

The complaint

Ms C says Morses Club PLC lent to her irresponsibly. Ms C says she was in a 'debt spiral' and so she couldn't afford the loan repayments. 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 for different reasons and for different loans. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

This complaint is about five home collected loans Morses provided to Ms C between December 2013 and August 2017. 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>03/12/2013</i>	<i>£300</i>	<i>50</i>	<i>11/12/2014</i>
<i>2</i>	<i>06/01/2015</i>	<i>£200</i>	<i>34</i>	<i>23/07/2015</i>
<i>3</i>	<i>23/07/2015</i>	<i>£400</i>	<i>50</i>	<i>24/06/2016</i>
<i>4</i>	<i>07/07/2016</i>	<i>£500</i>	<i>33</i>	<i>17/09/2016</i>
<i>5</i>	<i>03/08/2017</i>	<i>£500</i>	<i>33</i>	<i>01/02/2018</i>

Our adjudicator partially upheld the complaint. He didn't think that Morses had irresponsibly lent loans 1 and 2 and loan 5 (after a break in the lending). But he thought that it shouldn't have approved loans 3 and 4, as Ms C seemed to be reliant on the lending at this point.

Morses disagreed with the adjudicator's opinion. It said that it didn't think three loans in 19 months was excessive. And that the loans seemed otherwise affordable. And there were some smaller breaks between the loans.

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 provisionally 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 *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 provisionally decided to uphold Ms C's complaint in part, and I've explained why below.

Loans 1 to 3 and loan 5

I firstly agree that, as there was a significant break between loans 4 and 5, that it's reasonable to treat this as a new period of lending. And so, the checks *Morses* needed to do would be broadly similar for loans 1 to 3 and loan 5.

There isn't a great deal of information from the earlier loans. But for loan 3, it was recorded that Ms C's income was £450 per week and for loan 4 it was £350. The corresponding figures for her expenditure were £90 and £150. There was no material difference in the amounts for loan 5. And I've not seen anything to show that her situation was different for loans 1 and 2. So, it was reasonable for *Morses* to think Ms C could afford the monthly repayments for these loans.

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

Our adjudicator said that the lending pattern itself showed that Mrs M was struggling financially and that she was likely to be reliant on the lending at loan 3. But the repayments seem reasonable and the loan amounts didn't vary by much. And looking at the account statements *Morses* has provided it seems that Mrs M wasn't having any obvious problems making her repayments.

I agree that 19 months is a reasonably long time to be using high cost credit. But taking everything else into consideration I don't think this means the lending was unsustainable in this case. So, I don't think it's reasonable to say that Mrs M was reliant on this lending and it wasn't causing her significant problems when *Morses* approved the loans.

And it could be that Moses should have made better checks before approving loan 3. But Ms C hasn't provided any information to show me what Moses would've likely seen if it had made better checks. So, I can't say for certain that it would've been able to conclude that these loans weren't affordable for her, or that it shouldn't have lent for any other reason.

So overall, in these circumstances, I think the assessments Moses did for loans 1 to 3 and loan 5 were likely to be proportionate. And I think its decision to lend for these loans was likely to be reasonable.

I'm not intending to uphold Ms C's complaint about them.

Loan 4

But I don't agree that Moses should have approved loan 4. I think at this point Moses should reasonably have seen that further lending was unsustainable, or otherwise harmful. I say this because:

- Ms C had been indebted to Moses for around two and a half years. Whilst there were some smaller breaks in the lending, these weren't significant. And, this was a commitment for around another seven months. I think this is a long time to be using this type of credit, given her circumstances.*
- Ms C's first loan was for £300 and loan 5 was for £500. This was a significant increase, especially given the length of the lending relationship already.*
- So, at this point, Moses 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 Moses ought to have realised it was more likely than not Ms C was having to borrow further to cover the hole repaying her previous loans was leaving in her finances and that her indebtedness was unsustainable.*

I think that Ms C lost out because Moses provided loan 4 because:

- This loan 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 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 loan 4 and Moses should put things right.

Moses, and Ms C, confirmed that they had received my provisional decision. Ms C agreed with what I had said. Moses didn't have anything to add after they'd seen 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 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 won't say any more than what I said in my earlier decision, as no one has raised any new issues.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it not provided loan 4.

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 these loans entirely from Ms C's credit file.

*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 here, and in my provisional decision. I partly uphold Ms C'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 Ms C to accept or reject my decision before 7 January 2022.

Andy Burlinson
Ombudsman