

## The complaint

Miss C, through her representative, complains that Morses Club PLC lent to her irresponsibly.

## What happened

Here is a brief table of the approved loans for Miss C. Morses' references differ to the ones we have been using but for continuity I have used the references used by our adjudicator – loans 1 to 4.

Loan	Date Taken	Date Repaid	Instalments	Amount	Highest Repayment
1	19/12/2014	02/12/2015	52	£1,000.00	£30.00
2	02/12/2015	08/12/2016	52	£1,000.00	£30.00
3	08/12/2016	07/12/2017	52	£1,000.00	£35.00
4	07/12/2017	22/10/2020	52	£1,000.00	£35.00

One of our adjudicators looked at the complaint after it had been referred to the Financial Ombudsman and said that Morses ought not to have approved loan 4.

Morses disagreed and gave reasons why. Our adjudicator wrote again to reinforce his first letter of opinion but the unresolved complaint has been passed to me to decide.

## 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'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 C could repay the loans in a sustainable manner.

These checks could consider 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:

- 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. Our adjudicator did think that this applied to Miss C's circumstances.

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 C's complaint in part and have explained why below.

Miss C didn't disagree with our adjudicator's opinion about loans 1 to 3. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be making a decision about this lending. But they were part of the borrowing relationship Miss C had with Morses. So, they are something I will take into account when considering the other loan she took.

I haven't recreated individual, proportionate affordability checks for loan 4 because I don't think that it is necessary to do so. I've looked at the overall pattern of Morses' lending history with Miss C, with a view to seeing if there was a point at which Morses should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Morses should have realised that it shouldn't have provided any further loans.

Given the circumstances of Miss C's case, I think that this point was reached by loan 4. I say this because at this point she had been indebted to Morses for almost three years. And Miss C's first loan was for £1,000 and loan 4 was for £1,000 as well. This was the same sum but taken regularly. Morses explanation was that it assumed it was for Christmas spending but this had not been checked and by loan 4, I think Morses needed to cease relying on what Miss C had been telling it.

And in any event, I think by this point – after 36 months of permanently being indebted to Morses – it ought to have known that Miss C was likely borrowing to meet an ongoing and increasing need. And this indicates her problems may have been worsening.

So, because of these factors, Morses ought to have realised it was more likely than not Miss C's indebtedness was unsustainable.

My view is that Miss C wasn't making any real inroads to the amount he owed Morses. Loan 4 was taken out three years after Miss C's first. And it was for the same amount. Miss C had paid large amounts of interest to, in effect, service a debt to Morses over an extended period. The repayment for loan 4 represented a significant portion of Miss C's

weekly income, considering the term of the loan.

I appreciate that Moses feels that the checks it did were enough to show the lending was affordable. But I think the lending pattern itself shows the loans weren't sustainable. I think that Miss C lost out because Moses continued to provide borrowing at loan 4 because:

- these loans had the effect of unfairly prolonging Miss C's indebtedness by allowing her to take expensive credit over an extended period.
- the length of time over which Miss C borrowed was likely to have had negative implications on Miss C'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 Moses should put things right.

### **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 Miss C 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 Miss 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 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 Miss C 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 Miss C 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.

Moses shouldn't have given Miss C loan 4.

A) Moses should add together the total of the repayments made by Miss C 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) Moses should calculate 8% simple interest\* on the individual payments made by Miss C which were considered as part of "A", calculated from the date Miss C originally made the payments, to the date the complaint is settled.

C) Moses should pay Miss C the total of "A" plus "B".

D) The overall pattern of Miss C's borrowing for loan 4 means any information recorded

about it is adverse, so it should remove these loans entirely from her 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 C a certificate showing how much tax Morses has deducted, if she asks for one.

### **My final decision**

My final decision is that I uphold Miss C's complaint in part and I direct that Morses Club PLC does as I have outlined in the 'putting things right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 23 May 2022.

Rachael Williams  
**Ombudsman**