

The complaint

Miss M, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans. As a result, she was provided with lending that wasn't affordable.

What happened

Miss M was advanced 8 home collected loans between September 2019 and January 2021. 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	£300.00	25/09/2019	14/02/2020	33	£15.00
2	£200.00	13/12/2019	30/04/2020	34	£10.00
3	£400.00	14/02/2020	22/09/2020	34	£20.00
4	£400.00	30/04/2020	27/11/2020	34	£20.00
5	£300.00	22/07/2020	12/01/2021	34	£15.00
6	£400.00	22/09/2020	sold	34	£20.00
7	£500.00	27/11/2020	sold	34	£25.00
8	£300.00	12/01/2021	sold	34	£15.00

Miss M had some problems repaying loans 6 – 8 and Morses sold the balances of these loans to a third-party collection agency in October 2021. It is Morses' understanding that an outstanding balance on these loans remains.

The 'weekly repayment' column in the table above is the cost per week per loan. Where loans overlapped the cost per week was increased, for example when loans 1 and 2 were running at the same time Miss M's weekly commitment to Morses was £25 per week.

Following Miss M's complaint Morses wrote to her representative to explain that it was going to partially uphold her complaint. Morses explained that it would pay compensation to Miss M in relation to loans 6 - 8. This would result in the outstanding balance due on being reduced to £186.38.

Miss M's representative didn't accept the offer and referred the complaint to the Financial Ombudsman Service.

An adjudicator initially reviewed the complaint. He didn't uphold Miss M's complaint about loans 1 – 4. But he thought loan 5 should be upheld (in addition to Morses' offer on loans 6 – 8). He said Miss M had two loans outstanding at the time and with the repayment due for these loans than Miss M was committed to spending a significant portion of her income to Morses.

Morses agreed with the adjudicator's assessment and it offered to pay compensation in line with his recommendation. This would result in a refund to Miss M of £33.18.

This offer was put to Miss M's representative who declined it. In response they explained that all of Miss M's loans should be upheld. It says Miss M's credit file ought to have alerted Morses to the possibility that she was having financial difficulties. In summary it said.

- At the time of loan 1, in the months prior to the loan being approved she had 14 late payment markers as well as defaults being recorded.
- Miss M had five credit accounts which had defaulted and 11 accounts with debt recovery companies.
- Miss M's debt increased from around £2,600 to around £8,100 between loans 2 and 4.
- Miss M also took out high cost guarantor loans at the same time as borrowing from Morses.

Another adjudicator reviewed Miss M's representative's comments and issued another assessment. In this assessment the adjudicator said:

- Proportionate checks were carried out for loans 1 – 3 which showed Miss M was able to afford the repayments she was committed to making.
- The adjudicator considered the credit check results Morses received before loan 1 was granted, and while there was some adverse information it wasn't in her view sufficient to uphold the complaint.
- But the adjudicator thought Morses may have wanted to carry out further checks before loan 4 was granted but she wasn't able to uphold this loan as copies of Miss M's bank statements hadn't been provided.
- The adjudicator thought the outcome for loans 5 – 8 was reasonable.

Morses once again agreed to uphold Miss M's complaint in relation to loans 5 – 8.

Miss M's representative disagreed with the second assessment and asked for an ombudsman's decision.

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

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Miss 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. Morses' checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss 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 Morses should have done more to establish that any lending was sustainable for Miss M. These factors include:

- Miss 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);
- Miss 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);
 - Miss 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 Miss M.

Morses was required to establish whether Miss 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 Miss 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 Miss M's complaint.

Morses has already accepted loans 5 – 8 shouldn't have been advanced and it has outlined the compensation that it will pay. As Morses has already accepted something went wrong with these loans I no longer think they are in dispute, so I've not made a full finding about them.

But given that I also don't think these loans ought to have been provided, Morses offer to settle these loans is therefore fair and reasonable. So, I have included them in the putting things right section at the end of the decision.

Instead this decision will focus on whether Morses made reasonable decisions to lend in relation to loans 1 – 4.

Loan 1

Both adjudicators didn't uphold Miss M's complaint about this loan and having looked at the evidence I agree with them and I've explained why below.

For this loan Miss M declared she had a weekly income of £290 which Morses says was checked with the information it received from the credit reference agencies. Miss M's declared weekly expenditure was £85. This left, Miss M £205 per week in disposable income to be able to afford the contractual repayments of £15 per week.

Based solely, on the income and expenditure it was reasonable for Morses to have believed that Miss M would be able to afford the repayments.

Morses has also said for the first loan only, it carried out a credit search and it has provided the Financial Ombudsman Service with the results. I appreciate that Miss M's representatives have provided a screen shot of the credit file data that it says would've been apparent to Morses at the time but based on what Morses has provided it didn't see all the same sort of data.

It is worth saying that there is no requirement within the regulations at the time for Morses to have carried out a credit search let alone one to a specific standard. But what Morses couldn't do is carry out a credit search and then not react to any information that it may have seen.

So while I accept based on the information Miss M's representatives have provided did show some financial difficulties for Miss M, I am instead going to be relying on the credit search results provided to the Financial Ombudsman by Morses, because I know this is the information that it saw at the time the affordability check took place.

For the reasons I've explained above, I can't conclude an error may have been made by it not finding out all the information Miss M's representative says it should've seen. I say this because I know that not all the data that Miss M's representative has said was visible was provided to Morses at the point the credit check was carried out.

Looking at the credit file data provided by Morses I'm satisfied that while it was aware of some adverse information but it wasn't in my view sufficient for Morses to either decline the application or to have prompted it to have carried out further checks into Miss M's financial position.

Morses was aware Miss M had two County Court Judgements (CCJ) but these had been recorded around five years before the first loan was approved. So, it wasn't a sign that Miss M was having current and immediate financial difficulties.

Morse was also aware Miss M had opened 1 new credit account within the last three months, it was aware that Miss M had some repayment problems and was aware she had recently defaulted on one account.

Overall, I don't think it was unreasonable to have provided this loan based on the information that Miss M declared as well as the information within the credit report.

Based on the information Miss M declared Morses could've reasonable concluded she was in a position to afford the contractual repayments Miss M was due to make for this loan. Given this was in the early part of the lending relationship, I think the checks that Morses did were proportionate and it didn't need to do any further checks before agreeing to the loan.

I'm therefore not upholding Miss M's complaint about this loan.

Loans 2 – 3

For these loans Morses asked carried out similar checks as it did for loan 1. It asked Miss M for her income which she declared to be £275 for loan 2 and £270 per week for loan 3.

She also declared weekly outgoings of £136 for loan 2 and £168 for loan 3. This left Miss M with disposable weekly income of between £102 and £139 per week. Which was sufficient to be able to afford the largest weekly repayment due to Morses of £30.

Given it was still quite early on in the lending relationship and there didn't appear to have been any repayment problems to date, I think it was reasonable for Morses to have relied on the information Miss M provided which showed the loan repayments were affordable.

Importantly, Morses didn't carry out a credit check before these loans were approved. Had it done so; it may have seen further adverse information being reported on Miss M's credit file.

But as I said above, Morses wasn't required to carry out a credit search before each loan, so the fact one wasn't carried out here isn't something I can say is an error. As a search wasn't carried out it wouldn't have been aware of any other information about how Miss M was managing her account. I also think the checks for these loans were proportionate and showed Miss M was able to afford the loan repayments.

I've also thought about that some of 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 Morses carried out.

As this is the case, I'm not upholding Miss M's complaint about loans 2 and 3.

Loan 4

The second adjudicator who considered Miss M's case thought by this point that Morses ought to have carried out further checks before providing this loan. Having looked at everything I agree, but that doesn't mean Miss M's complaint about this loan is successful.

Miss M had declared a weekly income of £319 with outgoings of £204 which gave Miss M a disposal weekly amount of around £115 to meet her repayment of £40 per week. This may have then led Morses to believe that Miss M had sufficient disposable income to afford her repayments.

But that doesn't mean that Morses carried out a proportionate check. Given this was now the second time that Miss M had taken a loan on the same date that a previous loan had been repaid, her overall indebtedness and weekly commitments was also increasing (her weekly repayments at this point were now £40 per week). Ought to have led Morses to conclude further checks needed to be carried out.

Overall, I don't think it was reasonable for Morses to have relied on what Miss M declared to it about her income and expenditure. Even though this information suggested Miss M could afford the loan repayments.

Instead, I think it needed to gain a full understanding of Miss M's actual financial position to ensure this loan was affordable. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at bank statements.

I've thought about the credit file data provide by Miss M's representative and while I agree it does show an increase indebtedness as well as some recent repayment problems I think this actually further supports why I consider it reasonable for Morses to have carried out additional checks.

The further checks might've helped verify what Miss M was telling Morses as well as potentially highlighting whether there was any other information that Morses might've needed to consider about Miss M's general financial position.

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

Miss M's representative was asked to provide copies of Miss M's bank statements in the second adjudication to show what Miss M's living costs were likely to be at the time as well as to confirm her income. But these haven't been sent to us, as a result, it hasn't been possible, to build an accurate picture of her financial position at the time.

So, without her bank statements to show her other living costs and income, it's difficult for me to conclude what Morse would've likely seen had it made better checks.

Although Morse didn't carry out proportionate checks, I'm not able to conclude that further checks would've led it to conclude this loan was unaffordable for Miss M.

Looking at everything together though, I've not seen quite enough evidence to suggest Morse shouldn't have lent loan 4. I'm therefore not minded thinking it was unreasonable for Morse to have provided this loan.

As this is the case, I'm also not upholding Miss M's complaint about this loan.

Putting things right

In deciding what redress Morse should fairly pay in this case I've thought about what might have happened had it not provided loans 5 - 8, 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 B 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 B 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 B would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morse's liability in this case for what I'm satisfied it has done wrong and should put right.

Morse shouldn't have given Ms B loans 5 to 8.

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

- A. Morse should add together the total of the repayments made by Miss M towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morse has already refunded.
- B. Morse should calculate 8% simple interest* on the individual payments made by Miss M which were considered as part of "A", calculated from the date Miss M originally made the payments, to the date the complaint is settled.
- C. Morse should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss M as though they had been repayments of the principal on all outstanding loans. If this results in Miss M having made overpayments then Morse 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. If this results in a surplus then the surplus should be paid to Miss M. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss M.
- E. Morses should remove any adverse information recorded on Miss M’s credit file in relation to loan 5. As Morses has agreed to do in the final response letter loans 6 – 8 should be removed entirely from Miss M’s credit file.

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

My final decision

For the reasons I’ve explained above, I’m not upholding Miss M’s complaint about loans 1 – 4.

But Morses Club PLC should put things right for Miss M as it has already agreed to do and as direct above in relation to loans 5 - 8.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 24 June 2022.

Robert Walker
Ombudsman