

The complaint

Miss C says Morses Club PLC irresponsibly lent to her. Miss C says she was reliant on this type of lending and she got into a spiral of debt. Her credit report would have shown late payments, defaults and credit applications.

What happened

This complaint is about 27 home credit loans Morses provided to Miss C between October 2011 and December 2019. Miss C's borrowing history for the first ten loans is as follows (only the start date is known for loan one):

Loan	Date Taken	Date Repaid	Weekly Instalments	Amount	Weekly Repayment
1	06/10/2011	Unknown	Unknown	Unknown	Unknown
2	06/10/2011	26/04/2012	34	£100.00	£5.00
3	26/04/2012	19/10/2012	34	£150.00	£7.50
4	24/05/2012	14/12/2012	34	£100.00	£5.00
5	02/08/2012	22/03/2013	34	£100.00	£5.00
6	19/10/2012	01/08/2013	50	£400.00	£14.00
7	14/12/2012	28/05/2013	34	£100.00	£5.00
8	28/05/2013	14/02/2014	34	£200.00	£10.00
9	01/08/2013	30/05/2014	50	£500.00	£17.50
10	14/02/2014	23/10/2014	34	£200.00	£10.00

Miss C took a further 17 loans and the amounts borrowed ranged between £200 and £1,000. The terms were between 33 and 52 weeks.

When Miss C complained to Morses, it couldn't find the loan application for loan 11 which was taken in May 2014. So, it offered redress to Miss C as it couldn't evidence her income and expenditure were checked before agreeing to the loan. Morses said Miss C had an outstanding balance of £1,705 as loans 25 and 27 are outstanding, so it would offset the redress amount of £516.93 against that.

Our adjudicator partially upheld Miss C's complaint and thought the loans from loan six onwards shouldn't have been given. They thought Miss C's borrowing behaviour showed that she was dependent upon this type of lending.

Morses partially agreed and made an offer to Miss C for loans six, eight, 14, 16, 19, 21, 24, 25 and 27. We put the offer to Miss C, but she declined it.

As the complaint remains unresolved, it has been passed to me for a decision in my role as ombudsman.

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 Miss C 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:

- the *lower* a consumer'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 think that it is important for me to start by saying that Morses was required to establish whether Miss C could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

Of course, 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 relevant regulations define 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.

Miss C didn't comment on the adjudicator's opinion that loans one to five shouldn't be upheld. And Morses has already made an offer for loans six, eight, 14, 16, 19, 21, 24, 25 and 27. 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 the loans were part of the borrowing relationship Miss C had with Morses. So, it is something I will take into account when considering the other loans she took.

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

In response to the adjudicator Morse couldn't agree that the loans it didn't uphold weren't harmful to Miss C. It said its checks were proportionate for the lending and that the lending wasn't unsustainable for Miss C.

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

Given the particular circumstances of Miss C's case, and like the adjudicator, I think that this point was reached by loan six. I say this because:

- At this point Morse ought to have realised Miss C was not managing to repay her loans sustainably. Miss C had taken out six loans and had been indebted to Morse for 12 months. So Morse ought to have realised it was more likely than not Miss C was having to borrow further to cover the hole repaying her previous loan was leaving in her finances and that Miss C's indebtedness was increasing unsustainably.
- We don't know how much Miss C borrowed for loan one but loan two was for £100 and loan six was for £400. And the term of the loan had increased from 34 weeks to 50 weeks. At this point Morse ought to have known that Miss C was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need.
- A pattern was beginning to develop by loan six where Miss C was provided with a new loan within days of settling a previous one, and this continued. And I note that Miss C often had more than one loan running at a time which increased her weekly repayments.
- Miss C wasn't making any real inroads to the amount she owed Morse. Loan 27 was taken out over eight years after Miss C's first. And it was for a larger amount than loan two. Miss C had paid large amounts of interest to, in effect, service a debt to Morse over an extended period.

I think that Miss C lost out because Morse continued to provide borrowing from loan six onwards because:

- these loans had the effect of unfairly prolonging Miss C's indebtedness by allowing her 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 Miss C borrowed was likely to have had negative implications on Miss C's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, I'm upholding the complaint about loans six to 27 and Morse should put things right.

Putting things right

For completeness I've included the loans that Morse has already made an offer on.

If there is an outstanding balance due on Miss C's loans and it has been transferred to a third party, Morse should buy the loans back if it can. If Morse can't buy the loans back, then it needs to work with the third party to make sure the following is achieved:

A) Add together the total of the repayments made by Miss C towards interest, fees and charges on all upheld loans without an outstanding balance.

B) Calculate 8% simple interest* on the individual payments made by Miss C which were considered as part of "A", calculated from the date Miss C originally made the payments, to the date the complaint is settled.

C) Remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss C as though they had been repayments of the principal on all outstanding loans.

If this results in Miss C having made overpayments then Morse should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.

Morse should then refund the amounts calculated in "A" and "B" and move to step "E".

D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus, then the surplus should be paid to Miss C. However, if there is still an outstanding balance then Morse should try to agree an affordable repayment plan with Miss C.

E) The number of loans taken from loan six onwards means any information recorded about them is adverse. So, all entries about loans six to 27 should be removed from Miss C's credit file. Morse does not have to remove any outstanding loans from Miss C's credit file until these have been repaid, but any adverse information recorded about these loans should still be removed.

* HM Revenue & Customs requires Morse to take off tax from this interest. Morse must give Miss C a certificate showing how much tax it's taken off if she asks for one.

If after doing the above Miss C still has an outstanding balance due, then Morse should try and work together to come to a mutually agreeable repayment plan with Miss C in order to repay what is owed. But I'd remind Morse of its obligation to treat Miss C fairly.

My final decision

For the reasons given above, I'm partially upholding Miss C's complaint. Morse Club PLC should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 15 October 2020.

Catherine Langley
Ombudsman