

The complaint

Mrs B complains that Morses Club PLC lent to her when she was not able to afford the loans.

Mrs B is not content about the entry on her Morses account notes for January 2020.

What happened

Using information Morses has provided for us, here is a table of five loans approved for Mrs B over the years.

Loan	Date Taken	Date Repaid	Instalments in weeks	Amount	Highest Combined Weekly Repayment
1	04/09/2015	Scheduled to be repaid July 2016 Sold	34	£200.00	£10.00
Break in lending					
2	03/09/2019	04/02/2020	33	£300.00	£15.00
3	29/11/2019	28/02/2020	34	£150.00	£22.50
4	04/02/2020	28/02/2020	34	£300.00	£22.50
5	01/05/2020	19/12/2020	34	£250.00	£12.50

Mrs B complained to Morses and received its final response letter (FRL) dated October 2020 in November 2020. It's unclear why there was a delay. At this stage it had not discovered Mrs B's 2015 loan and details of this were sent to this Service later. Morses agreed that it be included in the complaint investigation, but it had limited information about it.

In its FRL Morses explained that for the 2019 and 2020 loans it used an electronic method to capture Mrs B's income and expenditure and copies of those four sets of details have been sent to us. Morses summarised the situation that Mrs B had an '*income surplus*' range of between £59 and £98 a week.

Morses further explained:

'For loans issued after 20th June 2019 we used figures provided from the Office of National Statics [sic] (ONS) and pre-populated minimum figures for expenditure which included rent, council tax, utilities, insurance, transport, groceries, media and childcare. We also pre-populated the payments you make towards other creditors by using information provided from [credit reference agency name here].

The Agent would then review these figures with you and increase or decrease the values as appropriate. If a value is decreased, the Agent records the reason why and updates the income and expenditure accordingly.'

I'll come back to these points later in this decision.

Morses' other points made in its FRL were that:

- it had no notes about Mrs B being in a debt management plan (DMP)
- it had no indication Mrs B was in financial difficulties
- the Agent for Morses had noted that in January 2020 Mrs B was in Mexico and Morses took from that information Mrs B was not experiencing any financial difficulty.

One of our adjudicators looked at the complaint, including the 2015 loan information and thought that Morses had done nothing wrong and he did not think Morses needed to do anything to put things right for Mrs B. He did establish that the agent had got it wrong about the Mexico trip and Morses accepted that. So, he did think that a written apology and an amendment of its records was appropriate about that entry.

Mrs B disagreed about the irresponsible lending part of the complaint and it was passed to me to decide. I issued a provisional decision on 4 November 2021 giving both parties time to review it and come back to me with anything further they wished me to look at. Both parties have answered and have nothing further to add.

So, as we have heard from both parties it seems appropriate to issue this final determination. I include in the next pages my provisional findings which become part of this decision. Those provisional findings are in smaller type-size to differentiate them from my final 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.

We have set out our general approach to complaints about short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

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 B 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 B 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 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 B's complaint.

My provisional decision findings from 4 November 2021

Loan 1

The current situation with Loan 1 is that it is closed and with an external debt collector. Morses has been able to send to us the original application form dated September 2015. From the sections completed by the agent it looks as though identification was obtained from Mrs B as she was a new customer. So, I am satisfied on the evidence I have that this was the first loan Mrs B took with Morses.

The application form shows Mrs B had told Morses she received £161 a week in wages and £415 a week from a pension and the agent had ticked a box to indicate evidence of these payments had been seen. That gave a total income of £576 a week. Mrs B's total weekly expenditure for rent/mortgage, other loans, bills, living costs and other outgoings was £233. So, the £200 loan at £10 a week looked to have been affordable.

On the information I have it seems that Morses carried out proportionate checks for Mrs B as a new customer applying for a relatively modest loan of £200 over 33 weeks. The £10 a week repayment schedule looked affordable. I do not plan to uphold Mrs B's complaint about this loan.

After loan 1

I have been sent the statement of account for loan 1 and from it I can see that Mrs B appeared to pay the £10 a week regularly until end of November 2015 after which there was a gap until January 2016, one more payment of £40 and then no more payments. The outstanding balance on the loan of £180, was likely passed to an external debt collector on 8 July 2016.

Mrs B has told us about her DMP. Mrs B has provided a copy email from the charitable body which gives free advice to consumers about debt management. That email was addressed to her and her partner and suggests it was a joint debt management plan which commenced July 2016. Mrs B has highlighted an entry on a long list of debts which she says is the Morses loan 1 in the DMP.

The document giving us the list of debts in the DMP is dated 2021. I think that the DMP list we have related to the joint debts for Mrs B and her partner and are not solely hers. And as dates and details are missed off the photograph we have then I cannot see the chronology or the amounts.

Break in lending

The gap in the lending after loan 1 was significant and I do think that when Mrs B approached Morses again several years after loan 1 was sold on, it was reasonable of it to treat Mrs B as if she were a new customer. That would mean that it was entitled to rely on the financial information she gave to it for loan 2. And that seems to be what happened.

Information from Mrs B's credit file

I have used Mrs B's credit file record to see if she was in a DMP at the time she applied to Morses for the 2019 and 2020 loans. I can see that the Morses Loan 1 was passed to a debt management company and the note on that credit file entry says that the DMP for this loan commenced in September 2018. It looks like Loan 1 was paid off around the beginning of 2021.

Mrs B's credit file also shows me that she had three other loans with another Home Credit Provider, two of which were included in her DMP from February 2019 and the third was in default from May 2017. So, I am satisfied from this entry and other details from Mrs B's credit file that she had more than one debt in a DMP at the time she came back to Morses for the loans in 2019 and 2020.

Mrs B had taken a guarantor loan in October 2018 – the fourth in a series of loans with the same company which were all refinanced into the next – which was settled in June 2020. Mrs B had a mortgage account – likely joint with her partner – and the balance on it has reduced by about £800 over the six years of credit reporting showing on her credit file. The original payment terms were £323 over 276 months (23 years) from June 2006.

Morses' credit file search results

After loan 2, I can see that Morses carried out credit searches with a credit reference agency (CRA) and it has explained that it used these when assessing applications.

Mrs B says she did not tell Morses about the DMP when she applied in 2019. I have looked at the credit file search results I have from Morses to see if there was anything in those results which may have alerted it to Mrs B's DMP. And I think that there was.

The first credit search was dated 1 November 2019 and was after loan 2 had been approved so it does not look like it carried out any credit search before approving loan 2 which would have been the first loan in that new lending chain. That's not unusual and the regulations did not stipulate that it had to do that.

Morses appears to have carried out searches for many months and the one that pre-dates loan 3 (November 2019) likely was used for that loan 3 approval. This November 2019 set of results has a lot of information about Mrs B and the following are some of the entries:

- Total value of accounts in code DM in last 12 months £1,093
- Total current balance on active accounts opened more than 12 months ago (excluding mortgage) £6,926
- Total monthly payments on all accounts (excluding mortgage) currently active £564 which is around £130 a week on my calculations.
- Total value of all current defaults £1,575 (delinquent accounts £2,443)

The reference to 'DM' for this CRA does appear to mean a DMP.

These details dovetail with Mrs B's own credit file and I think that Morses was on notice that Mrs B had problems dealing with her existing loans and it knew she was in a DMP and had *at least* £130 a week to repay in loans.

And the credit history, whether using its own searches or Mrs B's credit file, indicated that she was often unable to repay loans and found herself in arrears.

It looks like Morses may not have known of these issues for loan 2, and loan 3 was for £150 only which is a relatively modest amount. But, I think that by the time Mrs B applied for loan 4 in February 2020, when Morses had done another credit search in January 2020, then I do think it knew enough to realise that it's unlikely she was able to properly manage her money and not likely able to afford loan 4 when she still had loan 3 to repay. And it looks as though Mrs B used the principal sums from Loan 4 to repay loan 2.

The Morses credit search done in January 2020 for the entry – 'Total monthly payments on all accounts (excluding mortgage) currently active' – had increased from £564 to £794 which I calculate to have been around £183 a week. Mrs B's weekly income declared to Morses in February 2020 was around £279. These repayments plus the ordinary weekly expenditure she had declared to Morses, plus the payments for the outstanding Morses loan plus the loan she was applying for, all would have added up to being unaffordable.

Morses' agent's account note

It was during loans 2 and 3 that an entry was added by Morses' agent to the account notes for Mrs B on 23 January 2020. That entry, a copy of which I have seen, said '*customer in Mexico will catch up on return*'

At first, Morses explained to us that it had no reason to doubt the accuracy of that information and told us that it would have used that account note as part of the financial information about Mrs B. And it took this to mean that Mrs B was not experiencing any financial difficulty.

Mrs B was able to send to us photographs of people on holiday in Mexico and when these were sent to Morses it wrote to us to say:

'I can see the note the Agent left was misleading, and we apologise to [Mrs B] for the misunderstanding. We will get the note removed from [Mrs B's] account on our system.'

As Morses has accepted that its agent was wrong to have done this then I make no finding on it as I don't need to. But, I have thought carefully about the significance of it and what it means for Mrs B's complaint.

The apology offered to Mrs B may have been sent to Mrs B, and if it has not then it ought to be.

But the relevance here is that it appears to have influenced Morses when deciding on Mrs B's financial circumstances when she applied to it for loans. As this note was about a week before she was approved for loan 4, then I think that it's another example where Morses got it wrong.

Its accepted that its agent entered wholly incorrect information onto its account notes, and that this information would have been used to indicate that Mrs B was not having problems with her finances because she could afford to go to Mexico. I've noted Mrs B's overall financial situation and it's an unlikely idea that someone in Mrs B's position, could be viewed as a person able to afford a holiday to Mexico. So, I think that this incorrect entry may well have influenced the loan assessment for loan 4 and loans applied for afterwards.

Overall, I am satisfied that Morses ought not to have lent loans 4 and 5 to Mrs B and I plan to uphold her complaint for loans 4 and 5.

Distress and inconvenience

Mrs B learnt about the account note by the agent saying Mrs B had been on holiday abroad when she received Moses' FRL. So, in defending her complaint Moses responded by saying that she could afford an expensive holiday and so, by implication, her complaint about unaffordability was unfounded. Mrs B has explained that she felt she'd suffered an accusation.

Having seen that Moses has accepted that its agent added '*misleading*' information to Mrs B's account notes and having considered the impact that Mrs B has told us it had on her then I do not think that a written apology is enough.

I think that some compensation is warranted for the distress and inconvenience and I plan to award £200.

My decision

As I outlined in the '*what happened*' part of this decision, both parties have responded and neither party has sent me anything else to consider. So, I see no reason to depart from my provisional findings. They are repeated here and for the same reasoning outlined above then I uphold Mrs B's irresponsible lending complaint about loans 4 and 5 and I make a money award of £200 for distress and inconvenience about the notes attached to her account which were misleading.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it stopped lending to Mrs B from loan 4 (approved February 2020), 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 Mrs B may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they 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 they 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 Mrs B in a compliant way at this time.

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

Morses needs to put things right by doing as follows:

- refund all interest and charges to Mrs B on loans 4 and 5;
- pay interest of 8% simple a year* on any refunded interest and charges from the date they were paid (if they were) to the date of settlement;
- remove any negative information about loans 4 and 5 from Mrs B's credit file;
- pay to Mrs B a compensation money award of £200.
- amend Mrs B's Morses' account notes to remove the inaccurate information.
- send to Mrs B a written apology about that account note issue.

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

My final decision

My final decision is that I uphold Mrs B's complaint in part and make a money award to her. And I direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 29 December 2021.

Rachael Williams
Ombudsman