

The complaint

Ms C says Morses Club PLC lent to her irresponsibly. She says the debt, and the ongoing repayments to it, worsened her financial situation. She thinks Morses should've made better checks and not lent to her.

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 Ms C's complaint should be upheld in part. But I reached a slightly different outcome to our adjudicator. A copy of the background to the complaint and my provisional findings are below in italics.

This complaint is about four home collected loans Morses provided to Ms C between May 2016 and May 2019. Some of the information I have been provided about the lending is in the table below.

<i>loan</i>	<i>start date</i>	<i>amount borrowed</i>	<i>term (weeks)</i>	<i>end date</i>
<i>1</i>	<i>06/05/16</i>	<i>£1,000</i>	<i>52</i>	<i>04/05/17</i>
<i>2</i>	<i>04/05/17</i>	<i>£1,000</i>	<i>52</i>	<i>18/05/18</i>
<i>3</i>	<i>18/05/18</i>	<i>£1,000</i>	<i>52</i>	<i>02/05/19</i>
<i>4</i>	<i>02/05/19</i>	<i>£1,000</i>	<i>52</i>	<i>17/07/20</i>

Our adjudicator partially upheld the complaint. She didn't think that Morses had irresponsibly lent loans 1 and 2. But she did think the lending pattern itself showed a reliance on this type of credit by loan 3, and so Morses shouldn't have approved loans 3 and 4.

Morses disagreed with the adjudicator's opinion. It said that it did not consider three loans in two years to be excessive. And the checks it did at the time of sale showed that the lending was affordable because Ms C repaid the loans on time.

The adjudicator didn't change her opinion about the complaint. And 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 Ms C 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 Moses should fairly and reasonably have done more to establish that any lending was sustainable for Ms C. 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 provisionally decided to uphold Ms C's complaint in part and I've explained why below.

Loans 1 and 2

For all of Ms C's loans she needed to repay £35 each week for a year. I've seen a record of the information Ms C provided when she completed her loan applications. I don't have full information for loan 1, but for loan 2 it was recorded that Ms C said she had a weekly income of £440 and she had regular weekly outgoings of £185. I haven't seen anything to suggest that Ms C's circumstances were different at loan 1. And so, I think it was likely and reasonable for Moses to think that these loans were affordable for Ms C.

I haven't seen any further information that shows its likely Moses was made aware of any financial problems Ms C might've been having. Or anything that would've prompted it to investigate Ms C's circumstances further. So, I think it was reasonable for Moses to rely on the information it obtained for loans 1 and 2.

So overall, in these circumstances, I think the assessments Moses did for loans 1 and 2 were proportionate. And I think its decision to approve these loans was reasonable. I'm not intending to uphold Ms C's complaint about loans 1 and 2.

Loan 3

At loan 3 Ms C's income was shown to have risen to £500 but her expenditure had fallen to £130. So, it still looks likely the loan was still affordable for Ms C.

But Ms C had been borrowing from Moses now for around two years and she was making a commitment for another year. I think that it would've been proportionate to fully review Ms C's financial situation. And I think that Moses needed to verify the information it found out where possible. This is to make sure Ms C was in position to make the repayments sustainably. I don't think Moses did this.

But, Ms C hasn't provided any further information that would allow me to say what Moses would've likely seen if it had made more in-depth checks. And so, I can't say the information it

had before approving this loan was incorrect. Because of this I can't say for certain the loans weren't affordable and so I'm not intending to uphold her complaint on this basis.

And our adjudicator thought that the lending pattern itself was harmful by loan 3. Having looked at everything I have been provided I don't agree this was the case. Whilst Ms C had been lending for around two years there hadn't been an increase in the amount she was borrowing and there were no obvious repayment problems. And, as I've said above, this loan looked otherwise affordable. So, I'm not intending to uphold Ms C's complaint about loan 3.

Loan 4

I think that by loan 4 the lending pattern, and the information Morse gathered about Ms C's circumstances showed that this lending was likely to be irresponsible. This is because:

- *Her income had fallen to £325 but her expenditure had not reduced by a similar amount. So, the repayment was a much higher proportion of her disposable income.*
- *She had now been borrowing for three years and she was making a commitment for another year. In my view this is a long time to be using high cost credit.*
- *There had been no break in the lending up to this point. So Morse ought to have known that Ms C was not likely borrowing to meet a temporary shortfall in her income but to meet an ongoing need. And that the lending was not sustainable.*

I think that:

- *Loan 4 had the effect of unfairly prolonging Ms C's indebtedness by allowing her to take expensive credit over an extended period of time.*
- *the length of time over which Ms C borrowed was likely to have had negative implications on Ms C's 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 loan 4 and Morse should put things right.

Morse, and Ms C, both received my provisional decision. Morse didn't respond to it. And Ms C said she agreed with what I had said.

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.

Morse and Ms C 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. I don't need to add anything to what I said earlier as no one has raised any issues with my earlier decision.

Putting things right

In deciding what redress Morse should fairly pay in this case I've thought about what might have happened had it not approved loan 4, as I'm satisfied it shouldn't have done. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Ms C 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 Ms C 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 C 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 C loan 4.

- A) Morses should add together the total of the repayments made by Ms C towards interest, fees and charges on this loan, 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 Ms C which were considered as part of "A", calculated from the date Ms C originally made the payments, to the date the complaint is settled.
- C) Morses should pay Ms C the total of "A" plus "B".
- D) The overall pattern of Ms C's borrowing for loan 4 means any information recorded about it is adverse, so it should remove this loan entirely from Ms C'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 Ms C a certificate showing how much tax Morses has deducted, if she asks for one.

My final decision

For the reasons I've explained, I partly uphold Ms C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 7 December 2021.

Andy Burlinson
Ombudsman