

complaint

Mr B says Morses Club Plc (“Morses Club”) irresponsibly lent to him. He says the proper checks weren’t done before his loans were provided to the extent that his name wasn’t even properly recorded on the application forms. He’s also unhappy that he was offered further loans to clear the balance on existing loans that he’d run into difficulty repaying which increased the overall amount he had to repay.

background

This complaint is about twelve home collected credit loans Morses Club provided to Mr B between November 2013 and November 2017. Mr B was also provided with a loan prior to the first one that’s the subject of this complaint. But, for reasons that have already been explained to the parties, the complaint about that loan hasn’t been looked at as part of this one.

For ease of reference I’ve referred to the loans that are part of this complaint as loans 1 to 12 – with loan 1 being the one for £500 taken in November 2013 and loan 12 being the one for £900 taken in November 2017.

Our adjudicator upheld Mr B’s complaint about loans 2 to 12 and said that Mr B shouldn’t have been provided with those loans.

Mr B didn’t disagree with our adjudicator’s view. But Morses Club didn’t agree and asked for an ombudsman to review the complaint. So the complaint has been passed to me for a final decision.

my findings

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 and unaffordable lending - including all the key relevant rules, guidance and good industry practice - on our website.

Morses Club 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 B 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 Club 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.

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

Morses Club's checks – were they proportionate?

It appears as though Morses Club believes its checks were proportionate at the respective times that it provided all of these loans to Mr B. It has provided the output for loan two which shows that Mr B declared his weekly income was £200 and his weekly expenditure – consisting of rent, mortgage etc... - was £50. And this left him with a weekly disposable income of £150 a week. From what I can see similar checks were carried out for all of Mr B's loans even though he was borrowing at a very high interest rate for an extended period of time.

I've carefully thought about what Morses Club has said. But I think that it is overlooking the fact that loan 2 was provided while Mr B was still making payments to loan 1. And Mr B's actions in taking a second loan for £300 at this interest rate, whilst still making payments to an existing loan, was inconsistent with someone who had the disposable income to meet the entire amount of the loan in a fortnight.

As Morses Club chose to continue proceeding with a somewhat over-optimistic declaration of Mr B's disposable income – on a number of occasions – despite the number of loans increasing and without taking steps to verify Mr B's expenditure, I don't think that Morses Club's checks before providing Mr B with loans 2 to 12 were fair, reasonable or proportionate.

Why I think that Mr B lost out because of Morses Club's failure to carry out proportionate checks

I've seen what Morses Club has said about the FCA's comments in '*Consultation Paper 18/43 High Cost Credit final rules and guidance*' ("CP 18/43"). Morses Club appears to be suggesting that the FCA concluded that consumers did not suffer significant economic harm when using home collected credit over long periods and this suggests that Mr B won't have lost out as a result of being provided with these loans. However, I think that Morses Club is somewhat overstating the relevance of CP 18/43 to this particular case.

I say this because there appears to be a mismatch between the long period Mr B was lent to and the 'long period' referred to in the passages Morses Club has cited. I say this because Morses club itself has referred to the FCA saying that most home credit consumers spend up to 12 months in debt. And approximately 5% of the consumers were in debt for the whole of the two-year period. So it's clear that the research cited mainly related to consumers who had been in debt for around a year and a small percentage who'd been in debt for a maximum of two years.

In this case, Mr B was provided with loans for an unbroken period of four years and he'd been in debt to Morses Club for a period exceeding five years. So I don't think that Morses Club is making a like for like comparison for the purposes of its comparison and I don't think that the FCA's research into the harm caused by prolonged use of home credit covered circumstances such as Mr B's.

Indeed I think that the FCA's comments in paragraph 3.14 of '*Consultation Paper 18/12 High-cost Credit Review: Consultation on rent-to-own, home-collected credit, catalogue credit and store cards, and alternatives to high-cost credit Discussion on rent-to-own pricing*' ("CP18/12") are more relevant here.

This states:

"we are concerned that there is a small core of customers who are using home-collected credit over an extended period and that some customers are being unduly influenced by firms' representatives to keep borrowing."

Furthermore paragraph 3.20 of the FCA's High-cost Credit Review – update ("HCR update") published in January 2018 stated:

"We are focusing our evidence gathering on repeat borrowing and refinancing, including where consumers take out additional borrowing with the outstanding amount from the previous loan incorporated into the new loan. We are concerned that when consumers refinance their loans in this way, it may result in them paying significantly more interest on the amounts originally borrowed than they would had they maintained separate loans."

Mr B being lent to for four years and, in Mr B's words, Morses Club's agent's encouragement to take out further loans to repay previous ones lead me to think that he falls more squarely within this group of customer, rather than the one that Morses Club has cited.

In any event, while I don't consider that my findings are inconsistent with the FCA's publications, I am, in any event, required to decide what I think is fair and reasonable in the particular circumstances of Mr B's case.

In this particular case, Mr B was in debt to Morses Club for at least five years. This lack of any breaks in Mr B's indebtedness leads me to think that it ought to have been apparent to Morses Club that Mr B was unlikely to have been using these loans as a useful means of managing cyclical income shortfalls – especially as the loan amounts increased substantially and were in large part used to discharge the debts arising as a result of earlier Morses Club loans.

On almost every occasion Mr B agreed to pay far more interest than the amount he borrowed, and because of refinancing early loans, he then ended up paying interest (at similar very high rates) upon the unpaid interest, resulting in truly enormous costs over a much longer period. I think that Morses Club could and should have identified, from the way Mr B sought to use its loans, that his debts were problematic and taken steps other than continuing to provide more and more expensive loans.

Instead, its actions mean that Mr B was paying Morses Club high amounts of interest for the privilege of it allowing him to delay dealing with his unsustainable debt. I don't think that offering further expensive loans to repay previous ones was exercising forbearance. And I

don't think it was fair and reasonable for Morses Club to provide Mr B with the loans from loan 2 in these circumstances.

So overall and having carefully considered everything provided, I'm upholding Mr B's complaint about loans 2 to 12 and Morses Club should put things right.

putting things right – what Morses Club needs to do

- refund all interest and charges Mr B paid on loans 2 to 11;
- an outstanding balance remained on loan 12 at the time Mr B's complaint was referred to us. So Morses Club should do one of the following in relation to loan 12 depending on the current status of the loan:
 - if the balance was repaid during the course of this complaint, Morses Club should refund all interest and charges that Mr B paid on this loan; **Or**
 - if an outstanding balance remains all the interest and charges applied from the outset should be removed and the payments Mr B made should be deducted from the new starting balance – in other words, the amount Mr B was initially advanced. If the payments Mr B has already made exceed the amount lent the extra should be refunded as overpayments. If an outstanding balance on loan 12 remains after all adjustments have been made, Morses Club can deduct this from the compensation that it now needs to pay Mr B.
- pay interest of 8% simple a year on any interest, charges and overpayments paid from the date they were paid to the date of settlement†;

† HM Revenue & Customs requires Morses Club to take off tax from this interest. Morses Club must give Mr B a certificate showing how much tax it's taken off if he asks for one.

my final decision

For the reasons given above, I'm partially upholding Mr B's complaint. Morses Club Plc should pay Mr B compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 February 2020.

Jeshen Narayanan
ombudsman