

The complaint

Miss E complains that Morses Club PLC lent to her irresponsibly. And Miss E says that Morses knew about her mental health issues and she never understood the terms regarding the refinance of loans for rebates.

What happened

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

Loan	Date Taken	Date Repaid	Weekly instalments	Amount	*Highest combined repayment
1	11/11/2019	16/04/2020	34	£300.00	£15.00
2	30/01/2020	15/09/2020	34	£300.00	£30.00
3	16/04/2020	10/11/2020	34	£300.00	£30.00
4	12/05/2020	10/11/2020	34	£200.00	£40.00
5	10/11/2020	13/04/2021	34	£500.00	£25.00
6	11/01/2021	29/07/2021	34	£500.00	£50.00
7	13/04/2021	-	35	£500.00	£50.00
8	29/07/2021	-	35	£500.00	£50.00
9	07/09/2021	-	35	£300.00	£65.00

*these figures show the weekly repayments for all the loans – combined repayments.

After Miss E had complained, Morses responded with its final response letter (FRL).

Morses explained that its Customer Relationship Manager (CRM) discussed with Miss E's agent the issues Miss E had raised.

And in that FRL Morses said:

'The CRM discussed your complaint with the Agent who confirms they were unaware of any problems you encountered regarding your mental health and wellbeing during the loan process, they advised they did not have any concerns to suggest you did not fully understand the Terms and Conditions of the loan sale.'

Morses went on to say it had not done anything wrong but said that as a goodwill gesture, Miss E's outstanding balances (around £1,200 being a mixture of capital and interest) would be written off. I understood this took place on 13 December 2021.

Miss E was not satisfied and referred it to the Financial Ombudsman.

During the complaint process, Miss E made it clear she also felt that the loans had been lent irresponsibly and our adjudicator checked with Morses, and it agreed we could investigate both parts: that part relating to Miss E's mental health concerns and her understanding together with that part on irresponsible lending.

Our adjudicator did not think he had enough to conclude that the Morses agent was aware of any of her mental health concerns or that she could not manage her finances. So, he did not uphold that part of her complaint.

Our adjudicator thought that Morses should not have lent to Miss E in relation to loans 6 to 9 and that Morses should put things right for her. Morses agreed and it calculated the redress due to Miss E, and that the redress would have led to a refund of around £120.

Miss E was not content with this and did not see why the refund was £120. She was expecting the refund to be higher.

Miss E spoke to our adjudicators several times to explain that the Morses agent knew about her mental health issues and her difficulty understanding certain things. She also said that the Universal Credit payments she received were for her and her partner and not just for her.

Miss E was adamant that all 9 loans were unaffordable to her. The unresolved complaint was passed to me to resolve.

Having reviewed it I asked Miss E for additional information about her financial situation from September 2019 to September 2021. Miss E has taken time to send to me all her bank account statements for that period and to screenshot all her Universal Credit assessments and payments (which includes her partner within the one assessment documents) for the same period.

Having received a great deal of additional information I issued a provisional decision and I gave both parties two weeks to come back to me with any additional evidence or points either wished to make before I issued a further decision on or around the 22 April 2022.

Morses has not replied.

Miss E telephoned our adjudicator who explained some of the parts of the provisional decision to her and what that meant for her. I have listened to that recorded call. Since that telephone call no additional evidence or comments have been received from Miss E.

I have duplicated my provisional decision in the next section of this final decision. It is in smaller type to make it more noticeable.

It seems appropriate to issue the final decision now which will be in the same terms as the provisional 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 short-term 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 Miss E 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 Miss E 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 to do that.

My provisional decision dated 8 April 2022

It is duplicated here for ease of reference for both parties. Its in smaller type to make it stand out a little.

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

Undisputed loans – loans 6 to 9

As Morses has accepted that it is content to put things right for Miss E for loans 6 to 9 then I do not need to reconsider those lending decisions as the complaint in relation to loans 6 to 9 appears resolved.

I have noted that Miss E did not understand the redress part and I can answer that here.

Even though Morses offered to write off (and in fact appears to have actually written off) the outstanding balance on loans 7, 8 and 9 since then things have changed. One change is that Miss E did not think that this was good enough as a resolution, and so her complaint has been referred to us.

And the second is that our adjudicator upheld Miss E's complaint about loan 6 as well as loans 7, 8 and 9.

Morses' offer in the FRL before Miss E brought her complaint to us, was made without admission of liability. And now that it has accepted the outcome from our adjudicator on loans 6 to 9, then the amount due back to Miss E would be calculated in line with our normal approach for calculating redress after successful complaints.

Loan 6 was repaid in July 2021 and so the refund for that is relatively straightforward – it would be a refund of all the interest and any charges Miss E paid for loan 6, plus 8% simple interest added on (less tax). The refundable part will be the interest paid on loan 6, together with the interest paid on loans 7, 8 and 9 so far.

And Morses is entitled to take back the capital sums that Miss E received in relation to loans 7, 8 and 9, even though it has written that debt off. And it is entitled to use the refundable part of the loan 6 redress to do that. As Miss E has had the benefit of those capital sums then its right that Miss E repays it.

From the statement of accounts I have been sent by Morses for loans 7, 8 and 9, it looks like Miss E last made any payment to those three loans on 23 October 2021. For completeness I have included loans 6 to 9 in the last section of this provisional decision under the heading '*putting things right*'.

The evidence from Morses

I am disappointed that despite these loans being relatively young, Morses has no additional information over and above what it has already sent relating to the applications. By this I mean the figures and information it gathered at the point of sale. I have the spread sheet compiled by Morses, and I have copies of the agreements which are brief and tell me very little.

Morses has said:

'...due to data retention and cleansing, the information we have provided you with is all we hold for this account.' I understand that to mean that there is no more it can send me and so I have reached my provisional decision with that in mind.

I have the credit file from Morses which it carried out in November 2019. In relation to this Morses has explained:

'...we only run a credit score for the first loan, none after. For the other loans, we carry out affordability checks and some CRN checks to make sure the loan is affordable and we can lend responsibly. However, those are not hard searches and it would not determine how much the customer was offered. That depends on their payment performance, time on book, etc.'

Here is some information taken from that credit search. To make it easier to read I have inserted '£' where they ought to be and I have completed 'D' to read Default.

Number of all SHARE accounts	24
Number of active SHARE accounts	20

Number of accounts with zero balances	3
Total value of active accounts	£4522
Total value of settled accounts	£0
Worst payment status last 3 months on active accounts	Default
Total value of accounts opened in the last 6 months, excluding mortgages	£446
Total current balances on active accounts opened more than 12 months ago, excluding mortgages	£3343

Reviewing the credit search before loan 1 was approved, it tells me that Miss E had outstanding debt which is not unusual, but here I can see that out of 24 'Share accounts' which means accounts of one kind or another, Miss E had only 3 at zero balance and she had some of historic debt amounting to £3,343.

Another part of the search shows that she had another home credit loan and Moses would have known that.

And of the older debt Moses would have known that she had these types of accounts which had fallen into default, including a utility account.

Total value of default accounts in sector 3 (Revolving credit and Budget Accounts)	£224
Total value of default accounts in sector 4 (Telecoms)	£1163
Total value of default accounts in sector 5 (Utilities)	£896
Total value of default accounts in sector 6 (Home shopping)	£801

I have factored these details in to my deliberations.

Evidence from Miss E

Miss E spoke to our adjudicators before and since one of our adjudicators issued his letter of opinion. Those calls were recorded and I have listened to each one.

Miss E, more recently, has made some pertinent points relating to her home credit assessments. These are that the money received included a PIP and that the Universal Credit assessments covered her partner as well.

Miss E has sent to me many screenshots and having reviewed them all I can see that these documents do show her own and her partner's monthly incomes after tax. And that often this was zero for her partner.

It has also been demonstrated to me from this evidence from Miss E that the Universal Credit payments each month altered depending on:

- how much Miss E and her partner earned for the assessment period; and
- whether it included a payment for her rent or whether it listed the sum that was going to be paid directly to her landlord (the system changed around November or December 2020); and
- her partner received a carer's allowance of around £163; and
- Miss E received a payment described as 'limited capability for work and work-related activity' of around £343.63 – this may be the reference to a PIP.

The significance of these documents is that Miss E's submission to me that the Universal Credit payments were assessed for both together has been made out. So, on current evidence I accept her submission, and I have factored this into my deliberations as well. And, together with her bank statements I can see what Miss E's financial position was for the lending period with Moses.

Miss E has sent to us information and letters from medical professionals showing the diagnoses she received together with the assistance afforded to her – both financial and through a support worker. I appreciate Miss E has said that she informed her work about these personal developments in 2019 and she has told our adjudicators that she says she informed her Morses agent of the same thing.

By contrast, Morses in its FRL has said that the agent who visited Miss E has no recollection of that. So, I cannot really take this much further. As an informal dispute resolution service, which is what the Financial Ombudsman Service is, it's not always possible for me to discover exactly what took place especially where this surrounds conversations between individuals in private homes several years ago.

And this element of Miss E's complaint I have thought about very carefully and I have given my provisional view on this towards the end of this written provisional decision.

My provisional findings

I recognise that Miss E has said that all 9 loans were unaffordable, but I also have heard Miss E say to our adjudicator that she felt that the money was ok for the first few loans and it was a bit later in time that it started to go wrong.

And loan 1 was for a relatively modest sum for a £300 loan over 34 weeks, and Miss E was a new customer to Morses. Overall, giving the benefit of the doubt to Morses, I think that Morses carried out proportionate checks and I think its reasonable and proportionate to have lent to Miss E in November 2019.

I have considered the information Miss E's support worker has sent to me which does tell me that Miss E had financial problems, but at that stage I would not have expected Morses to have known about this. And, as Miss E has told me, she had a carer and a support worker to assist her and so overall I think that loan 1 was alright.

Loan 2 overlapped with loan 1 and indebted Miss E for a further period. I can see that she received no Universal Credit in January 2020 (although her rent was paid and I understand she likely received the '*limited capability for work and work-related activity*' of around £343). I think that the reason she likely did not receive a payment from Universal Credit was because Miss E was earning enough. And at that stage of the lending relationship I would not have been expecting Morses to be reviewing bank statements.

So, I am planning not to uphold Loans 1 and 2.

I am planning to uphold Miss E's complaint from loan 3. Using all this information and evidence available to me, then I think that Morses had enough reasons to recognise that additional enquiries and additional checks ought to have been carried out when Miss E approached it for £900 soon after having loan 2 approved.

I have been sent Morses account notes which show that in April 2020, just after the national lockdown to address the Covid 19 pandemic had commenced, Miss E was furloughed.

Miss E approached Morses for a loan. This would have been when she was asking for loan 3 on 16 April 2020 and the Morses account note says:

'[Miss E] has been furloughed [sic] from work but with her univesal [sic] credit and partners money has plenty of income'

That note plus the explanation and evidence from Morses about the checks it carried out before lending suggests to me that it relied on Miss E's assertion that she had '*plenty*' of income. This seems hardly enough considering that it knew Miss E had been furloughed and considering the national Covid 19 lockdown position.

From the Morses statements of account I have seen that around £126 of loan 1 was paid off using what appears to have been the capital sums of loan 3. And so, Miss E would have received around

£174 'in her hand' after loan 3 was approved (the loan was for £300) and would still have been repaying loans 2 and 3 together. That further indebted Miss E for another 34 weeks on loan 3 and her payments would have been around £30 a week for loans 2 and 3 for a further 5 months until loan 2 was going to come to an end.

Miss E was on a low wage anyway and having been subject to the furlough provisions surrounding her employment then the Universal Credit assessments for that period would have been particularly relevant. And I think that had Morses carried that out properly it would have seen that Miss E and her partner together were being assessed for those payments.

As a household they were on a low income and following the onset of the lockdown plus Miss E being furloughed then additional enquires and verification checks ought to have been carried out. And I have seen from Morses' explanations to us that it did not do that. Despite this Morses lent again.

Loan 4 was approved when loans 2 and 3 remained outstanding and increased Miss E's payments to £40 a week, and indebted Miss E for a further 34 weeks. Without additional financial enquiries to know the full nature of Miss E's finances I do not consider this to have been responsibly lent.

Loan 5 approved on 10 November 2020 was a £500 loan of which she would have received around £364 'in her hand' as the capital was used to repay loans 3 and 4 first. Although this may have reduced her weekly repayment figure it was for a larger sum and as Miss E has said – she did not fully understand the concept of refinancing loans into fresh loans. But, further than the issue surrounding Miss E's understanding, I think that by loan 5, the full and more comprehensive financial assessment which I think ought to have commenced at loan 3 certainly ought to have been carried out for a £500 loan after a year of being constantly in debt. I do not think Morses did that.

And for each of the loans 3 to 5 Morses had the original credit search which, although for the earlier loans may have been just about acceptable to it, I think it knew enough that after being furloughed in April 2020, and after asking for larger and /or overlapping loans it ought to have got to the bottom of Miss E's situation. And I don't think it did.

Having reviewed Miss E's evidence of Universal Credit assessment documents, the payments she received and that they were for her and her partner, combined with the fact I've been able to review Miss E's bank statements, then I do not think Miss E was able to afford loans 3 to 5 and I am planning to uphold Miss E's complaint in relation to those loans.

Loan 6 onwards I have addressed at the beginning of the provisional decision – these are undisputed and for completeness I have included them in the later section about putting things right.

Morses' agent's knowledge of Miss E's mental health issues

Morses has sent to me its Vulnerable Customers Policy document which I have reviewed. And as a regulated lender it must comply with the FCA CONC Guidelines chapter 2.10 – Mental Capacity Guidance.

Miss E says that she told her Morses agent about her diagnoses and mental health issues. Miss E says she was not able to understand those parts of the loans relating to the refinancing of the loans.

A lender when granting a consumer credit agreement '*...should consider the customer's individual circumstances.*'

CONC 2.10.4 Guidance states that:

'A firm should assume a customer has mental capacity at the time the decision has to be made, unless the firm knows, or is told by a person it reasonably believes should know, or reasonably suspects, that the customer lacks capacity.'

And the FCA Guide lists some behavioural indicators which, if the lender observes any, may lead to the firm having reasonable grounds to suspect that a customer may have some form of '*mental capacity limitation*'. These are in CONC 2.10.8 and are a guide list.

Miss E says she told the agent and Morse has spoken to that agent as part of the investigation around the complaint and says he did not know. As I said earlier, this resolution procedure is not the forum to determine who said what to whom. So, I have looked at the overall situation and what Morse was expected to have done. And it does not appear to have breached the FCA CONC provisions here.

And even if Morse did have any grounds to suspect that Miss E may have some mental capacity limitation, CONC 2.10.7 guidance states '*...this does not necessarily mean that the customer does not have the mental capacity to make an informed borrowing decision.*'

And I don't think Miss E is saying she could not understand any of the loan procedure or what having a loan meant. My understanding is that Miss E is saying she did not understand one part – that relating to the refinancing of loans.

The first refinance was when Miss E's third loan was used to repay loan 1. And I have provisionally decided to uphold loan 3 (and the loans after that) on affordability grounds. And so, I point this out so that Miss E knows the whole picture presented by this provisional decision.

On this part of the complaint I do not feel I have enough to conclude that Morse knew, or ought reasonably to have known that Miss E lacked understanding about the refinancing of loans. There are no records on the Morse account notes with which I have been provided which refer to that. And as I have said earlier, on Miss E's own explanations, she had a support worker and she had a carer who were on hand to be able to assist her. So even if she had needed additional assistance to understand the refinancing of the loans, I think it's likely she had the support around her to be able to ask.

Overall, I am provisionally deciding not to uphold this part of Miss E's complaint.

My final decision findings

Morse has not replied.

Miss E has spoken to our adjudicator about the provisional decision and did not have anything else to add and has not sent to us anything further.

In the circumstances I have decided that I uphold Miss E's complaint in part. I uphold the complaint about loans 3 to 9.

I do not uphold that part relating to Morse's agent's knowledge of Miss E's mental health issues as I have explained in the provisional 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 stopped lending to Miss E from loan 3, 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 E may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this 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 E 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 E 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.

I direct that Morses should do as follows

My decision is that Morses shouldn't have given Miss E loans 3 to 9. Morses has already conceded in relation to loans 6 to 9.

If Morses has sold the outstanding debts Morses should buy these back if it is able to do so and then take the following steps. If Morses is not able to buy the debts back then Morses should liaise with the new debt owner to achieve the results outlined below.

- A) Morses should add together the total of the repayments made by Miss E towards interest, fees, and charges on all upheld loans without an outstanding balance, not including anything it has already refunded.
- B) Morses should calculate 8% simple interest* on the individual payments made by Miss E which were considered as part of "A", calculated from the date Miss E originally made the payments, to the date the complaint is settled.
- C) Morses should remove all interest, fees, and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss E as though they had been repayments of the principal on all outstanding loans.

If this results in Miss E 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 in "A" and "B" and move to step "E".

- D) If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans, including any capital sums for loans 7 to 9 that has already been written off by Morses.

If this results in a surplus then the surplus should be paid to Miss E. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss E.

- E) Morses should remove any adverse information recorded on Miss E's credit file in relation to loans 3 to 5.

The reason for the uphold by our adjudicator for loans 6 to 9 was that the overall pattern of lending. Miss E's borrowing for loans 6 to 9 means any information recorded about them is adverse, so it should remove these loans entirely from Miss E's credit file.

Morses does not have to remove loans 7 to 9 from Miss E's credit file until they have been repaid, but Morses should still remove any adverse information recorded about these loans.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Miss E 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 E'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 E to accept or reject my decision before 20 May 2022.

Rachael Williams
Ombudsman