

The complaint

Miss B complains that Morses Club PLC lent to her irresponsibly.

What happened

Miss B has been a customer of Morses, or the companies Morses took over in the past, for many years. In all Miss B complains about 23 loans. Most of our adjudicator's detailed table of the loans is duplicated here. Those loans which were approved before 6 April 2007 (loans 1 to 10) we are not able to look at.

Loan	Date Taken	Date Repaid	Instalments	Amount	Highest Repayment
Loans 1 to 10 were all approved before 6 April 2007 and so pre-date the Financial Ombudsman Service jurisdiction over consumer credit providers.					
Loans 11 to 15 were loans issued by a different company. Morses took over the administration of these loans in late January 2009 but did not take on the liability for the approval decisions of those earlier loans.					
Gap in lending from February 2009 to 23 October 2009					
16	23/10/2009	04/02/2010	34	£700.00	£35.00
Gap in lending from 4 February 2010 to 14 December 2010					
17	14/12/2010	10/06/2011	34	£700.00	£35.00
18	25/02/2011	13/12/2011	50	£700.00	£59.50*
19	09/06/2011	20/12/2011	34	£700.00	£59.50*
20	13/12/2011	03/10/2014	50	£700.00	£24.50
21	20/12/2011	14/11/2013	34	£700.00	£59.50*
22	14/11/2013	10/07/2014	34	£800.00	£64.50*
23	08/10/2014	11/06/2015	50	£1,000.00	£35.00

*combined payments

Our adjudicator explained that loans 1 to 10 were before the Financial Ombudsman had jurisdiction over lending of this kind and we were not able to consider them.

And the loans approved for Miss B by another company – loans 11 to 15 - were issued by London Scottish Finance Limited which had taken on the trading name Morses Club and started approving loans, up until that business entered administration in December 2008.

Morses Club Limited was then incorporated in January 2009 and which later became Morses Club Plc. It has confirmed there wasn't any transfer of liability in relation to those earlier loans. When considering complaints, we take them into consideration as Morses would've known about the earlier loans before approving any new ones after 29 January 2009, but we don't give a view on them as they were a different business' responsibility.

Considering all the above, the first loan our adjudicator looked at as part of his investigation into Miss B's complaint was loan 16, approved 23 October 2009.

Our adjudicator referred to the gaps in the lending between loans 15 and 16 and loans 16 and 17 and said that they were large enough gaps to break the loan chain meaning that we would look at what Moses did for loan 16 and for loan 17 as if each was the start of a new lending relationship.

Our adjudicator explained to Miss B, twice, that he did not have enough information about her financial circumstances for the loan approvals for loans 16 to 21 to come to any alternative conclusions than non-upholds.

Our adjudicator did think that by loan 22 Moses ought to have ceased lending to Miss B and so he considered that Moses should put things right for Miss B for loans 22 and 23.

Miss B did not seem to question the points our adjudicator made about loans 1 to 15. And her response was that if Moses had carried out what she considered to have been proper checks then *'...I do not believe loans 18, 19, 20, 21, 22 or 23 would have been approved.'* And from this it seems that Miss B was content with the outcome for loans 16 and 17.

After I had reviewed the complaint I noticed that the loans in dispute – 18 to 21 – were all approved for Miss B in 2011. I have asked Miss B several times for copy bank statements for 2011 to be sent to us. Nothing has been received.

The unresolved complaint was 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 the relevant rules, guidance and good industry practice - on our website.

Moses 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 B 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 Moses 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 have carefully considered all the arguments, evidence and information provided in this context and what this all means for Miss B's complaint.

Information requests

When the complaint was first allocated to me I reviewed all the information from both parties. And I realised from Miss B's response to our adjudicator's view that the disputed loans so far as she was concerned were loans 18 to 21 all of which were approved for Miss B in 2011.

Despite having a great deal of useful information from Miss B, we had no information or copy bank statements at all from 2011. So, I asked the adjudicator to explain this and informed Miss B that we would need those copy bank statements for 2011. The first reply date deadline for her was 27 April 2022 and Miss B responded to say she was getting the copy statements from her bank. The second reply deadline was 9 May 2022.

Miss B sent some copies for 2012 which was not what I had needed to review her 2011 loans. Then Miss B explained that the 2011 set was being sent to her by her bank. We accommodated her with the bank's 12 to 16 working day timeline and still nothing has been received and no explanation from Miss B has been given to us about the 2011 statements.

In the interests of fairness to both parties I have decided that I am moving this complaint forward. This complaint was first referred to us in April 2021 and so it is thirteen months old. Having first requested copy bank statements for 2011 from Miss B on 13 April 2022, and today is 17 June 2022, then I have decided to proceed to issue my decision.

Current position

We have not been able to look at loans 1 to 15 and Miss B appears to have understood that.

Our adjudicator did not uphold Loans 16 and 17 and Miss B does not appear to have questioned that. She does ask that the outcome for loans 18 to 21 are reviewed. Loans 22 and 23 were upheld by our adjudicator.

As I have already indicated, without any further information from Miss B about her financial position for the period covering loans 18 to 21 - approved in 2011 - then I am proceeding on the information I have from Morses.

I can see that Morses carried out proportionate checks and I would not have expected Morses to do more. I do not uphold the complaint for loans 18 to 21.

Our adjudicator did think that Morses should put things right for loans 22 and 23. I have reviewed those. I have also looked at the overall pattern of Morses' lending history with Miss B with a view to seeing if there was a point at which it should reasonably have seen

that further lending was unsustainable, or otherwise harmful. And so Moses ought to have realised that it shouldn't have provided any further loans.

Given the circumstances of Miss B's case, I think that this point was reached by loan 22, and I say this because:

- Miss B was provided with a new loan immediately after loan 22 was repaid. And Miss B had been borrowing from Moses consecutively and with no breaks from December 2010.

So, I think that Moses ought to have realised it was more likely than not she was having to borrow further to cover the hole repaying her previous loan was leaving in her finances and that Miss B's indebtedness was increasing unsustainably.

- Miss B wasn't making any real inroads to the amount she owed. Loan 23 was taken out almost four years after the first one in the lending chain (loan 17 onwards) and it was for £1,000 whereas loan 17 had been for £700. Miss B had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Miss B lost out because Moses continued to provide borrowing from loan 22 onwards because:

- these loans had the effect of unfairly prolonging Miss B's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period.
- the sheer number of loans 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 am upholding the complaint about loans 22 and 23 and Moses should put things right.

Putting things right – what Moses needs to do

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 B from loan 22, 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 B 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 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 Miss 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 shouldn't have given Miss B loans 22 or 23.

- A) Morses should add together the total of the repayments made by Miss B towards interest, fees, and charges on these loans, including payments made to a third party where applicable, but not including anything Morses have already refunded.
- B) Morses should calculate 8% simple interest* on the individual payments made by Miss B which were considered as part of "A", calculated from the date Miss B originally made the payments, to the date the complaint is settled.
- C) Morses should pay Miss B the total of "A" plus "B".
- D) The overall pattern of Miss B's borrowing for loans 22 and 23 means any information recorded about them is adverse, so Morses should remove these loans entirely from Miss B'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. It should give Miss B a certificate showing how much tax it has deducted if she asks for one.

My final decision

My final decision is that I uphold Miss B's complaint in part 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 Miss B to accept or reject my decision before 15 July 2022.

Rachael Williams
Ombudsman