

The complaint

Mrs B complains that Morses Club PLC (Morses) gave her loans she couldn't afford to repay.

Mrs B also says at the time she applied for the loans she was on maternity leave and had significant adverse information on her credit file including County Court Judgements (CCJ) and she was behind with her repayments on other loans.

What happened

For this complaint, Mrs B was advanced four home collected loans between March 2020 and July 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	£400.00	05/03/2020	14/12/2020	34	£20.00
2	£550.00	06/01/2021	14/07/2021	34	£27.50
3	£200.00	24/03/2021	12/07/2021	34	£10.00
4	£700.00	14/07/2021	outstanding	35	£35.00

Mrs B had some problems repaying loan four and Morses told us that an outstanding balance remains due.

Before these loans listed above, Mrs B had around 21 previous loans from a loan company that Morses purchased as well as Morses. These loans ran from around November 2013 to when the final loan was repaid in April 2018. These loans have already been considered by Morses and final response letters (FRLs) have been issued about them.

In addition, there is around a two-year gap between the repayment of a loan and when loan one in the table above was granted. So, it was reasonable for Morses to have treated Mrs B's application for loan one afresh. And given this gap and the previous FRLs I say no more about these earlier loans as they have no impact on my findings for the loans listed above.

For the avoidance of doubt, this decision will only be dealing with the loans in the above table.

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 two and three were running at the same time Mrs B's weekly commitment to Morses was £37.50.

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

An adjudicator reviewed the complaint and he didn't uphold the complaint about these loans. He explained that Morses' checks didn't need to go any further – such as asking for evidence that may have shown the loans were unsustainable.

While, it took slightly longer than anticipated to repay loan one (seven additional weeks) there was then a gap before loan two was taken and he didn't think, taking account of the lending history that there was enough to uphold the complaint.

Finally, the adjudicator couldn't conclude that the agent had amended the data within the application forms to allow Mrs B to be approved for her loans due to a lack of evidence.

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

Mrs B didn't agree with the proposed outcome, she sent several emails with further comments and I've summarised these below.

- The first three loans were repaid late.
- Mrs B had a number of outstanding loans at the time.
- Mrs B says the information contained about the repayment term and amount are wrong – but no further information as to why was provided.
- Her account history clearly shows she was having problems repaying these loans.
- Mrs B says the agent didn't ask for information about her income and expenditure.
- Apart from the first visit to her home, Mrs B had no 'input' from the agent.

The adjudicator went back to Mrs B to explain why, in his view, these comments hadn't altered his assessment of the complaint.

Mrs B didn't agree and asked for her case to be considered by an ombudsman.

I then issued my provisional decision explaining the reasons why I was intending to uphold Mrs B's complaint. A copy of my provisional findings follows this in italics and smaller font and forms part of this final decision.

What I said in my provisional decision

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 B 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 B'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 B. These factors include:

- *Mrs B 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 B 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 B 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 B.

Morses was required to establish whether Mrs B 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 B 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 B's complaint.

Like the adjudicator, I've not seen quite enough to be able to conclude that the agent in some way manipulated the data to make these loans appear affordable. I appreciate Mrs B feels strongly about this, but I don't have the evidence to be able to conclude this. However, I've still upheld her complaint for the reasons I've outlined below.

For all of these loans, Morses asked Mrs B about what her declared weekly income and what her declared weekly expenditure was.

For loan one Morses has recorded that her weekly income was £482 with outgoings of £363.50. For loans two – four her income has been recorded as between £361 and £364 per week with outgoings of between £173 and £299.

So Morses, would've reasonably concluded, based on this information that Mrs B could afford the largest combined weekly repayment of £37.50, based solely, on the income and expenditure it gathered.

Given this was still quite early on the lending relationship which means, in my view, Morses could rely on the information Mrs B had provided.

However, for loan one Morses carried out a credit check and it has supplied the results of the check. It is important to note here, that Morses wasn't required to carry out a credit search, let alone one to a required standard. The information Morses may have received from the credit reference agency could differ from the information Mrs B may see from her credit report that she can obtain. This is because, Morses may only ask to see certain pieces of information and/or other creditors (especially recent ones) may not yet have updated its records with the agency.

In saying that, what Morses can't do, is do a credit search and then not react (if appropriate) to the information it has been given. Having looked at the credit report it received, there is some concerning information which I think ought to have prompted Morses to do more. I've summarised this information below;

- *Morses was aware of three CCJs which could be a cause for concern. However, the most recent of these three was recorded over three years before the first loan was approved. So, I don't think, this on its own would've led Morses to conclude that Mrs B would have problems repaying her loans at the point when they were approved. But it was information that Morses needed to consider.*
- *The same goes for the one default Morses was aware of – this had been recorded*

over three years before so in my view not something for it to be overly concerned about.

- Mrs B had 36 active credit accounts – which is a significant number, of which five had a zero balance. This meant, Mrs B was using 31 credit accounts – which could be loans, store or credit cards to name a few. This does seem a particularly high number of active credit accounts that could've been being used.
- Mrs B had opened 13 credit accounts in the last three months. This is on average four credit facilities a month. Again, this is a significant number is likely that some or all of these new credit facilities would likely be high cost short term creditors.
- Moses was also aware, that in the previous three months Mrs B had borrowed around £5,000.

In my view, Mrs B's credit file information suggested that she was, for whatever reason having to borrow fairly large amounts of credit on a regular basis and had been doing so for at least the last previous three months. As I've said, given the number of active and newly opened accounts it is likely these related to high cost credit – or payday loans and so could indicate she was having wider financial problems.

So, knowing this information, I do think Moses ought to have carried out further checks into Mrs B's financial position for all of these loans. Especially because Mrs B's indebtedness to Moses increased (as well as the weekly repayment) and she had some problems repaying her loans. So, I don't think Moses' checks were proportionate for any of the loans.

Instead, I think that Moses needed to have a complete and thorough understanding of Mrs B's financial position and it ought to have verified the information she had provided. Moses could've done this a number of ways, it could've asked for example to see a copy of her wage slip and or bills. Or it could've asked to see a copy of her bank statements from around the time these loans were approved.

Unfortunately, Mrs B hasn't provided the Financial Ombudsman with copies of her bank statements, but I have seen that she has brought a number of other complaints to the Financial Ombudsman about similar issues with other lenders. I've therefore considered the information contained within the other complaints to see what they show me about Mrs B's overall financial position.

Looking at the information that I do have, I can see that Mrs B was significantly in arrears with two home credit loans with a well-known home credit provider. Mrs B clearly had experienced significant repayment problems and still owed this company over £2,500.

In addition to this I can see, from the other complaints that Mrs B had a number of high cost (both short term and longer-term) loans as well as credit cards and catalogue shopping accounts.

In the months before loan one was approved, I can see that Mrs B was making monthly repayments of at least £350 to just one credit card and two catalogue shopping accounts. It seems that there was potentially at least one other shopping account that was active at this time – but I don't have the information about what the monthly repayments may have been.

In addition, in the month before this facility was approved Mrs B was advanced nearly £1,000 in capital from two high cost lenders. One of which led to repayments of at least £120 per month – the other I don't have information on what the payments may have been. But this is clearly a significant amount to have been advanced given her weekly income of £482.

So, I'm satisfied, based on Moses credit check and the limited information I have been able to obtain from Mrs B other complaints that she was likely regularly opening high cost credit – which is supported by her credit check results.

Mrs B also was having difficulties with existing home credit debt and having a not insignificant amount outstanding due to other catalogue shopping and credit card companies. I don't think, that had Moses carried out a proportionate check it would've likely felt that Mrs B could

afford to take on loan one because she was already having money management problems and was, in my view already over-indebted to other lenders.

Based on what I can see her situation didn't appear to change throughout the life of her lending relationship with Morses. Indeed, Mrs B does appear to also have repayment problems with Morses after all it took her seven weeks longer than scheduled to repay loan one.

Moving forward, she continued to have significant repayment problems with the other home credit provider, continued to use her catalogues shopping accounts and just before loan four was granted she took out a five-month instalment loan with repayments due of over £400 per month. So, like loan one, I don't think Morses ought to have provided loans two to four either.

I'm therefore intending to fully uphold Mrs B's complaint and I've outlined below what Morses will need to do in order to put things right.

Response to the Provisional Decision

Both Morses and Mrs B were given the opportunity to supply any further information and evidence as soon as possible, but no later than 16 September 2022.

Mrs B responded and accepted the findings in the provisional decision.

Morses didn't agree with the proposed findings and I've summarised its response below;

- Morses expected there to be some adverse data recorded on Mrs B's credit file.
- While Mrs B had a high value of outstanding debt this was considered as part of the affordability assessment.
- The disposable income Morses calculated shouldn't be needed for existing commitments as it had already taken the repayments into account.
- Morses hasn't seen anything to suggest Mrs B was using other loans to meet her repayments.
- Mrs B's income was verified through the credit reference agencies.
- Morses also used figures from the Office of National Statistics (ONS) and pre-populated minimum figures for expenditure which included rent, council tax, utilities, insurance, transport, groceries, media and childcare.
- Mrs B had sufficient disposable income to afford the loan repayments.
- Only a small portion of Mrs B's income was needed in order to meet her commitment to Morses.
- Morses spoke to Mrs B about why loan 1 exceeded the repayment term and she explained that this was due to a combination of reasons including COVID-19.
- There was a break in lending of three weeks between loans 1 and 2.
- Loans 2 and 3 were managed remotely by Mrs B.
- Morses only became aware of Mrs B's change in circumstances in October 2021.

As both parties have responded to the provisional decision, I see no reason to wait for the deadline set in the provisional decision to expiry in order to issue the 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.

I've carefully considered what Moses says in response to the provisional decision but these points haven't changed my mind about the outcome of Mrs B's complaint and I've explained why below.

The gap of three weeks that Moses mentions is too small to either break the chain or to have any bearing on the types of checks that it ought to have carried out. I also, don't think the portion of income that Mrs B had to use in order to repay Moses is a factor either and isn't the reason why I upheld the complaint. So, I say no more about this.

I partly agree with Moses about the credit file, while the CCJs and defaults were historic it was information that was available to Moses to at the time. However, I didn't and still don't think that the mere presences of a CCJ, in this case, is the sole reason to uphold the complaint. But in saying that, it is clear, from the credit checks that Mrs B was making regularly use of other credit facilities.

She had 31 active accounts (according to the information Moses received) had borrowed just over £5,000 within the last three months leading up to her first loan. On average she had opened at least four new credit facilities, each month within the last three. Knowing this, ought to have made Moses realise that Mrs B wasn't coping and appears to have been constantly in need for credit. Indeed, given how frequent new accounts were being opened, I think it's highly likely these new credit accounts were high cost short term credit loans.

Arguably, this information alone is enough to uphold the complaint. However, I suggested that it may have been fairer to have carried out further checks to get to the bottom of why Mrs B was borrowing fairly large amounts and opening lots of new credit facilities.

I appreciate, bank statements weren't required to be checked, but I think that was at least one method Moses could've used to establish what was going on in Mrs B's finances. As it is, I didn't view bank statements because I didn't have them. But I was still able to uphold the complaint based on other information that I had to hand – and which Moses would've likely discovered had it made better checks.

I was able to review other complaints which Mrs B had raised with the Financial Ombudsman Service and those other complaints confirmed what I suspected. Mrs B was already spending a not insignificant sum making repayments to other lenders and was already (at the time of loan 1) in arrears with another home credit provider. She already owed this provider over £2,500. Knowing that Mrs B was struggling to repay outstanding home credit loans ought to have led Moses to conclude that all her loan repayments weren't sustainable.

While, Moses has now provided some screen shots of contact notes made between itself and Mrs B I don't think these change the outcome that I'm reaching. They provide context as to why for example loan 1 was repaid late, but I don't think this loan ought to have been granted given what the credit showed and what further checks would've likely highlighted.

So, although, as Moses says Mrs B appeared to have sufficient disposable income to afford her repayments, I don't think these loans ought to have been granted given the information Moses was aware and what further checks may have highlighted about Mrs B – that she was already over indebted and already having payment problems serving existing debts.

I've therefore reached the same outcome that I did in the provisional decision for the same reasons and I don't think Moses ought to have granted any of the loans to Mrs B. I've outlined below what Moses needs to do in order to put things right for her.

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 Mrs B, 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 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 Mrs 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 Mrs B 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 provided any of the loans.

If Morses has sold the outstanding debt, it should buy it back if it is able to do so and then take the following steps. If Morses is not able to buy the debt back then it should liaise with the new debt owner to achieve the results outlined below.

- A. Morses should add together the total of the repayments made by Mrs B 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 B which were considered as part of "A", calculated from the date Mrs B originally made the payments, to the date the complaint is settled.
- C. Morses should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mrs B as though they had been repayments of the principal on all outstanding loans. If this results in Mrs B having made overpayments then Morses 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 Mrs B. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mrs B.
- E. Morses should remove any adverse information recorded on Mrs B's credit file in relation to all of these loans.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs 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 and in the provisional decision, I'm upholding Mrs B's complaint.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 13 October 2022.

Robert Walker
Ombudsman