

The complaint

Miss G complains (through a representative) that Morses Club PLC (Morses) gave her loans that she couldn't afford to repay.

What happened

Our adjudicator partly upheld Miss G's complaint. Miss G didn't agree with the adjudicator's assessment. The complaint was then passed to me.

I issued my provisional decision explaining the reasons why I was also partially upholding Miss G's complaint. A copy of the background to the complaint and my provisional findings follow this in italics and a smaller font and form part of this final decision.

What I said in my first provisional decision

Miss G took six home collected loans between June 2018 and May 2019 I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	loan repayment date	term (weeks)	weekly repayment
1	£100.00	13/06/2018	14/09/2018	20	£7.50
2	£200.00	14/09/2018	20/11/2018	20	£15.00
3	£600.00	20/11/2018	14/05/2019	33	£30.00
4	£200.00	20/02/2019	sold	33	£10.00
5	£500.00	22/03/2019	sold	52	£17.50
6	£600.00	14/05/2019	sold	33	£30.00

The statement of account provided to the Financial Ombudsman Service from Morses shows that Miss G had problems repaying her final three loans and it sold the balances to a third-party collection agency in March 2021.

The 'weekly repayment' column is the cost per week per loan, so where loans overlapped the cost per week will be more. For example, when loans 3 and 4 were running Miss G's weekly commitment was £40.

Morses considered Miss G's complaint and issued its final response letter in May 2021. Morses investigated the complaint and concluded it hadn't made an error when it approved these loans for Miss G.

Miss G didn't agree with the outcome reached by Morses and her representative referred the complaint to our Service in August 2021.

The complaint was then considered by an adjudicator who didn't think it was wrong for Morses to have granted loans 1 - 5. But the adjudicator thought that by loan 6 the lending was now harmful for Miss G and Morses shouldn't have advanced this loan.

Morses agreed with the adjudicator's assessment. It explained that it would arrange for the third party to reduce the amount that Miss G owed towards loan six from £903.90 to £513.90

– which is the outstanding principal owed. Moses also agreed to remove the loan from Miss G’s credit file but only after it has been fully repaid.

The adjudicator contacted Miss G’s representative to let them know Moses had agreed with the assessment. Miss G didn’t agree, through her representative she told us;

We have discussed the offer with [Miss G’s full name] and she has advised that she is not happy to accept the offer.

[Miss G] will be sending us additional information for your consideration. As soon as we have received this we will forward it to you.

The adjudicator chased Miss G’s representative for the further information she said she would send. But to date nothing further has been received.

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

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.

Moses had to assess the lending to check if Miss G 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 Miss G’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 Miss G. These factors include:

- *Miss G 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);*
- *Miss G 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);*
- *Miss G 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 Miss G.

Moses was required to establish whether Miss G could sustainably repay the loans – not just whether she technically had enough money to make repayments. Having enough money to make the repayments could of course be an indicator that Miss G 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 Miss G's complaint.

I won't make a finding about loan 6, because Moses has already agreed that something went wrong when this loan was advanced. For completeness, I've included what Moses needs to do to put things right for Miss G in relation to loan 6 at the end of this decision. I appreciate Miss G says she's not happy with the outcome of her complaint, but she hasn't provided any details as to why.

Loans 1 – 3

Miss G says she was unhappy with the offer but she hasn't told the us exactly what she was unhappy with and why.

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

For these loans Miss G declared she had a weekly income of between £326 and £412, with declared weekly expenditure of between £172 and £240. It also looks like that for at least loans two and three Moses was able to verify her income through some sort of credit check.

For loan one a credit search was also carried out, at the time Moses was aware of two active County Court Judgements (CCJs) recorded against Miss G, but the most recent had been recorded over three years before. These CCJs weren't a sign that Miss G was having immediate financial difficulties - this is especially so when the rest of the report didn't highlight anything further of concern. Overall, I don't think it was unreasonable to have lent these loans based on the credit report.

Based on the information Miss G 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. As this is the case, I'm not upholding Miss G's complaint about loans 1 - 3.

Loans 4 and 5

When loan 4 was granted, loan 3 was still outstanding. So, while Miss G's weekly commitment solely for loan 4 was £10 her actual contractual repayments due to Moses was £40 per week.

Moses has told us for loan 4 Miss G declared her weekly income as being £277 with outgoings of £194.50. This left disposable weekly income of around £82 per week. It's worth adding here that it isn't clear whether Miss G's disposable income figure included the repayments for loan 3. So, did the £82 need to cover the weekly repayments of £40 or £10. But I don't think I need an answer to this question in order to reach a fair outcome.

But regardless as to whether the £82 needed to cover the sole payment for loan 4, or the combined payment I still don't think these checks went far enough even though, the information suggested that Miss G was likely to be able to afford the repayments she was committed to making.

I do think by this point Moses needed to do more. She had been indebted to Moses' for around eight months and was coming back for further borrowing extending her indebtedness by at least another 30 weeks.

There had also been a pattern of new loans being taken out on the same day that a previous loan had been repaid, which could suggest there was an ongoing need to have funds in order to cover a short fall in her finances, and this was now the first time that loans had overlapped and had significantly increased her weekly commitment to Moses by 30%.

These factors ought to have led Moses to have carried out further checks before loan four

was granted. It could've done this a number of ways, for example it could've asked to see a copy of her credit report and it could've checked her expenditure either through asking for bank statements or perhaps asking to see copies of the bills that she had declared. Either way, it's clear from the information Moses has provided that it didn't do either of these things.

Miss G has provided the Financial Ombudsman with a copy of her full credit report. This was produced in 2021, but it covers the time period for when Miss G was borrowing from Moses. So, I don't think it is unreasonable to see what, if anything the credit report can tell me about Miss G's wider financial situation at the time this loan was advanced.

Moses, from the credit checks it carried out at loan one knew that Miss G had 2 CCJS on her credit file, by now the most recent one had been reported four years before this loan. But her full credit report shows a further two CCJS being recorded one in September 2018 and one in October 2018. So Moses, ought to have been aware at this point that not only were there 4 CCJS on Miss G's credit file, but that two of them had been reported within the last five months.

These two CCJS are in my view close enough to the advancing of this loan to show that Miss G must have been having current financial difficulties and had problems repaying her outstanding debts.

In addition to this her credit file shows that she was in arrears with a utility company and had recently had adverse information reported on her credit file about her current account, indicating that Miss G was likely using an unarranged overdraft. Which I think is a sign that someone may be struggling.

Overall, for loan 4, Miss G's credit file shows a deterioration in her financial position which Moses would've likely been aware of had it carried out a proportionate check, so I'm intending to uphold her complaint about this loan because I don't think the repayments were sustainable.

For the same reasons as above, further checks needed to be carried out before loan five was advanced. While the weekly disposable income for loan five again suggested that Miss G could afford her weekly commitment of £57.50 (owing to loans 3 and 4 still running). For the same reasons as loan 4, I also don't think Moses could be confident that Miss G was in a position to sustainably repay this loan given what a proportionate check would've likely highlighted about her current financial position.

Indeed, by this point, Miss G's credit file shows further arrears on the utility and current account, indicating that Miss G wasn't able to service these debts, so it isn't clear why Moses may have felt that further lending was sustainable.

Overall, I'm also intending to uphold Miss G's complaint about loans 4 and 5.

Loan 6

As I said at the start of the decision, I won't comment further on whether Moses was right or wrong to approve this loan because it has already accepted that something did go wrong when it was advanced. Moses has agreed to settle this loan in line with the well-established approach the Financial Ombudsman takes when resolving cases. So, there is nothing further for me to decide in relation to this loan.

Miss G says further information would be provided but despite the adjudicator chasing to see whether she had anything further - no further evidence has been provided.

Response to the provisional decision

Both Miss G and Moses were asked to provide any further comments, evidence or information for consideration by the Financial Ombudsman no later than 6 April 2022.

Neither Miss G's representative nor Morses provide anything further for me to consider.

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.

As neither party has provided any further information, they wanted me to consider, I see no reason to depart from the findings I reached in the provisional decision.

I still think, Morses needed to have carried out further checks when loans four and five were advanced. Had it done so, Morses would've likely discovered that Miss G was having long term financial difficulties given the fact that two CCJS had recently been recorded against her. So, I'm upholding Miss G's complaint about these loans.

Morses had already accepted the adjudicator's assessment about loan six, so I say no more about this loan.

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

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 Miss G from loan four, 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 G 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 Miss G 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 Miss G 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 has already accepted that loan 6 shouldn't have been provided but I also don't think that loans 4 or 5 should've been provided either. So, I've outlined below what it needs to do in total in order to put things right for Miss G.

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 remove all interest, fees and charges from the balance on loans 4 - 6,

and treat any repayments made by Miss G as though they had been repayments of the principal on these loans. If this results in Miss G 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.

- B. If there is still an outstanding balance then any overpayments calculated in “A” can 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 Miss G. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss G. Morses shouldn't pursue outstanding balances made up of principal it has already written-off.
- C. Morses should remove any adverse information recorded on Miss G's credit file in relation to loans 4 and 5. The overall pattern of Miss G's borrowing for loan 6 means any information recorded about it is adverse, so Morses should remove this loan entirely from Miss G's credit file. Morses doesn't have to remove loan 6 from Miss G's credit file until it has been repaid, but Morses should still remove any adverse information recorded about it.

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

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Miss G's complaint in part.

Morses Club PLC should put things right for Miss G as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 12 May 2022.

Robert Walker
Ombudsman