

## The complaint

Mrs P complains that Morses Club PLC lent to her irresponsibly.

## What happened

Mrs P has supplied the copy agreements for loans 2, 3 and 4, which has been helpful as Morses supplied a brief loan table and no documentation at all. It explained that the time between Mrs P bringing her complaint and the issuing of the loans was long enough for the records to have been deleted. It said:

*'All of the loans for this account are outside of our data retention period, and therefore we have no documentation for them, though we have included a summary of these loans and the final response letter sent.'*

*We consent to you including these loans in your investigation.*

*The current status of the account is closed - with external debt collector.'*

Using information from Mrs P and from Morses I have created this brief loan table.

Loan No	Borrowed date	Term (weeks)	Amount per week	Principal sum borrowed	Amount to be repaid	Actual end date/account closure
1	January 2013	-	-	-	-	-
2	16 August 2013	32	£10	£200	£320	14 March 2014
3	09 December 2013	50	£17.50	£500	£875	15 July 2015
4	07 April 2014	34	£25	£500	£850	15 July 2015

Mrs P's memory of Loan 1 is that it was approved around January 2013 and the terms were the same or similar to that of loan 2. She thinks that it may have been rolled into loan 2 but there's no information about it, and it's also possible that it was paid off before loan 2 was issued. The documentation Mrs P has sent shows that all the loans were Shopacheck loans.

Loan 1 is one we can't look at against Morses as it seemed to be settled prior to Morses acquiring Shopacheck in March 2014.

Mrs P is clear that her complaint should be upheld. She has explained that she had loans with another home credit provider and four payday loans while she had the loans with Morses/Shopacheck.

Mrs P goes on to say that *'No credit checks were taken out on any of the loans. At the time of the loans I was receiving only ESA Dwp of some £72. Per week.'*

From reading all the correspondence between Mrs P and our adjudicator, the heart of Mrs P's complaint is that she says that if Morses had carried out the credit checks at the time

they were approved then it would not have approved them. She seeks a full refund of interest and charges.

Mrs P has said *'These loans were unsustainable, as I was put under pressure to take out further lending in order to be able to service them and pay limited living expenses.'*

Mrs P has said that a collector or agent did not collect the repayments at her home: most of the payments were made to Morses' office by debit card.

Our understanding from Morses is that the account is closed and it is with a third party debt collector. And so, the July 2015 date in the loan table (loans 3 and 4) above may be the date that the loans were sold to that third party. But I have no information on that.

One of our adjudicators looked at the complaint and thought that he did not have enough information to uphold Mrs P's complaint. After she had sent him some additional information his view had not altered and so the complaint remained unresolved and 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.

I have considered the law, any relevant regulatory rules and good industry practice at the time the loans were offered. Most of the loans approved would have been at the time that the Office of Fair Trading (OFT) Irresponsible Lending Guide was used as the benchmark. It changed on 1 April 2014 when the Financial Conduct Authority (FCA) took over the regulatory supervision of lenders, and the concepts of irresponsible lending were maintained into the new regulatory regime with the FCA.

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 Mrs P could repay the loans in a sustainable manner. These checks could include several 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 Morses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer.

These factors include:

- 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 level of income);
- having many 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);
- 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.

Morses was required to establish whether Mrs P could sustainably repay her 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 OFT and then the Consumer Credit Sourcebook ("CONC") defines 'sustainable' as being the ability to repay without undue difficulties. 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 carefully considered all the arguments, evidence and information provided in this context and what this all means for Mrs P's complaint.

#### *Background relevant information*

Shopacheck was part of Welcome Financial Services (Welcome FS) which was sold to Morses on 10 March 2014. Morses took over the loan book but would not have issued any loans approved before 10 March 2014 as it did not own the company at that point. Welcome FS retained responsibility for loans which were granted by it and had been repaid, sold or written off before 10 March 2014. That means Mrs P's loan 1 would not be the responsibility of Morses but rather Welcome FS which is in liquidation. We won't be able to help with a complaint about Welcome FS because of the liquidation. So, I say no more about loan 1.

After 10 March 2014 Morses took on responsibility for the complaints about loans approved by Shopacheck which loans were already approved and in place, but which remained open loans after 10 March 2014.

For Mrs P that means loans 2 and 3 are ones about which we can assess irresponsible lending even though Morses did not approve them as Morses is content to accept responsibility for complaints brought about them. And loan 4, approved soon after Morses bought Shopacheck, would have been assessed and approved by it.

However, Morses has no records at all to give us about these loans, the application process, what checks it carried out or what information Mrs P gave to it (or Shopacheck) at the time of the applications, and there's no information about what repayments were or may have been made over the years. I find it disappointing that Morses has no information to send us and I note Mrs P's comment that she received documents from Morses before bringing her complaint to us. However, it's also not unreasonable for Morses to have a data retention policy and if the documents have been deleted then there's little I can do about it.

And so, I am having to decide on very limited information.

#### *Evidence for this complaint*

Mrs P has provided some information to substantiate her complaint most of which I have listed here, together with my views on the evidence:

- a local authority Council Tax reduction letter dated 18 December 2014, which Mrs P says demonstrates that she was receiving Contributory ESA of £72.40 a week (page two is missing). This post-dates the fourth loan and so, on its own, this letter does not show me what her income was for the loan approval dates;
- a Housing Benefit letter dated January 2015 which shows that the weekly income used in the calculation was just over £95, and that Mrs P was to receive housing benefit paid directly to her landlord on 26 January 2015. Mrs P has sent a second letter of a similar nature. These post-date the lending period with Morses and reveal different income information and so contradicts the Council Tax reduction letter and on their own do not show me Mrs P's income at the time of the lending;
- a lender's Notice of Arrears dated May 2013. This pre-dates Morses involvement with Shopacheck;
- a credit card statement from May 2013 showing that Mrs P was over her limit and behind on her repayments;
- a County Court Judgment (CCJ) dated 26 March 2013 for £776.75;
- the Jobcentre writing to her about a medical certificate renewal needed in March 2013;
- several credit-file screenshots (un-named) showing historic loans which remain outstanding;
- a screenshot from a different lender or its administrators referring to a '*Total Potential Redress*' figure about her '*claim*'. There were no details about the loan dates or amounts and little was included in that screenshot;
- information about a different payday and instalment loan lender which went into administration. No details of the loans she had with that company were included;
- information about a lender's scheme of arrangement pay-out to Mrs P. Complaints dealt with by personnel working within a lender's scheme of arrangement will have different approaches and criteria to apply to complaints resolved by this Service.

Mrs P has shared with us a final response letter (FRL) from the summer of 2020 from another lender relating to a different complaint she initiated. That FRL gives a loan table for which she was indebted to that other company. Many of them cover the same period as the Shopacheck/Morses lending period and range from loan amounts of £500 to £1,000. So, this does show other debts Mrs P had with one other lender at the time.

But this FRL also shows that Mrs P had told that other lender she was in receipt of between '*£600.00 and £624.00 per week. After considering your outgoings based on what you told your Agent in your home and what your credit file stated, you had an average disposable income of £200.00 per week.*'

Although I do not accept the figures in the FRL as evidence for this complaint because it relates to a different complaint and lender altogether, I do note that its possible Mrs P may have declared the same or a similar income to Shopacheck/Morses when she was applying for the loans to which this current complaint relates. And so, this FRL casts doubt on what Mrs P has been saying: that her income was £72.40 a week at the time she applied for the Morses loans.

Mrs P was asked to send to us her bank statements to gain some clarity on her income at the time of the Shopacheck/Morses lending periods, and to identify her exact outgoings. But she has said that these will take many weeks to obtain, as that account/accounts is/are closed. Mrs P says that we have had the complaint for long enough and she does not see why we must see the bank statements. Mrs P brought her complaint to this Service in August 2020 which is almost a year ago.

*'I believe you have enough evidence in order to see that if Morses had made any checks they would have seen that these loans were unsustainable, with an income of £72 per week and huge loans outstanding. I had payday loans for daily living expenses.'*

And more recently Mrs P has added: *'I have provided more proof of my debts, I believe that this information should be enough for you to deal with my complaint, without waiting for bank statements and escalating to ombudsman.'*

I understand why Mrs P wants this Service to get on with the complaint. She has given reasons why she does not wish to send to us any further documents or evidence. And so, I have decided that Mrs P 's desire to gain resolution, balanced with the respondent lender's, Morses', need to gain finality, lead me to think that issuing the final decision now is the right course of action.

My view is that the information I have from both parties is sporadic and incomplete. I empathise with Mrs P and I can understand why she confidently asserts that had Morses carried out a credit search, it would have revealed enough for it not to have granted these loans. But as I have explained – it does not have any documentation about the approvals for loans 2 and 3, and as for loan 4 I do not know if Morses did carry out the credit searches she is so sure it did carry out. At the time of loan 4 (April 2014) there were no FCA regulatory requirements for it to do that.

And if it had carried out a credit search (which I do not know that it did and I have no documentation about), from the limited evidence I have from Mrs P, then I do not think I have enough to make a proper assessment. The information about Mrs P's debts have been sent to me, but many are incomplete and/or are not showing that these were from Mrs P's credit file or whether the loans to which the debts relate all date back to the Shopacheck/Morses periods. Some do – but some are unclear as to whether they do.

If Shopacheck/Morses did not know about those loans and other debts at the time of the loan approvals then I can't decide that it lent irresponsibly to her. And if, as I explained earlier is a possibility, Mrs P did use similar weekly income figures as she appears to have done when applying to another lender for loans (between '*£600.00 and £624.00 per week*'), then its likely Shopacheck/Morses may have had the same information and so it may have decided to lend responsibly with the information it had to hand. But this is bordering on speculative.

In all the circumstances I am *not* persuaded that a fair and reasonable outcome to this complaint is that Morses lent to Mrs P irresponsibly. I do not uphold Mrs P's complaint.

#### ***Additional points raised by Mrs P***

Mrs P has said that a complaint she made to another home-credit lender led to it upholding her complaint, and her view is *'I can see no excuse whatsoever for you to not uphold the complaint with Morses. There are no differences whatsoever in the circumstances in the loans.'*

Mrs P also pointed out that in her view this Service always *'...side unfairly with Businesses...'*

I can assure Mrs P that each complaint is dealt with on its own merits and that we are an impartial Service. And what little we know of the complaint she brought with that other home-credit lender, it appears that the lender resolved the complaint with Mrs P before we

reviewed it: our involvement was unnecessary. And so, the circumstances were different with that complaint in which Mrs P successfully resolved it with that lender herself.

### **My final decision**

My final decision is that I do not uphold Mrs P's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 3 August 2021.

Rachael Williams  
**Ombudsman**