

The complaint

Miss P complains that Morses Club PLC was irresponsible in its lending to her.

What happened

Morses Club provided Miss P with four loans between April 2015 and July 2016. The details of these are set out below.

| Loan | Amount | Date | Repaid |
|------|--------|------------|------------|
| 1 | £100 | 21/04/2015 | 29/10/2015 |
| 2 | £100 | 07/08/2015 | 29/04/2016 |
| 3 | £200 | 29/10/2015 | 22/07/2016 |
| 4 | £300 | 22/07/2016 | debt sale |

Miss P says that Morses Club didn't carry out adequate checks before providing the loans and had it done so the loans wouldn't have been provided. She says the loans have resulted in her being depressed and unable to sleep.

Morses Club explained its approach to lending and that affordability assessments were undertaken before each loan with its agent visiting Miss P's home and going through her income and expenses.

Our adjudicator partially upheld this complaint. He didn't think he had enough to say that the first loan shouldn't have been provided but didn't think that Morses Club should have provided loans 2 to 4 to Miss P. He noted that at the time of loan 2, loan 1 was still outstanding and Miss P was reported as having loans outstanding with two other lenders. He thought this showed that Miss P was having problems managing her money and that it was unlikely she would be able to sustainably repay this and any subsequent loans.

Morses Club didn't accept our adjudicator's view. It said that although Miss P had other outstanding loans these had been captured in its income and expenditure assessment. It said that the repayment amounts due on loans 1 and 2 combined were less than 5% of Miss P's disposable income and that Miss P had a higher level of disposable income for loan 3 and this increased further by loan 4. It said based on its assessments the loans were affordable for Miss P. It also noted that none of the loans were for more than £300 and they weren't long term.

My provisional conclusions

I issued a provisional decision on this complaint. I concluded in summary:

- Miss P's first loan was for £100 with a finance charge of £70 bringing the total repayable to £170. Before the loan was provided information about Miss P's income and expenses was gathered. As this was Miss P's first loan with Morses Club and the repayments were for £5 a week, less than the amount she said she could afford, and

her disposable income suggested the loan was affordable I did not find I could say this loan shouldn't have been provided.

- Miss P was provided with a second loan before she had repaid her first. Repayments for loan 2 were £5 a week for 34 weeks which combined with the repayments due on loan 1 gave total repayments of £10 a week. Before loan 2 was provided details of Miss P's income and expenses were gathered. I didn't think her partner's wages should be taken into account, but I noted that the expenses might be shared. Miss P was asked how much extra she could afford to pay each week and ticked the box saying £50. Therefore, I didn't find that I had enough based solely on the income and expenses assessment to say that the loan was unaffordable.
- Miss P recorded loans with two other lenders outstanding when loan 2 was provided. I considered this but didn't think that this was enough to say that Morses Club should have realised that Miss P wouldn't have been able to sustainably afford to repay the loans. Before the loan was provided a detailed income and expenses assessment was carried out and Miss P had been making the repayments on her first loan. Based on the information I thought the checks carried out were reasonable and without further evidence to show that Morses Club should've been reasonably aware this loan wasn't sustainably affordable I didn't find I could say Morses Club was wrong to provide this loan.
- Loan 3 was taken out on the same day that loan 1 was repaid and while loan 2 was still outstanding. This loan was for a higher amount, £200 and repayments were set at £10 a week for 33 weeks. I didn't think Miss P's borrowing history at this stage was enough to say that the loan shouldn't have been provided and the income and expenditure assessment suggested the loan was affordable
- Loan 4 was provided in July 2016, by which time Miss P had been borrowing from Morses Club for around 15 months. Miss P had repaid loan 2 by this time and repaid loan 3 on the day she was provided loan 4. Loan 4 was for a higher amount than the previous loans. At this point, I thought it would have been reasonable for Morses Club to have carried out a thorough review of Miss P's financial situation to ensure that she could sustainably afford to repay this loan.
- Had further checks been carried out I thought that Morses Club would have realised that Miss P was struggling to manage her money. A county court judgement had been recorded against Miss P in October 2015 and at the time of loan 4 her credit file showed she had other accounts that were in arrears. Given this I thought that lending to Miss P at this time was unlikely to be sustainably affordable and so I didn't think that loan 4 should have been provided.

Neither party provided any new information in response to my provisional decision.

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.

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 that Miss P 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.

I think that it is important for me to start by saying that Morses Club was required to establish whether Miss P 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 Consumer Credit Sourcebook ("CONC"), defines 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.

As I set out in my provisional decision, I've considered what this means for Miss P's complaint. Having done so I do not think I have enough to say that loans 1 to 3 shouldn't have been provided. But, by loan 4 I think further checks should have been carried out to ensure the loan was sustainably affordable. Had these happened I think Morses Club would have realised that Miss P was struggling to manage her money and that lending to her wasn't sustainably affordable.

Putting things right

My final decision is that I partially uphold this complaint against Morses Club PLC.

In deciding what redress Morses Club should fairly pay in this case I've thought about what might have happened had it not provided loan 4, as I'm satisfied it shouldn't have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Miss P may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and this particular lender which she may not have had with others. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she 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 she 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 Miss P in a compliant way at this time.

Having thought about all of these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss P would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses Club's liability in this case for what I'm satisfied it has done wrong and should put right.

I do not think that Morses Club should have provided loan 4. It appears that the loan was sold to a third party. If this is the case, Morses Club should take back the loan or, if it isn't able or willing to take back the loan, ensure the following actions are taken.

- All interest and charges on loan 4 should be waived and any payments made towards the loan should be considered as though they were payments of capital such that Miss P is only required to repay the capital amount she borrowed. If this results in Miss P having made overpayments, these should be refunded to Miss P, along with 8% simple interest* calculated from the date of the overpayment to the date of settlement.
- Any adverse information recorded about loan 4 should be removed from Miss P's credit file.

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

My final decision

My final decision is that I partially uphold this complaint against Morses Club PLC. Morses Club PLC should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss P to accept or reject my decision before 26 July 2021.

Jane Archer
Ombudsman