

The complaint

Mrs W complains (through a representative) that Morses Club PLC (Morses) didn't properly carry out affordability checks before it advanced her loans. Mrs W says she had to keep borrowing more in order to repay the loans.

What happened

Mrs W took six loans between September 2015 and March 2017. I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£100.00	25/09/2015	18/04/2016	34	£5.00
2	£200.00	18/04/2016	16/11/2016	33	£10.00
3	£100.00	13/06/2016	07/02/2017	33	£5.00
4	£300.00	16/11/2016	sold	33	£15.00
5	£100.00	07/02/2017	sold	33	£5.00
6	£200.00	16/03/2017	sold	33	£10.00

The 'weekly repayment' column is the cost per week per loan. So, where loans overlapped the cost will be greater. For example, when loans 2 and 3 were running at the same time Mrs W's weekly commitment was £15.

Mrs W had some problems repaying her final three loans and the statement of account provided to the Financial Ombudsman by Morses shows these loans were passed to a third party in November 2017.

Morses investigated the complaint and concluded it had made a reasonable decision to provide these loans and so it didn't uphold her complaint.

Mrs W's representative didn't agree with the outcome and referred the complaint here in December 2021.

The complaint was considered by an adjudicator who didn't think it was wrong for Morses to have granted loans 1 and 2. However, the adjudicator thought loans 3 and 4 shouldn't have been granted because Mrs W's total repayments due to Morses represented a significant portion of her declared income and therefore the payments weren't likely to be sustainable. The adjudicator also concluded that loans 5 and 6 shouldn't have been granted because in his view the lending was now harmful for Mrs W.

Morses agreed with the adjudicator's recommendation to uphold loans 3 – 6. Morses explained there was an outstanding balance due and so it would use the refund to offset this. This would result in a payment due to Mrs W of about £30.63.

The adjudicator contacted Mrs W's representative to let them know Moses had agreed with his recommendation. But Mrs W didn't accept the offer saying "*Our client does not agree with the decision she has been given please can you proceed for a final decision.*"

Later on, Mrs W's representative told us "*Our client states she does not agree with the outcome that has been given and that she could not afford to pay back the loans given in the end.*"

As no agreement has been reached, the case has been passed to me for a 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'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.

Moses had to assess the lending to check if Mrs W 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' checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mrs W'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 Mrs W. These factors include:

- Mrs W 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);
- Mrs W 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);
- Mrs W 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 Mrs W.

Moses was required to establish whether Mrs W 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 Mrs W 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 Mrs W's complaint.

I won't make a finding about loans 3 - 6, because Moses has already agreed that something went wrong when these loans were approved. For completeness, I've included what Moses needs to do to put things right for Mrs W in relation to these loans at the end of this decision.

However, Mrs W appears to be unhappy with the outcome in relation to loans 1 and 2 – given these are the loans the adjudicator didn't uphold. So instead, this decision will focus on the lending decision Moses made for these loans.

Loans 1 - 2

The adjudicator didn't uphold Mrs W's complaint about these loans, and I agree with him, based on the evidence that I've seen from both Moses and Mrs W.

For loan one Mrs W declared she had a weekly income of around £155 with outgoings of £103. This left around £51 per week in order to make her weekly repayment of £5.

For loan 2 Mrs W declared she had a weekly income of £175 and her declared weekly expenditure was £68. Leaving just over £100 to a week to afford the combined loan repayments of £15 per week.

Moses has provided copies of the application forms for these two loans, and it was aware that Mrs W was in receipt of benefits but that alone wouldn't be sufficient to uphold the complaint.

Based on the information Mrs W declared Moses could've been confident she was in a position to afford the contractual repayments she was due to make for these loans. Given this was in the early part of the lending relationship, I think the checks that Moses did were proportionate and it didn't need to do any further checks before agreeing to these loans.

I've also thought about that these loans overlapped but even taking into account the higher weekly repayments as a result of this, the loans still looked affordable. So, this doesn't change my mind about the checks that Moses carried out.

Before loan 1 was granted Moses also carried out a credit check and it has provided the results of that search. I've considered the results but there were no signs of any financial difficulties such as missed payments, defaults or anything else that may have suggested Mrs W was over indebted. In my view, the results wouldn't have prompted Moses to have either carried out further checks or to have declined Mrs W's applications for credit.

Overall, I think the checks Moses carried out before advancing these two loans were proportionate and the checks showed Moses Mrs W would be in a position afford the loan repayments. I'm therefore not upholding Mrs W's complaint about these loans.

I acknowledge that Mrs W is likely to be disappointed by this outcome, but I hope my explanation has provided useful as to why I've reached the conclusions that I have.

Loan 3 - 6

As I said at the start of the decision, I won't comment further on whether Moses was right or wrong to approve these loans because it has already accepted that something did go wrong when these were advanced. So, there is nothing further for me to decide in relation to these loans.

But for completeness, I've outlined the compensation Morses has already agreed to pay in relation for these loans.

Putting things right

Morses has already accepted that loans 3 - 6 shouldn't have been provided and I've outlined below what it has already agreed to put things right for Mrs W.

If Morses have sold the outstanding debts it 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 it 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 Mrs W towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses has already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Mrs W which were considered as part of "A", calculated from the date Mrs W 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 Mrs W as though they had been repayments of the principal on all outstanding loans. If this results in Mrs W 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 and any principal Morses may have already written-off. If this results in a surplus then the surplus should be paid to Mrs W. However, if there is still an outstanding balance then you should try to agree an affordable repayment plan with Mrs W. Morses shouldn't pursue outstanding balances made up of principal it has already written-off.
- E. Morses should remove any adverse information recorded on Mrs W's credit file in relation to loans 3 and 4. The overall pattern of Mrs W's borrowing for loans 5 and 6 means any information recorded about them is adverse, so Morses should remove these loans entirely from Mrs W's credit file. Morses does not have to remove loans 5 and 6 from Mrs W's credit file until these have been repaid, but it should still remove any adverse information recorded about these loans.

*HM Revenue & Customs requires you to deduct tax from this interest. Morses should give Mrs W a certificate showing how much tax it deducted if she asks for one.

My final decision

For the reasons I've explained above, I'm not upholding Mrs W's complaint about loans 1 and 2. But Morses Club PLC should put things right for Mrs W as directed above and in line with what it has already agreed to do for loans 3 - 6.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 1 September 2022.

Robert Walker
Ombudsman