

The complaint

Miss R says Morses Club PLC lent to her irresponsibly. She says that she had debt problems when Morses lent to her. She thinks that Morses should've seen this and not approved the loans.

What happened

Our adjudicator thought the complaint should be partially upheld. Morses disagreed with the adjudicator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Miss R's complaint should be upheld in part, but on different terms. A copy of the background to the complaint and my provisional findings are below in italics:

This complaint is about 11 home collected loans Morses provided to Miss R between July 2014 and May 2019. Some of the information I have been provided about the lending is in the table below.

<i>loan</i>	<i>date taken</i>	<i>amount</i>	<i>instalments</i>	<i>date repaid</i>
<i>1</i>	<i>03/07/2014</i>	<i>£400</i>	<i>50</i>	<i>16/04/2015</i>
<i>2</i>	<i>16/04/2015</i>	<i>£200</i>	<i>34</i>	<i>08/12/2015</i>
<i>3</i>	<i>16/04/2015</i>	<i>£400</i>	<i>50</i>	<i>08/12/2015</i>
<i>4</i>	<i>08/12/2015</i>	<i>£600</i>	<i>20</i>	<i>05/05/2016</i>
<i>5</i>	<i>05/05/2016</i>	<i>£700</i>	<i>33</i>	<i>07/02/2017</i>
<i>6</i>	<i>04/04/2017</i>	<i>£300</i>	<i>20</i>	<i>03/08/2017</i>
<i>7</i>	<i>03/08/2017</i>	<i>£500</i>	<i>20</i>	<i>03/01/2018</i>
<i>8</i>	<i>11/01/2018</i>	<i>£400</i>	<i>20</i>	<i>07/06/2018</i>
<i>9</i>	<i>05/03/2018</i>	<i>£250</i>	<i>33</i>	<i>02/11/2018</i>
<i>10</i>	<i>07/06/2018</i>	<i>£400</i>	<i>20</i>	<i>02/11/2018</i>
<i>11</i>	<i>09/05/2019</i>	<i>£1,070</i>	<i>33</i>	<i>13/02/2020</i>

Our adjudicator partially upheld the complaint. He didn't think that Morses was acting wrongly when it approved loans 1 to 3. But he didn't think it should've approved loans 4 to 11 as the lending pattern itself was harmful.

Morses agreed in part with the adjudicator. It didn't think it was wrong to have approved loans 3 (I'm assuming meant loan 4 here) to 5 and loan 11. It thought the checks it did showed that Miss R could afford the repayments to these loans. It thought it was reasonable to look at loan 11 as a new period in lending due to the break of 188 days between it and loan 10. It agreed it shouldn't have approved loans 6 to 10.

Miss R didn't disagree with the adjudicator's opinion.

As no agreement has been reached the complaint has been passed to me.

What I've provisionally 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 R 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 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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator 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.

I've decided to uphold Miss R's complaint in part and have explained why below.

Miss R didn't disagree with our adjudicator's opinion about loans 1 to 3. And Morses has agreed that loans 6 to 10 shouldn't have been approved. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be looking at this lending in detail.

But they were part of the borrowing relationship Miss R had with Morses. So, they are something I will take into account when considering the other loans she took. I've included Morses offer to pay compensation for loans 6 to 10 in my putting things right section below.

In this decision I'll concentrate on whether the lending pattern itself was harmful at loans 4 and 5 and whether it's reasonable to say that loan 11 was a continuation of the same period of lending.

Having done this I don't think that it's reasonable to say that the lending pattern was problematic by loan 4. This was 17 months into the lending relationship, but Miss R had only taken three loans before this and they were quite close together. This indicates a shorter-term problem to

me, rather than a longer-term unsustainable lending pattern. So, I'm not intending to uphold Miss R's complaint about loan 4.

But I think that the lending became unsustainable by loan 5. I say this because:

- *Miss R had taken out five loans over an approximately two-year period. I think this was now a long time to be using this type of high cost credit.*
- *And of particular concern here is that Miss R had taken out three loans in the year before she took loan 5 (loans 2, 3 and 4 in 2015). She borrowed a total of £1,200 for these loans. And whilst she had repaid these earlier loans before she took loan 5, the fact that she needed to take her largest loan yet straight away, indicates to me these earlier repayments were a stretch for her.*
- *And I think this is reflected in the information recorded at the time of sale about Miss R's income and expenditure. Whilst the loans do look affordable from the income and expenditure amounts Moses has recorded, her expenditure doesn't tell the whole story as it doesn't include amounts for some normal expenditures such as food. I think it's reasonable to say that things would've been very tight for her, at best.*
- *So, at loan 5 Moses ought to have realised Miss R was not managing to repay her loans sustainably. And that Miss R was not likely borrowing to meet a shorter term need, or for a discrete purchase but to meet an ongoing need.*
- *From loan 5 onwards Miss R was provided with a new loan within a short time of settling a previous one up to loan 10. And she often had more than one loan running at the same time.*
- *I've thought about the break in lending between loans 10 and 11 which was 188 days. I can accept this is a longer break. But given what Moses knew about Miss R's circumstances (as outlined above). I don't think it was reasonable to assume her financial position had improved when she returned for this much larger loan.*

I think that Miss R has lost out because Moses continued to provide borrowing from loan 5 onwards because:

- *these loans had the effect of unfairly prolonging Miss R's indebtedness by allowing her to take expensive credit over an extended period of time.*
- *the number of loans and the length of time over which Miss R borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans.*

So, I'm intending to uphold the complaint about loans 5 to 11 and Moses should put things right.

Moses, and Miss R, confirmed that they had received my provisional decision. Miss R agreed with what I said and Moses didn't have anything to add to it.

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.

Moses and Miss R didn't raise any new points after receiving my provisional decision. So, I've reached the same conclusions I reached before, for the same reasons. As there is no ongoing disagreement, or new issues raised, I won't add anything to what I said in my earlier decision.

I'm upholding Miss R's complaint about loans 5 to 11 and Moses should put things right.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Miss R from loan 5, as I'm satisfied it ought to have.

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

For example, having been declined this lending Miss R 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 she 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 R 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 R would more likely than not have taken up any one of these options. So it wouldn't be fair to now reduce Morses' liability in this case for what I'm satisfied it has done wrong and should put right.

Morses shouldn't have given Miss R loans 5 to 11.

- A) Morses should add together the total of the repayments made by Miss R towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.
- B) Morses should calculate 8% simple interest* on the individual payments made by Miss R which were considered as part of "A", calculated from the date Miss R originally made the payments, to the date the complaint is settled.
- C) Morses should pay Miss R the total of "A" plus "B".
- D) The overall pattern of Miss R's borrowing for loans 5 to 11 means any information recorded about them is adverse, so it should remove these loans entirely from Miss R's credit file. If Morses has sold any of the loans Morses should ask the debt purchaser to do the same.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Miss R a certificate showing how much tax Morses has deducted, if she ask for one.

My final decision

For the reasons I've explained, I party uphold Miss R's complaint.

Morses Club PLC should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 15 December 2021.

Andy Burlinson
Ombudsman