

The complaint

Mrs W, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans.

What happened

Mrs W was advanced five home collected loans between December 2014 and November 2018. 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	£500.00	06/12/2014	04/09/2015	34	£25.00
2	£800.00	11/12/2015	24/11/2016	52	£28.00
3	£800.00	09/12/2016	05/12/2017	52	£28.00
4	£800.00	05/12/2017	01/11/2018	52	£28.00
5	£800.00	01/11/2018	27/12/2019	52	£28.00

Following Mrs W's complaint Morses wrote to her representative to explain that it wasn't going to uphold it. Mrs W's representative didn't accept the outcome and referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. She thought Morses had made a reasonable decision to provide loans 1 - 3. But she thought by the time loan 4 was granted the lending was now harmful for Mrs W. The adjudicator upheld the complaint about loans 4 and 5.

Mrs W's representative acknowledged the adjudicator's assessment, but no further comments were provided.

Morses didn't agree with the adjudicator's assessment, and I've summarised its comments below;

- Loans of the same value were repaid without undue hardship.
- Mrs W had a good repayment history.
- Mrs W had enough disposable income to afford her repayments.
- She only ever had one loan running at the same time.

The case was then passed to an ombudsman to make a decision about the complaint.

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 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. 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 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 Morses 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.

Morses 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.

Neither Mrs W nor Morses appears to disagree with the adjudicator's assessment that loans 1 – 3 weren't irresponsibly provided. So, I no longer think these loans are in dispute. But for the avoidance of doubt, I also don't think Morses made an unreasonable decision to provide these loans. So, I say no more about them.

Instead this decision will focus on whether Morses made reasonable decisions to lend in relation to loans 4 and 5.

For these loans, Morses has shown that it asked Mrs W for details of her income and expenditure. She declared she had an income of no more than £261 per week with outgoings of between £100 - £126 per week. This left Mrs W with a weekly disposable income of £161 for loan 4 and £126 in which to make her weekly repayment of £28.

Based solely on her income and expenditure information Morses could've been confident Mrs W would be able to comfortably afford the repayments she was committed to making.

But it's arguable whether these checks went far enough considering how long Mrs W had been indebted to Moses, her future weekly commitment and what Moses already knew about Mrs W's. By now, it would've been reasonable for Moses to have at the very least, started to have verified the information it was being given.

However, I don't think I need to try and establish, in this case whether a proportionate check would've led Moses to conclude these two loans were unaffordable for Mrs W as like the adjudicator I also think these loans were unsustainable for her and I've outlined my reasons why below.

So in addition to looking at the checks that Moses did I've also looked at the overall pattern of Moses' lending history with Mrs W, with a view to seeing if there was a point at which Moses should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Moses should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mrs W's case, I think that this point was reached by loan 4. I say this because:

- At this point Moses ought to have realised Mrs W was not managing to repay her loans sustainably. This was now Mrs W's fourth loan within two years. So, Moses ought to have realised it was more likely than not Mrs W was having to borrow further to cover a long-term short fall in her living costs.
- Mrs W was generally provided with a new loan on the same day a previous loan was repaid. To me, this is a sign that Mrs W was using these loans to fill a long-term gap in her income rather than as a short-term need.
- Over the course of the lending relationship, Mrs W's weekly commitments stayed roughly the same – reaching weekly commitments of £28 per week. But Mrs W was committed each time to repaying over a course of year, which I think shows that she was, more likely than not, having longer term problems with a consistent need for credit.
- Mrs W wasn't making any real inroads to the amount she owed Moses. Loan 5 was taken out nearly four years after Mrs W's first loan. Her final loan was for more than 50% more than her first loan and she was committing to spending up to another year indebted to Moses. Mrs W had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Mrs W lost out when Moses provided loans 4 and 5 because:

- these loans had the effect of unfairly prolonging Mrs W's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period of time.
- the number of loans and the length of time over which Mrs W borrowed was likely to have had negative implications on Mrs W's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, I'm upholding Mrs W's complaint about loans 4 and 5.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it not provided loans 4 and 5 to Mrs W, 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 Mrs W may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, she may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, she 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 she had done that, the information that would have been available to such a lender and how she 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 Mrs W 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 Mrs W 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 shouldn't have provided loans 4 and 5 to Mrs W.

- 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 have 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 pay Mrs W the total of "A" and "B"
- D. The overall pattern of Mrs W's borrowing for loans 4 and 5 any information recorded about it is adverse, so Morses should remove these loans entirely from Mrs W's credit file.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs W 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 am upholding Mrs W's complaint in part.

Morses Club PLC should put things right for Mrs W as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 20 October 2022.

Robert Walker
Ombudsman