

The complaint

Mrs K, through her representative, says that Morses Club PLC lent to her when she could not afford to repay the loans.

What happened

Using information from Mrs K and from Morses, the loan table I have set out below has five loans on it. But Morses provided us with information for four loans.

We have asked Mrs K to provide details of that first loan from 2015 (loan A). Nothing was received from her about that loan. I have included it in the loan table for completeness. However, the CMC who presented us with the list of five loans has shown in its own loan table that Loan A has a different account number to the four approved in 2019 and 2020. We do not know the reason for that. So, we are not sure that Loan A relates to Mrs K.

Morses has said – *‘if there is any documentation missing from loans which were issued within the last 6 years, you can presume we are unable to locate this information.’*

Loan	Account Opened	Opening Balance	End Date	Current Status
A	23/11/2015	£300.00	27/02/2016	Settled/closed
Almost a three year gap in lending				
1	29/11/2019	£100 capital plus £54 finance charge total £154.00	05/10/2020	Settled/closed
2	14/02/2020	£200 capital plus £140 finance charge total: £340.00	21/12/2020	Settled/closed
3	11/11/2020	£200 capital plus finance charge of £140 Total £340.00	With a DCA	Account has defaulted
4	21/12/2020	£300 capital plus finance charge £256.50 total £556.50	With a DCA	Account has defaulted

‘DCA’ refers to Debt Collection Agency.

After Mrs K’s representative had referred the complaint to the Financial Ombudsman Service, then it was reviewed and an indication was given to Morses as to our view. Our adjudicator told Morses that he thought that loans 3 and 4 ought not to have been approved for Mrs K.

Morses responded to say that it agreed with that outcome and was willing to resolve the complaint and outlined the redress. There was one spelling mistake in that offer email which I have corrected. A ‘3’ ought to have been a ‘£’.

‘The customer currently holds an outstanding balance of £691.45, they haven’t made any repayments towards the interest balances (£396.50) and therefore these will be

removed leaving outstanding capital owing of £205.05.'

Our adjudicator wrote to Mrs K's representative and explained that this was fair and that Moses was agreeing with his review of the complaint.

Mrs K replied to say that she'd be *'happy to go with what ever offer is best'*. But then went on to add that at the time she did not think the checks were good enough by Moses. She was drowning in debt and she feels that she was taken advantage of by Moses when she was at her most vulnerable. She says she'd like all of her money back.

The unresolved complaint was passed to me to decide.

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

Moses had to assess the lending to check if Mrs 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. Moses' checks could have considered a number of different things, such as how much was being lent, the size of the repayments, and Mrs 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 Moses should have done more to establish that any lending was sustainable for Mrs K. These factors include:

- Mrs 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);
- Mrs 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);
- Mrs 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 Mrs K. Our adjudicator considered this to be the case for Mrs K.

Moses was required to establish whether Mrs 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 Mrs 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 Mrs K's complaint.

Loan A

As has already been mentioned in the 'what happened' part of the decision, we are not even clear that Loan A was Mrs K's loan as it was presented to us by her representative and had a different account number to loans 1 to 4. But proceeding on the basis it was one that Mrs K took then we have no information from either Morses or Mrs K over and above what appears on the loan table I placed at the very beginning of the decision. Morses' FRL does not refer to it. And it has no information on it.

So, on Loan A I cannot really make any findings about it.

Loans 3 and 4

Morses has agreed with our adjudicator's view that it ought not to have lent to Mrs K for loans 3 and 4. So I do not need to revisit the complaint for loans 3 and 4 as Morses has agreed to that part being upheld.

The redress figures will have to be recalculated to bring them up-to-date, but essentially Morses has followed the Financial Ombudsman's usual approach. Mrs K is represented and I am sure that her representative can explain it to her. Essentially, the unpaid interest and charges for loans 3 and 4 will be removed but it's right that Mrs K repays to Morses any of the capital sum it lent to her. So, the figure to pay will be around £205.

I've gathered from Mrs K's recent response that she'd like all of her money back which suggests to me that she's expecting the capital repayments to be returned to her too.

But I have no reason to make a decision which is contrary to the Financial Ombudsman's usual approach. It's rare that we direct that the capital paid be refunded or that capital sums still to be repaid are written off. I appreciate that Mrs K has said she and her family have experienced difficult times recently but I've no grounds to direct that all of the money be repaid to her. Mrs K had the benefit of the capital sums from Loans 3 and 4 and so it's right that she repays those sums to Morses.

Loans 1 and 2

Mrs K seems discontent with the fact that our adjudicator did not uphold loans 1 and 2 as well. So, I have reviewed them.

Morses carried out proportionate checks. Mrs K was a new customer when she applied for loan 1. If Loan A was a loan Mrs K had taken in 2015, it was paid off almost three years before Mrs K applied for loan 1. And so I'd not be inclined to count it as a loan which was all part of the same lending chain. So, it would not make a difference to my decision in relation to loan 1 if Loan A was established to have been hers.

Information Morses has sent to us relates to the income and expenditure assessment it carried out using the information Mrs K had given it. This is set out here in this small table for loans 1 and 2.

INCOME	EXPENDITURE	DISPOSABLE INCOME
£295.00	£188.50	£106.50
£310.70	£211.00	£99.70

The repayments for Loan 1 was to be £7 a week and for loan 2 £10 a week. I note that loan 2 overlapped with loan 1 for several months and so Mrs K would have been due to repay £17 a week for some months.

Still I consider that the information Morses had, showed that Mrs K could afford the loans.

I do not uphold Mrs K's complaint about loans 1 and 2.

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 Mrs K at loan 3, 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 K may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her 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 Mrs 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 Mrs 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 Mrs K loans 3 and 4.

I understand that these loans were passed to a DCA and so Morses needs to bring those loans back 'in-house' and do as I have outlined below. I appreciate that Morses has already agreed to do this but for Mrs K's benefit and for clarity I have set out here our usual approach for the redress for upholds on unpaid loans. .

- A) Morses should remove any unpaid interest and charges for loans 3 and 4. It should add together the total of the repayments made by Mrs K towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.
- B) Morses should calculate 8% simple interest* on the individual payments made by Mrs K which were considered as part of "A", calculated from the date Mrs K originally made the payments, to the date the complaint is settled.
- C) Morses is entitled to set off any monies arising from the redress against any monies Mrs K may owe it, but to be clear this should only be in respect of the principal sum borrowed for loans 3 and 4. Any unpaid charges and interest would need to be removed first and any payments made to either loan treated as if Mrs K had paid down the principal.

D) Morses should remove from Mrs K's credit file any adverse payment information about loans 3 and 4.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs 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 Mrs K's complaint in part and I direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 24 October 2022.

Rachael Williams
Ombudsman