

complaint

Mr W complains that Morses Club PLC lent to him irresponsibly.

background

Using some of the information Morses has given to us here is a brief summary of the loans approved for Mr W. These were home-credit loans.

Loan No	Date Taken	Date closed	Amount taken	Largest Repay Amount	No of Instalments
1	08.01.16	08.07.16	£300	£15	33 weeks
2	08.07.16	02.03.17	£300	£15	33 weeks
3	08.07.16	02.03.17	£200	£25	33 weeks
4	02.03.17	26.10.17	£600	£30	33 weeks
5	06.07.17	16.11.17	£200	£40 (combined with 4)	33 weeks
6	16.11.17	28.06.18	£800	£40	33 weeks
7	28.06.18	paid	£800	£40	33 weeks

One of our adjudicators thought that Morses should put things right for Mr W in relation to Loans 5 to 7. Morses supplied additional information and did not agree. Our adjudicator's second view endorsed the first.

Mr W did not disagree with the adjudicator's recommendations and so the outcome for Loans 1 to 4 does not appear to be in dispute. I have not reviewed those loans.

The complaint remains unresolved and has been passed to me for a decision. I have reviewed Loans 5 to 7 within the context of the overall lending.

my findings

I have considered all the available evidence and arguments to decide what I consider to be fair and reasonable in the circumstances of this complaint. We have set out our general approach to complaints about high-cost (including home credit) lending - including all of the relevant rules, guidance and good industry practice - on our website.

I have carefully considered all the arguments, evidence and information provided in this context and what this all means for Mr W's complaint.

Morses needed to take reasonable steps to ensure that it did not lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr W 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. With this in mind, 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 Morses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors

include: where a customer's income is particularly low; where the repayments are particularly high; and/or where the frequency of the loans and the length of time over which a customer has been given loans need to be looked at: repeated refinancing could 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.

Morses was required to establish whether Mr W could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

The loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Financial Conduct Authority's Consumer Credit Sourcebook (CONC) defined 'sustainable' as being the ability to repay without undue difficulties. In particular the customer should be able to make repayments on time, while meeting other reasonable commitments, and 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 will not be able to make their repayments sustainably if they need to borrow further in order to do that.

I have considered the submissions by Morses after our adjudicator's view but I do not find them persuasive. It refers to its general view about its customers in general and what its view is as to how its loans can furnish a well needed credit facility for those requiring it. But Mr W has said he was single with no dependants. He already had a hire purchase (HP) car loan (about £9,500 in May 2016 which he was still repaying in July 2018). I note that much of the information it had on Mr W's income and expenditure does not include other credit commitments. And so it did not appear to be aware of this HP agreement. In addition, I have seen from Mr W's personal credit file that he was a regular user of other payday lenders and had been for some time. He regularly took loans from another home-credit provider and was in default on a payday loan with one of those lenders in November 2016. He was in arrears the whole of 2017 on a mail order account.

I have looked at the overall pattern of Morses's lending history with Mr W, with a view to seeing if there was a point at which Morses should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Morses should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr W's case, I think that this point was reached by Loan 5 and I say this because:

- When Mr W applied for Loan 5 he already had an unpaid loan with Morses and he had been in debt to Morses for about 18 months. The weekly repayments were larger than the previous repayments;
- from Loan 5 onwards Mr W was provided with a new loan often to refinance the previous one and sometimes more than one at once. So Morses ought to have realised it was more likely than not Mr W was having to borrow further to cover the earlier loan and to carry on borrowing. I think it would have been apparent that his indebtedness was increasing unsustainably;
- Mr W wasn't making any real inroads to the amount he owed Morses. Loans 6 and 7 were for £800 each plus interest and they were two and a half times the principal sum taken in January 2016 – nearly two years earlier for Loan 1. Mr W had paid

large amounts of interest to, in effect, service a debt to Moses over an extended period;

- At least one earlier loan was refinanced into a later one.

I think that Mr W lost out because Moses continued to provide borrowing from Loan 5 onwards because:

- these loans had the effect of unfairly prolonging Mr W's indebtedness by allowing him to take expensive credit use over an extended period;
- the sheer number of loans and deferrals was likely to have had negative implications on Mr W's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I am upholding the complaint about Loans 5 to 7 and Moses should put things right.

putting things right

Moses should not have given Mr W loans 5 to 7. Moses should:

- A) add together the total of the repayments made by Mr W towards interest, fees and charges on Loans 5 to 7, not including anything already refunded;
 - B) calculate 8% simple interest* on the individual payments made by Mr W which were considered as part of "A", calculated from the date Mr W originally made the payments, to the date the complaint is settled;
 - C) The overall pattern of Mr W's borrowing for Loans 5 to 7 means any information recorded about them is adverse, so Moses should remove these loans entirely from Mr W's credit file;
- *HM Revenue & Customs requires Moses to deduct tax from this interest. It needs to give Mr W a certificate showing how much tax it has deducted, if he asks for one.

my final decision

For the reasons given above, I am upholding Mr W's complaint in part. Moses Club PLC should do as I have set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 June 2020.

Rachael Williams
ombudsman