otherwise harmful. I say this because: Mr K had taken five loans in around 18 months; the amounts he was borrowing increased over this period and for the rest of his borrowing relationship with you; by loan five, Mr K's borrowing had increased three times from loan one: Mr K was taking new loans when a previous loan was repaid and on occasions was repaying more than one loan at the same time. So in my view, the pattern of lending itself shows that the loans from here were unsustainable – so I don't think you should have given Mr K any of loans five onwards.'*

Morses disagreed and I have summarised some of its points here:

- It's not unreasonable for loan capital amounts to increase after being a customer for 19 months
- Mr K had repaid all previous loans well and without any undue hardship
- forbearance was built into the loans and so the fact loan 5 was repaid a little late has little bearing
- Mr K did not inform Morses he was experiencing any financial hardship

- there was a break in the lending – 2 months between loans 4 and 5 and another – almost three months – between loans 5 and 6. Moses says this shows Mr K was not dependent on the lending.
- Loan 6 was £400 less than the previous loan of £600. The committed weekly repayment reduced at loan 6 from £30 a week to £10 a week and the records show Moses Mr K repaid it 10 weeks early.
- Loan 7 was higher at £500 but with the good record Mr K had and the checks it carried out means that Moses considers its lending decision for £500 reasonable.

Mr K's representative wrote to say Mr K agreed with our adjudicator's view.

The unresolved complaint was passed to me to decide. I issued a provisional decision on 4 November 2022 in which I gave reasons why I was planning to uphold loan 4 only. Moses agreed with that and we have not heard from Mr K, although his representative has acknowledged receipt of my provisional decision.

The reply date has passed and so I have duplicated my provisional decision findings in this final determination and it can be read in the next section. It is in smaller type to differentiate it.

### **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 high cost, short-term and home credit lending - including all the relevant rules, guidance and good industry practice - on our website.

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

- Mr K 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 K 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 K 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 K. Our adjudicator considered this to be the case for Mr K and loans 5, 6 and 7.

Moses was required to establish whether Mr K 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 K 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, 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.

### ***my provisional decision findings dated 4 November 2022***

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

#### *Loans 1 to 4*

Mr K's representative has told us that Mr K has agreed with the outcome by our adjudicator. So, I have kept loans 1 to 3 in my mind when reviewing the whole complaint but I do not need to make any findings on loans 1 to 3.

However – as the complaint is on my desk then I have noticed some elements of loan 4 which has given me a reason to be concerned. And I have come to a different view on loan 4 which I set out later in this decision.

#### *Loans 5, 6 and 7 and repeat lending*

Having considered everything carefully I agree with some parts of Morses' submissions. In addition, I do not think that circumstances surrounding the approval of loans 5, 6 and 7 were such that they would demonstrate that Mr K was reliant on the lending and was in a position where he'd not be able to repay them sustainably or that the loans may have caused him harm.

One of the reasons I've come to that view are the gaps in the lending between loans 4 and 5 and loans 5 and 6. These are not significant enough to break the lending relationship, but they are long enough in my view to demonstrate that Mr K was able to pay off a loan and then return two or three months later for another.

Another reason is simply that I've received no information at all about Mr K's financial situation from Mr K for any of the loans and not for loans 5, 6 and 7 apart from the information that he gave Morses at the time of lending. And so, without more from Mr K, I've relied on the information he gave to Morses at the time.

I note that the income levels for loans 6 and 7 increased and after the expenditure figures had been deducted it left Mr K with disposable income figures of £125 and £109 respectively for loans 6 and 7. So, in the absence of any further information from Mr K, which he is welcome to send to me – I plan not to uphold loans 6 and 7 as it seems he was able to afford the repayment sums.

#### *Loans 4 and 5*

I do have a different view in relation to loans 4 and 5. And again, despite limited information, but using Morses figures based on what Mr K had given it at the time, Mr K had very little disposable weekly income for loan 4 - it was just over £33 a week. And for loan 5 it was £52.

The £33 sum was certainly too low for this lending to be considered responsible. Loan 4 was used to pay off loan 2 from the records I have seen and Mr K already had loan 3 which remained open at the same time he was repaying loan 4. So, I am planning to uphold loan 4 on the information Morses had at the time and which I have been given.

Loan 5 was for a large sum - £600. The income and expenditure figures Morses had resulted in a relatively low disposable income using Morses' own figures. But £52 a week does translate to be

about £200 a month and so on balance, although I don't consider that comfortable, on current evidence it does appear that Mr K may have been able to afford it. I plan not to uphold it.

However, at loan 5, after a short gap in lending (not one I'd consider that breaks the lending chain) then Moses ought to have carried out a full financial check. Loan 5 was for a large sum – the most he had applied for- and Mr K had been borrowing from Moses since October 2015 which was quite some time. I do not think Moses did carry out a full financial review as I think would have been proportionate to this loan at this stage in the lending relationship.

As I have no information about Mr K's financial position (over and above what he gave to Moses at the time) from Mr K for any of the loans or for loan 5 then I am not able to see what Moses may have seen if it had carried out that full financial review in May 2017. On current evidence, I plan not to uphold Loan 5.

So, my provisional decision is that Moses ought not to have approved loan 4 for Mr K.

### ***My final determination***

As Moses has agreed to the complaint being upheld for loan 4 and as I have received nothing further from Mr K, then I see no reason to alter my view on the complaint.

For the reasons set out above, I uphold Mr K's complaint in part.

### **Putting things right**

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had not lent Mr K loan 4. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr K 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 K 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 K 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 K loan 4.

A) Moses should add together the total of the repayments made by Mr K towards interest, fees and charges on loan 4, 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 K which were considered as part of "A", calculated from the date Mr K originally made the payments, to the date the complaint is settled.

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

D) Morses should amend the payment information on Mr K's credit file.

\*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mr K 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 K'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 K to accept or reject my decision before 19 December 2022.

Rachael Williams  
**Ombudsman**