

The complaint

Mr M complains that Morses Club PLC (Morses) didn't carry out sufficient checks before it granted loans which he couldn't afford to repay.

Mr M went on to say, that at the time these loans were granted he was subject to a Debt Management Plan (DMP) and had three defaults on his credit file.

What happened

Mr M took two loans from Morses between January 2014 and July 2014. I've summarised some of the information provided from Morses about these loans in the table below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£400.00	21/01/2014	13/01/2015	50	£14.00
2	£300.00	30/07/2014	21/07/2015	50	£10.50

The 'weekly repayment' column is the cost per week per loan. These loans were running at the same time which meant Mr M's largest weekly contractual repayment to Morses would've been £24.50.

The complaint was considered by an adjudicator and she didn't uphold it. She said Morses had to carry out a proportionate check before it approved these loans. But she went on to explain that due to the amount of time that has passed since the loans were granted there was limit information, so she couldn't say, for example what Mr M declared to Morses before these loans were granted.

She also couldn't say whether Mr M had declared to Morses he was in a DMP (and she didn't know whether Morses was or likely aware of this). In addition, Mr M wasn't able to provide bank statements from 2014 and therefore she wasn't able to determine whether Morses was right or wrong to have approved these loans.

The adjudicator explained the repayment history for the loans (both before and while they overlapped) didn't indicate that Mr M was having financial difficulties.

Morses didn't respond to or acknowledge the adjudicator's assessment.

Mr M didn't agree with the outcome, in response he said (verbatim):

So now I want an ombudsman to look at my original complaint as in the final response from morses [sic] club state "adequate checks were made" which is vague, and because as a consumer I'm exercising my option for an ombudsman to review the case.

As no agreement has been reached, the complaint has been referred for a final 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.

Morses had to assess the lending to check if Mr M could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Morses's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr 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 Mr M. These factors include:

- Mr 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);
- Mr 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);
- Mr 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 Mr M.

Morses was required to establish whether Mr M could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr M was able to repay his 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 Mr M's complaint.

As part of his referral to the Financial Ombudsman Service, Mr M made further comments around the issuing of the final response letter, the address it was sent to and the time that he has spent chasing and dealing with Morses.

The adjudicator explained that a new complaint will be set up, and I can see from our records that a new complaint (and reference number) has been set up to deal with those points. So, I say no more about those issues in this decision.

This decision will solely deal with the unaffordable lending complaint about Mr M's two loans.

Having considered everything, I'm not upholding Mr M's complaint and I've explained my reasons for doing so below.

To begin with it may be helpful if I explain that any decision I come to is based on firstly what evidence both parties are able to provide and secondly if information is contradictory or missing than I would make a finding on what I think is most likely to have happened. This is consistent within the fair and reasonable remit that I must follow.

This is important because in this case there isn't very much information available for me to consider about the checks that Moses may (or may not) have carried out before the loans were carried out.

From my experience, of working these cases, I think it's likely that before both of these loans were approved Moses would've asked Mr M what his weekly income was as well as what his weekly expenditure was. This would've given Moses an idea as to whether Mr M could afford these loans repayments.

It's worth saying here that given the value of these loans and it was the start of the lending relationship, Moses would've been entitled to have relied upon the information Mr M gave except where there was something that obviously couldn't be correct. For example, Mr M may have declared that he was in rented accommodation and yet declared that he didn't pay rent. In that situation (and I am not saying it applies here) I'd have expected Moses to have made further enquires.

But in this case, due to the passage of time, Moses hasn't been able to provide the Financial Ombudsman Service with the detail that it likely took at the time. This isn't unusual in as much as the final loans were repaid over seven years ago.

Mr M was asked to provide bank statements from around the time these loans were approved, in order to understand what his income and expenditure was at the time. However, Mr M hasn't been able to provide details of his statements, so I don't know from this what his financial position was likely to have been at the time. So, this means I don't know what Mr M likely declared to Moses and I can't say what Mr M's actual situation was at the time either, as there is no evidence.

It also isn't clear whether Moses did carry out a credit search before these loans were granted. If one was carried out, then the results aren't available, so I don't know exactly what it would've received from the credit reference agencies.

It is worth saying here that although Moses may have carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. So, Moses may have only asked about specific questions around for example the number of outstanding credit accounts. So, I won't know for example, whether this check (that may not have been done) would've highlighted that Mr M was subject to a DMP.

If Moses hadn't carried out a credit check, as there was no regulatory requirement to carry out one than I wouldn't be able to say that was a reason to lead me to either uphold the complaint or conclude that Moses needed to carry out further or more in-depth checks.

It also isn't clear, as the adjudicator pointed out, that Mr M declared to Moses that he was subject to a DMP and it's not clear whether this would've been discovered by a proportionate check. So, I can't uphold Mr M's complaint solely because he was subject to a DMP at the time.

Indeed, even if Moses was aware of the DMP, that alone may not have been enough to uphold Mr M's complaint, it may have been an aggravating factor that ought to have led Moses to carry out further checks.

Finally, looking at the statement of account that I have been provided, there is nothing in the repayment of loan 1 which would've prompted Moses to have carried out further checks before it approved loan 2.

It's also clear from the statement of account that these loans ran concurrently. This meant that loan 2 wasn't used to settle loan 1.

Overall, I've not seen enough to say the checks Moses carried out weren't proportionate and / or highlighted that Mr M couldn't afford his contractual repayments. I also haven't seen enough to make me think Moses was aware of Mr M's DMP. Therefore, based on the limit information I have to hand I am not upholding Mr M's complaint.

I appreciate Mr M will be disappointed by the outcome but I hope my explanation as provided to be useful for him.

My final decision

So, for the reasons I've explained above, I'm not upholding Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 14 October 2022.

Robert Walker
Ombudsman