

## The complaint

Ms M, through her representative, complains that Morses Club PLC lent to her without having carried out enough affordability checks.

## What happened

Using information from Morses, here is a brief table of the approved loans.

Loan	Date Taken	Date Repaid	Instalments	Amount	Weekly Repayment
1	03/03/2017	23/06/2017	20	£100.00	£7.50
2	23/06/2017	13/12/2017	33	£300.00	£15.00
3	13/12/2017	15/08/2018	33	£400.00	£20.00
4	15/08/2018	-	33	£300.00	£15.00

Morses has told us that loan 4 remains outstanding.

One of our adjudicators looked at the complaint and thought that lending to Ms M for the fourth time in quick succession and after 17 months of lending was wrong. He thought that Morses should have put things right for Ms M in relation to loan 4. He felt that the overall pattern of borrowing suggested she had become persistently reliant on this form of borrowing.

Morses disagreed and pointed out that:

- it did not think four loans in 17 months was excessive;
- the purpose for which Ms M planned to use the loan money was not its concern;
- it reviewed the repayment history for loan 3 and the 33 week loan was repaid in 35 weeks and so only slightly in arrears. It *'provided no reason to suggest ...loan 4 would differ from this.'*

Morses went on to explain:

*'[Ms M] was never paying back more than one loan at any one time, and her income was verified for loan 4 by our Agent viewing the DWP letter showing her income was £187.00 a week, and noted the reference as proof.'*

*'[Ms M's] outgoings, namely her utilities and media provider, were also evidenced by the Agent by retaining the relevant reference number. Therefore, by this point in the lending relationship we undertook further checks to better establish her circumstances.'*

*'[Ms M] identified she could afford £30.00 per week extra in repayments, and the instalments for loan 4 was £15.00, which is only 50% of the amount suggested by the customer. [Ms M] also spoke with her agent who verified she understood the terms and conditions of the loan.'*

The complaint remained unresolved and has been passed to me for a 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 high-cost 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 Ms M 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 Ms M 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 Ms M's complaint.

Ms M has acknowledged our adjudicator's view and agrees with it. From that loans 1 to 3 are undisputed and I have not reviewed them, but they are relevant when considering the lending relationship between Morses and Ms M.

#### Loan 4

Having looked at all the evidence and what both sides have said I'm broadly in agreement with what the adjudicator said about loan 4. For the same reasons. I've considered in more detail the points Morses said in response to the adjudicator's letter below. I appreciate that loan 4 was less than loan 3, but I have more information about Ms M's financial circumstances around the time she applied to Morses for loan 4.

Morses has said that it verified Ms M's income and although I do not have any records to show this from Morses, I have proceeded on the basis that income figure is correct. I consider this to be a low level of income.

By loan 4 on 15 August 2018, Ms M had been borrowing from Morses for 17 months without any significant breaks. From the information I have about Ms M, I can see that she was paying off loans and then immediately taking out a new Morses loan, this would suggest that she may have had financial difficulties and was becoming reliant on the loans.

Morses has said that it increased its checks to better understand her financial situation (see paragraph set out on the first page of this decision). But getting evidence relating only to her media and utilities provider situation is far below the proportionate checks I would have expected when verifying Ms M's expenditure figures on a fourth loan.

Using Morses own figures and information it had about Ms M, it knew she was in receipt of benefits and had no regular income as a salary from employment, and it knew that her benefits receipts were low at around £800 a month. Morses has said to us that verification of her benefits receipts and her expenditure was done before loan 4. Using Morses 'front sheet' and its response to our adjudicator's view in which Morses says these were verified by its agent, here is a summary of what it had before loan 4 was approved:

*Income £187 - and her expenditure was recorded as*

*Utilities £16, Media £12, Groceries £23.*

From this it had calculated that Ms M was left with disposable weekly income of £131.

The regulations do not state that a lender should carry out a credit check, but I do think that by loan 4 Morses ought to have been verifying the information Ms M had been giving it and not simply relying on what Ms M had been telling them. Ms M was not a high earner and was approaching it for the fourth loan in a row. One way to verify income and outgoings is to use a credit search.

If Morses had done that, then I think that it likely would have seen that another Home Credit provider had been lending to Ms M regularly (sixteen times in total) and had been approving far bigger loans for her. Two of the larger loans (combined amount around £4,600 including interest) with that other lender remained outstanding when she applied for the Morses loan 4 and was costing her around £78 a week.

Ms M was indebted to that other lender which, combined with the Morses loan 3 repayment

(soon to be loan 4 repayment albeit a little less), meant that she was repaying around £98 a week which was over 50% of her income money (£187) to debtors each week.

I consider this too high as it would have been almost 50% of her income (£187). Added to which, £23 a week for food was likely too low a figure and I think that details like this ought to have been identified and looked at before adding to Ms M's debt.

I can't comment on what Ms M said to the agent about being able to afford £30 a week. This has not been evidenced in any account notes, or any details sent to me (meaning I have few details from Morses) and Ms M has had no chance to respond to this suggested conversation. So, I attach little weight to it.

Morses has explained its view about Ms M's repayment history of loan 3 – *'We also reviewed [Ms M's] previous repayment history for account 3 and the 33 week loan was repaid in 35 weeks, which means the customer only fell slightly into arrears. This indicates the customer found the loan sustainable, and there was no provided reason to suggest the situation for loan 4 would differ from this.'*

I disagree with this interpretation of the information Morses has given to us.

Loan 3 (taken 13 December 2017) was for 33 weeks which meant that Ms M ought to have repaid it by about 13 August 2018. By that date, the statements of account Morses has sent me show that Ms M still owed around £145 on that loan 3 account. She went on to refinance that balance into loan 4. So, I do not agree that Ms M had repaid it in 35 weeks and that she was not in arrears. It seems to me that she was.

I think that Ms M lost out because Morses continued to provide borrowing at loan 4 because:

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

So, overall, I'm also upholding the complaint about loan 4 and Morses 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 Ms M at loan 4, 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 Ms M 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 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 Ms M 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 Ms M 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 Ms M loan 4. My understanding is that Loan 4 is outstanding. If it has sold the outstanding debts Morses should buy it back if it's able to do so and then take the following steps. If Morses is not able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

- A) Morses should remove all interest, fees and charges from the balance loan 4 and treat any repayments made by Ms M as though they had been repayments of the principal.
- B) If this results in Ms M having made overpayments then Morses 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. Morses should then refund the amounts calculated.

However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with her.

Morses shouldn't pursue outstanding balances made up of principal Morses has already written-off.

- C) The overall pattern of Ms M's borrowing for loan 4 means any information recorded about them is adverse, so Morses should remove it from Ms M's credit file.

Morses does not have to remove loan 4 from her credit file until it has been repaid, but Morses should still remove any adverse payment information recorded about it.

If Morses intends to use the refund to reduce an amount Ms M owes, it must do this after tax.

Morses cannot carry out a set-off unless it owns the debt.

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

### **My final decision**

My final decision is that I uphold Ms M's complaint in part and direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 18 November 2021.

Rachael Williams

**Ombudsman**