

The complaint

Ms M complains (through a representative) that Morses Club PLC (Morses) didn't carry out effective affordability checks. Had it done so, then Ms M says she wouldn't have been provided with the loans.

What happened

Our adjudicator partly upheld Ms M's complaint. Morses didn't agree with the adjudicator's opinion. The complaint was then passed to me.

I issued my provisional decision explaining the reasons why I was also intending to partially uphold Ms M's complaint, but I wasn't intending to uphold as many loans. A copy of the background to the complaint and my provisional findings follow this in smaller font and italics and form part of this final decision.

What I said in my provisional decision:

Ms M took at least seven loans between November 2013 and July 2017. I've included some of the information we've received about these loans in the table below.

<i>loan number</i>	<i>Morses loan number</i>	<i>loan amount</i>	<i>agreement date</i>	<i>repayment date</i>	<i>term (weeks)</i>	<i>weekly repayment</i>
<i>1</i>	<i>2</i>	<i>£400.00</i>	<i>01/11/2013</i>	<i>15/08/2014</i>	<i>50</i>	<i>£14.00</i>
<i>2</i>	<i>3</i>	<i>£500.00</i>	<i>15/08/2014</i>	<i>11/06/2015</i>	<i>50</i>	<i>£17.50</i>
<i>3</i>	<i>4</i>	<i>£600.00</i>	<i>11/06/2015</i>	<i>25/05/2016</i>	<i>50</i>	<i>£21.00</i>
<i>4</i>	<i>5</i>	<i>£400.00</i>	<i>25/05/2016</i>	<i>01/12/2016</i>	<i>33</i>	<i>£20.00</i>
<i>5</i>	<i>6</i>	<i>£450.00</i>	<i>01/12/2016</i>	<i>21/12/2017</i>	<i>52</i>	<i>£15.75</i>
<i>6</i>	<i>7</i>	<i>£200.00</i>	<i>01/12/2016</i>	<i>19/07/2017</i>	<i>33</i>	<i>£10.00</i>
<i>7</i>	<i>8</i>	<i>£200.00</i>	<i>19/07/2017</i>	<i>01/02/2018</i>	<i>33</i>	<i>£10.00</i>

Morses acquired some of these accounts from a previous lender, but it only purchased loans that were open in March 2014, when the acquisition took place. So Morses believes there may have been one additional loan prior to loan one in the table above. However, it doesn't have any information about it because the loan was likely sold, settled or closed by March 2014. So, the loans that this decision covers are those loans listed in the table above.

Our adjudicator didn't think it was wrong for Morses to have granted loans 1 and 2. But the adjudicator thought that loan 3 and all future loans shouldn't have been lent. He said the pattern of lending indicated Ms M had become persistently reliant on the loans and therefore Ms M shouldn't have been provided with loans 3 - 7.

Ms M's representative told us she accepted the adjudicator's findings.

Morses partially agreed with the adjudicator's assessment about loans 5 – 7. Morses offered to settle the complaint in line with what the adjudicator said which would result in a refund of £821.71.

But it disagreed with the adjudicator's assessment in relation to loans three and four. In summary, it doesn't feel Ms M had become persistently reliant on these loans for the following reasons:

- *Ms M only had one loan outstanding at the time.*
- *All of her loans had been repaid early or on time.*
- *The repayments for these loans weren't excessive.*
- *Ms M declared on her applications a sufficient amount of disposable income to be able to afford the repayments she was committing to making.*
- *Ms M didn't ever tell Moses that she was having financial difficulties.*

As no agreement has been reached, the case has been passed to me to resolve.

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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Ms M agreed with our adjudicator's findings that Moses wasn't wrong to lend loans 1 and 2. So, it seems this lending isn't in dispute and so I no longer think that I need to make a finding about it. But I have kept these loans in mind when thinking about the overall lending relationship between Moses and Ms M.

Moses has also accepted that something went wrong when loans 5 – 7 were granted, and it offered to put things right for Ms M in line with the adjudicator's recommendations. So, like loans 1 and 2, these loans are no longer in dispute, but for completeness I've included what Moses need to do to put things right in the 'putting things right' section at the end of the decision.

Instead, this decision will focus on whether Moses did anything wrong when it granted loans 3 and 4.

Moses had to assess the lending to check if Ms M could afford to pay back the amounts she'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Moses's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Ms M's income and expenditure.

With this in mind, I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Moses should have done more to establish that any lending was sustainable for Ms M. These factors include:

- *Ms M 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 particular level of income);*
- *Ms M having a large number of 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);*
- *Ms M 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 for Ms M.

Moses was required to establish whether Ms M could sustainably repay the loans – not just whether she technically had enough money to make her repayments. Having enough money

to make the repayments could of course be an indicator that Ms M was able to repay her loans sustainably. But it doesn't automatically follow that this is the case.

Industry regulations say that payments are sustainable if they are made without undue difficulties and in particular, made on time, while meeting other reasonable commitments and without having to borrow to make them. If a lender realises, or ought reasonably to have realised, that a borrower won't be able to make their repayments without borrowing further, then it follows that it should conclude those repayments are unsustainable.

I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Ms M's complaint.

Loan 3

As the adjudicator has pointed out, by loan three Ms M had taken three loans in around 19 months and she was taking a new loan on the day the previous ones were repaid. Which is why the adjudicator thought this loan (and future loans) should be upheld.

Overall, I don't think the loan activity was quite enough to suggest Ms M had become reliant on the loans. The loan amounts hadn't really increased significantly and there weren't any obvious repayment difficulties, indeed, the statement of accounts for loans one and two show they were repaid early.

The number of loans and time in debt, is in my view, not particularly concerning, at this point in time. So, I don't agree with the adjudicator that Morses ought to have reasonably concluded that these loans were unsustainable for Ms M.

But that doesn't mean that Morses carried out a proportionate check. Ms M had been almost continuously indebted to Morses for 19 months, and she was returning for further credit, extending her indebtedness for at least another 50 weeks.

Overall, I don't think it was reasonable for Morses to have relied on what Ms M declared to it about her income and expenditure. Even though this information suggested Ms M had disposable income of around £280 per week, in my view still needed to do more.

Instead, I think it needed to gain a full understanding of Ms M's actual financial position to ensure loan three was affordable. This could've been done in several ways, such as asking for evidence of outgoings or looking at bank statements and/or Ms M's credit report. This might've helped verify information provided and revealed whether there was any other information that Morses might've needed to consider about Ms M's general financial position.

However, that isn't the end of the matter. For me to be able to uphold these loans, I have to be satisfied that had Morses carried out a proportionate check it would've likely discovered that Ms M couldn't afford these loans.

Ms M hasn't provided this Service with a copy of her bank statements or her credit report. So, I don't know what further checks may have highlighted about her financial situation at the time these loans were approved.

So, without any further information from Ms M about her living costs, it's difficult for me to conclude what Morses would've seen had it made better checks. Although Morses didn't carry out proportionate checks, I'm not able to conclude that further checks would've led it to conclude that these loans were unaffordable for Ms M.

Looking at everything together though, I've not seen quite enough evidence to suggest Morses shouldn't have lent loan 3. Even considering what Ms M declared to Morses for her income and expenditure, loan three appeared affordable. I'm not minded therefore to think Morses was wrong to have provided these loans.

As this is the case, I'm intending to not uphold Ms M's complaint about this loan.

Loan 4

The loan being pounds and pence affordable is only part of the consideration. So, I haven't felt the need to recreate individual, proportionate affordability checks for this loan because I didn't consider it necessary to do so. Although, I accept, based on what Morses provided this Service, that this loan would've looked affordable to it.

So, in addition to assessing the circumstances behind each individual loan provided to Ms M, Morses also needed to consider the overall pattern of lending and what unfolded during the course of its lending relationship with Ms M.

Having looked at the overall pattern of Morses's lending history with Ms M, I agree with our adjudicator that at this point in time, Morses should reasonably have seen that further lending was unsustainable, or otherwise harmful, at the time it provided loan 4. I say this because;

- At this point Morses ought to have realised Ms M was not managing to repay her loans sustainably. Ms M had taken out four loans in around 36 months and she had been indebted to Morses for almost for the entire time. So Morses ought to have realised it was more likely than not Ms M was having to borrow further to cover an ongoing need and that Ms M's indebtedness was increasing unsustainably and her underlying financial situation didn't seem to be improving.*
- By loan four, Ms M's weekly repayments were 50% more compared to loan one. She started paying £14 per week but was now committed to paying £20 per week. So, Ms M's weekly repayments were increasing which suggests that the loans weren't sustainable for her and her borrowing didn't significantly decrease over the lending relationship.*
- While loan four was slightly smaller than loan three, she was committing to repay over a shorter time, which explains why her weekly commitment reduced by £1, but I don't think that is significant enough for Morses to have thought that Ms M was no longer reliant on these loans.*
- Ms M took new loans on the same day as previous loans were repaid. Morses ought to have realised it was more likely than not Ms M, on these occasions, was having to borrow further to effectively cover a long-term financial need. To me, this is indicative of her indebtedness not being sustainable.*

I think that Ms M has lost out because Morses continued to provide borrowing from loan 4 onwards because:

- these loans had the effect of unfairly prolonging Ms M's indebtedness by allowing her to take expensive credit over an extended period of time.*
- the number of loans and the length of time over which Ms M 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.

Morses has already accepted that it needs to put things right for Ms M in relation to loans 5 - 7 and I've included what it has already agreed to do to put things right in the section below.

Response to the Provisional decision

Both Ms M and Morses were asked to provide any further comments or evidence they wanted the Financial Ombudsman Service to consider no later than 16 March 2022.

Ms M's representative told us that she was accepting the findings that were reached in the provisional decision.

Morses didn't respond to the findings of 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.

Ms M has accepted the findings that I reached in the provisional decision and Morses hasn't provided any further comments or evidence for me to consider.

I therefore see no reason to depart from the findings that I reached in the provisional decision and I still think Morses was wrong to have advanced loans 4 – 7 to Ms M for the same reasons that I reached before.

I've outlined below what Morses needs to do in order to put things right for Ms M.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Ms M from loan 4 (as per the first column of the table at the start of this decision), 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 Ms M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them 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 Ms M 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 M would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses's liability in this case for what I'm satisfied it has done wrong and should put right.

Morses shouldn't have given Ms M loans 4 to 7.

- A. Morses should add together the total of the repayments made by Ms M towards interest, fees and charges on these loans.
- B. Morses should calculate 8% simple interest* on the individual payments made by Ms M which were considered as part of "A", calculated from the date Ms M originally made the payments, to the date the complaint is settled.
- C. Morses should pay Ms M the total of "A" plus "B".
- D. The overall pattern of Ms M's borrowing for loans 4 to 7 means any information recorded about them is adverse, so it should remove these loans entirely from Ms M's credit file.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should

give Ms M a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons I've explained and in my provisional decision, I'm upholding Ms M's complaint.

Morses Club PLC should put things right for Ms M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 April 2022.

Robert Walker
Ombudsman