

The complaint

Miss K complains that Morses Club PLC lent to her irresponsibly.

Miss K also says that the last loan was signed by another party and she ought not be liable for it.

What happened

Using information from Morses, here is a brief loan table of the four approved loans.

Loan	Amount	Agreement date	Repayment date	Term of loan (weeks)	Weekly repayment
1	£100	20/09/18	24/01/19	20	£7.50
2	£150	21/01/19	05/06/19	20	£11.25
3	£300	05/06/19	16/12/19	33	£15
4	£400	16/12/19		34	£20

Our investigator had looked at all the evidence relating to the complaint and issued a preliminary and detailed view in early June 2022. In that he said he did not consider that loans 1 to 3 had been lent irresponsibly and so he did not uphold those loans.

He had reviewed loan 4 and its issues (including Miss K's contention that the loan agreement was not signed by her and that the agent had pushed her mother into signing the loan agreement). Morses had carried out a fraud investigation and our investigator thought that:

- proper checks by Morses would have revealed that Miss K could not afford loan 4
- Miss K had been consistent in her testimony regarding the loan 4 agreement which Miss K says was signed by her mother at the agent's behest. Our investigator's opinion was *'She's adamant that she never signed the loan agreement. This is supported by the fact that there's a clear difference in the signature for loan number four, something that Morses also identified when looking into the complaint.'*
- Miss K needed to repay the principal on loan 4, but the interest and charges should be removed as most if not all remained unpaid.
- and loan 4 should be removed completely from Miss K's personal credit file.

Morses responded to say that the loan 4 account had been closed since 31 March 2021 and the *'entry for this loan on her credit file has been suppressed since this date.'* But Morses did not agree that loan 4 should be removed from her credit file completely.

In July 2022, one of our investigators wrote a formal view and Morses has agreed to it. And so, the agreed parts are that the outcome for loans 1 to 3 are that they are not upheld but have been paid off and closed. And Loan 4 has been closed, no pursuit of the principal from

Miss K will be made and loan 4 has been suppressed from credit reference reporting since March 2021 and now will be removed from all credit reference agencies (CRAs).

Miss K has disagreed with a few elements. She really does not think that any of the loans ought to have been approved for her. Miss K also thinks that the '*wrongdoing of the agent*' should be reflected in the outcome.

The partially resolved complaint was passed to me to decide. I issued a provisional decision on 14 September 2022 and it was a detailed one and so that is duplicated in full here. To differentiate it I have put it in smaller type.

What I provisionally decided – and why – on 14 September 2022

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

Morses had to assess the lending to check if Miss K 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 have considered a number of different things, such as how much was being lent, the size of the repayments, and Miss K's income and expenditure.

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 K. These factors include:

- Miss K 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 K 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 K 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 K.

Morses was required to establish whether Miss K 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 K 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, 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 K's complaint.

In relation to Loan 4, as I have outlined in the 'what happened' section of this decision, I do not think that I need to consider it as it appears to have been resolved. But the information surrounding it and what happened with loan 4 is significant when considering the whole lending relationship.

Looking at Loan 1, this was the first loan and Miss K was a new customer. It was for £100 which was a modest sum. For loans 2 and 3, there are a number of elements which I consider Miss K has raised and which I have looked into carefully, including the contention that the Morses agent obtained most of the payments for her loans from her own mother.

I sought and received additional evidence about the debit cards used and the dates of all the payments for all the loans and it does appear that more than one card was used. I come back to this later in this provisional decision.

The income and expenditure sheet

Morses has sent to me an excel spreadsheet which documents the information it gathered from Miss K and/or discovered from its own research to create an 'income and expenditure' (I&E) assessment.

The first item to notice is that there was recorded on that I&E a very low disposable income for loan 1. Miss K was on a low income and had declared only £30 a week for food which I would consider was a very low budget and likely not realistic. And I notice that the 'groceries' figure reduces for the later loans to an almost impossible amount of £20 a week.

Parts of that spreadsheet are duplicated here:

INCOME	EXPENDITURE	DISPOSABLE INCOME	NET DISPOSABLE INCOME	GROCERIES CONT
£217.09	£170.00	£47.09	£0.00	£30.00
£219.40	£153.93	£65.47	£0.00	£30.00
£310.00	£202.31	£107.69	£0.00	£25.00
£325.00	£193.50	£131.50	£131.50	£20.00

So just on these figures I consider loan 1 borderline affordable as I do not think that realistic figures were used for the food entry for example. And I am unclear why the 'net disposable income' column shows '£0.00' for the first three loan entries. As this is a provisional decision it may be that Morses can assist me on that.

The credit search

Bearing this borderline affordable I&E in mind, Morses has said it carried out a credit search before the first loan. That set of results has been sent to me and I have reviewed them carefully.

The credit results record Morses had showed that Miss K had had an insolvency within 16 months of doing the search (just before loan 1 was approved). I do think that with a low income and with a recent insolvency history, more on that insolvency could, and in my view, should have been discovered before making any decisions to lend.

Miss K had been in a Debt Relief Order (DRO) about which we have seen evidence to show it commenced on 2 May 2017. DROs usually last for 12 months and so it seems it was likely discharged in May 2018 - a short time before Miss K started to take these loans. And I say 'likely' to have been discharged because although I have not seen a record to confirm it, I do know that a breach of a DRO, or if the DRO fails, it can tip the debtor into bankruptcy. And I have no information to suggest that is what happened to Miss K around May 2018.

There are no records to show whether Morses had checked the type of insolvency and when it may have ceased and I think it ought to have done.

What also appeared in that credit search was these two records ('1916' means £1,916):

'Total monthly payments on all accounts excluding mortgages - which are currently active 1916'

'Total monthly payments on all accounts excluding mortgages -12 months ago 1916'

So, this information plus the insolvency entered into 16 months before leads me to think a professional lender ought to have carried out a more detailed search about Miss K's ability to afford these loans and whether this figure of £1,916 total monthly payments still stood after the insolvency.

I do not think Morses made further enquires or carried out a proportionate search. I consider that Morses went ahead with lending to Miss K based on information it had but did not factor the £1,916 monthly repayments into its creditworthiness assessment. If it had used these figures then it would have realised that there was little chance of Miss K even being able to afford the first £100 loan.

And if it did *not* use these figures (the £1,916 monthly repayment figure) then I would have expected it not to use that figure because it had found out more about the DRO and that these debts likely had been wiped following the DRO. But there is no indication that this was checked or factored into its creditworthiness assessment before loan 1 or at any time during its lending relationship with Miss K.

And so, I think Morses was wrong there. And if it had found out about the recent DRO I think that would have cast a different complexion on Miss K's application at loan 1 and for the following loans. And what I mean by this is that Miss K was a person recently having emerged from a serious debt situation and one to be treated with care before lending to her again.

The repayment schedule records

In addition to all of this, the repayment schedule is one I have considered very carefully and obtained information from Miss K and from Miss K's mother (through Miss K).

Miss K has explained to us in her complaint form (a copy of which was sent to Morses) as follows:

'After the second loan my weekly payments were significantly higher and I often struggled to pay. I'd often text the rep and let him know but he would still turn up to my mums address and pressure her in to paying my debt even though it had nothing to do with her.'

Miss K has said that she and her mother did not live together and so the agent went to her mother's address to collect on Miss K's loans.

There were two sets of documents sent to us by Morses showing the repayments on the loans. Both show Miss K's customer ID number. One record lists the last four digits of the debit cards used for each payment, the dates and amounts taken. Comparison of these have revealed to me that it does seem that two people were paying for the loans as two different card numbers were recorded but were against one customer ID number – Miss K's. Morses knows this. And one card was used three times and the other card far more extensively – almost exclusively.

One card was used and debited for the payments on 28 September 2018 (£7.50) which would have been the first payment on loan 1. That same card was used again on 8 March 2019 (£15) and on 23 May 2019 (£15) which would have been the fourth payment into Loan 2 and one of the last payments on loan 2.

I have received screenshots of bank account transaction lists for Miss K and Miss K's mother and I have some bank account statements for parts of the lending period. Cross-referring debits to Morses seen on those lists it seems to me that Miss K's contention that her mother paid for most of her loan repayments using her own (her mother's) card appears to be borne out. And in cross-referring these figures and dates and payment records I have accounted for the fact that sometimes a scheduled repayment date on the Morses record is a little earlier than the actual repayments shown in a bank transaction list either for delay in the bank recording process or for some other administrative reason.

Either way, I am relatively satisfied that Miss K's Morses' agent collected money for Miss K's loans for 80% of the time from either a third party with a totally different bank card number or, as Miss K has explained, from Miss K's mother and not from her.

For loans two and three, Morses didn't complete a credit check at the point of application. Instead it relied on credit bureau data from the original application and obtained updated income and expenditure information. It also considered Miss K's repayment history of the first loan (and second loan when assessing affordability for loan number three).

So, Morses' looking at Miss K's repayment record before deciding to lend again would have been a false record and so I think that this dovetails with Miss K's explanations about other aspects of the agents' behaviour relating to loan 4.

Miss K has said '*I was obviously struggling to pay my loan weekly*'. On current evidence, I am inclined to agree.

In the circumstances, and exercising my 'fair and reasonable' discretionary power as an ombudsman I think that loans 1, 2 and 3 ought not to have been approved for Miss K. The first one for reasons which include that I would expect an extra careful creditworthiness assessment to have been done for Miss K as she was a low income earner and had – after what I think were incorrect figures – a low disposable income before loan 1.

And for loans 2 and 3, I repeat my points above about loan 1 and I add that I think the repayment history likely was a false one as it looks to me that Miss K was not paying for her own loans.

Where there is doubt as to the evidence I have reviewed it all and my provisional decision is that I plan to exercise my discretion in favour of Miss K's explanations.

So, I'm planning to uphold the complaint about loans 1, 2 and 3 and Morses should put things right.

I include in this redress section below, loan 4 even though Morses has explained that it has already closed the account and that it will remove loan 4 from Miss K's credit file. It made sense to do one composite redress set of paragraphs for ease of reference.

This is the end of the duplicated provisional decision and the redress section is not duplicated here as it will be at the end of this 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.

How did the parties respond to my provisional decision?

We have received no response from Morses. We reminded Morses about the reply date being 28 September 2022 on 20 September 2022 and so I am satisfied that it has all the information it needed and the time to respond.

Miss K has replied. Overall, she has nothing further to send to us or to add about the provisional decision and has said she is happy with the outcome.

Miss K has used the opportunity to make some additional points and I have summarised them here. They are deliberately brief. Miss K makes these points:

- She always felt pushed into taking new loans
- She knows that the agent needed the commission as this was often mentioned
- She says that the practises were wrong and she feels it was 'preying on the vulnerable'.

I make no comment on those additional points raised. Miss K has asked that these additional comments from her be sent to Morses to be addressed by its team. So our investigator will do that.

In relation to the main body of the decision, considering Morses lack of response and Miss K's acceptance then I see no reason to depart from the provisional findings I made in my provisional decision. Those are repeated here and form part of this final decision.

I uphold Miss K's complaint in relation to loans 1 to 4.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it not lent to Miss K at all as I'm satisfied it ought not to have.

Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Miss K may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 K in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Miss K would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses' liability in this case for what I'm satisfied it has done wrong and should put right.

Morses shouldn't have given Miss K any of the loans.

A) Morses should add together the total of the repayments received towards Miss K's accounts towards interest, fees and charges on these loans, including payments made to a third party where applicable, and including the two payments made on loan 4. Two small payments appear to have been made (£15) towards loan 4 in January 2020 and February 2020.

B) Morses should calculate 8% simple interest* on the individual payments made which were considered as part of "A", calculated from the date they were originally made to the date the complaint is settled.

C) Morses should pay Miss K the total of "A" plus "B". Miss K must be fair to the third party who made most of the payments on the loans (likely her mother) and from whom many of these payments were taken. I must leave that to be sorted out in equitable fashion as between Miss K and her mother.

D) For loans 1 to 3 I think that Morses should amend Miss K's credit file by removing any adverse payment information. And as for loan 4 Morses should remove loan 4 entirely from Miss K's credit file as it has agreed to do.

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

My final decision

My final decision is that I uphold Miss K's complaint and I am direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 26 October 2022.

Rachael Williams
Ombudsman