

The complaint

Ms H (through a representative) complains that Morses Club PLC (Morses) gave her loans which she struggled to repay.

Ms H also says loans were offered when her previous loans hadn't yet been fully repaid which meant she had at least two loans running at the same time.

What happened

Ms H was advanced eight home collected loans (in two lending chains) between July 2013 and February 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)	monthly repayment
1	£300.00	04/07/2013	25/04/2014	32	£15.00
2	£400.00	12/11/2013	10/06/2016	32	£20.00
gap in lending					
3	£300.00	23/11/2017	20/09/2018	33	£15.00
4	£100.00	20/09/2018	18/04/2019	33	£5.00
5	£300.00	13/12/2018	23/08/2019	33	£15.00
6	£240.00	03/09/2019	02/06/2020	33	£12.00
7	£300.00	02/06/2020	09/02/2021	34	£15.00
8	£300.00	09/02/2021	10/09/2021	34	£15.00

The 'weekly repayment' column in the table above is the cost per week per loan. So, where loans overlapped Ms H's weekly commitment was more. For example, when loans 4 and 5 were granted her weekly commitment to Morses was £20 per week.

Following Ms H's complaint Morses wrote to her representative to explain that it wasn't going to uphold her complaint because it had carried out proportionate checks before these loans were advanced.

Ms H's representative didn't accept the outcome and instead referred the complaint to the Financial Ombudsman.

The case was then considered by an adjudicator and it was partly upheld. She thought it was fair for Morses to have granted loans 1 – 5. However, she concluded loans 6 - 8 shouldn't have been advanced because it was clear that the lending was now harmful to Ms H given her indebtedness wasn't consistently reducing and she'd shown signs of having repayment problems.

Ms H's representative said it agreed with the adjudicator's assessment.

Morses disagreed with the adjudicator's decision to uphold loans 6 - 8. In summary it said:

- Ms H had eight loans over two periods of lending.

- There is a small break between loans five and six.
- For loan six, Ms H borrowing decreased and while the lending went back up to £300 Morses doesn't consider this to be unreasonable given the small weekly commitment.
- Morses completed 'relevant checks' including verifying her income with the credit reference agencies and the affordability checks showed these loans to be affordable.
- Ms H didn't tell Morses she was having financial difficulties.

As no agreement has been reached, the case was passed to me to resolve.

I issued my provisional decision explaining the reasons why I was intending to still uphold Ms H's complaint, but only about loan eight. A copy of the 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.

Ms H (or her representative) haven't disagreed with the adjudicator's findings in relation to loans 1 – 5. So, it seems this lending isn't in dispute and so I no longer think that I need to make a finding about them. But I have kept these loans in mind when thinking about the overall lending relationship between Morses and Ms H.

Instead, this decision will focus on whether it was reasonable to advance loans 6 - 8 to Ms H.

Morses had to assess the lending to check if Ms H 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's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Ms H'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 Ms H. These factors include:

- *Ms H 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);*
- *Ms H 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);*
- *Ms H 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 Ms H.

Morses was required to establish whether Ms H 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 Ms H 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 Ms H's complaint.

Loans 6 and 7

The adjudicator upheld these loans because she concluded that by now these loans were harmful for Ms H because it was now unsustainable to continue to lend to her given that her lending hadn't decreased, she was committed to spending further time in debt and she appeared to have some repayment problems.

I can understand why the adjudicator has concluded this, but I don't think, Moses would've concluded that these loans were now harmful to Ms H as this time.

I accept, that Ms H had been indebted with Moses for nearly two years, which in some situations could be a sign that she was now reliant on these loans or at the very least having longer term money management problems. Neither can I ignore that the lending was mostly consecutive, which could show that Ms H had a continued need for credit – without a break. But I also have to keep in mind that these loans were for fairly small sums to be repaid over a longer period of time than say a payday loan – meaning weekly repayments of £15 per week.

While, Ms H had taken slightly longer to repay to repay loan 5 (35 weeks compared to a repayment term of 33 weeks), I don't think I can fairly uphold this loan solely because in effect Ms H had been indebted to Moses for around two years.

So, taking everything together, I don't think Morse would've or ought to have realised that these loans were unsustainable for Ms H, but that doesn't mean Moses did all it should've done before advancing these loans.

Ms H had declared her weekly income and outgoings which left her for these loans with between £244 and £256 of disposable income each week. Which was more than sufficient in order to meet her contractual repayment of no more than £15. This may have then led Moses to believe that Ms H had sufficient disposable income and could afford the loan repayments.

But that doesn't mean that Moses carried out a proportionate check. I do think the time in debt and the fact that Ms H's lending had increased again by loan seven ought to have prompted it to consider whether it knew enough about Ms H's financial position.

Overall, I don't think it was reasonable for Moses to have relied on what Ms H declared to it about her income and expenditure. Even though this information suggested Ms H could afford the loan repayments.

Instead, I think it needed to gain a full understanding of Ms H's actual financial position to ensure these two loans were affordable. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at bank statements.

This might've helped verify information provided and revealed whether there was any other information that Moses might've needed to consider about Ms H's general financial position.

However, that isn't the end of the matter. For me to be able to uphold these loans, I have to be satisfied that had Moses carried out a proportionate check it would've likely discovered that Ms H couldn't afford them.

Ms H's representative hasn't been able to provide copies of her bank statements (which may have showed us and Moses what other commitments Ms H had and / or her living costs) or any other information that shows what Ms H's actual financial position at the time these loans were advanced.

So, without any further information from Ms H about her other living costs which, it's difficult for me to conclude what Moses would've likely seen had it made better checks.

Looking at everything together though, I've not seen quite enough evidence to suggest Moses shouldn't have lent these loans. Even considering what Ms H declared to Moses for her income and expenditure. I'm therefore minded to think it was reasonable for Moses to have provided these loans.

As this is the case, I'm intending to not uphold Ms H's complaint about these loans.

Loan 8

However, I do think Moses shouldn't have approved this loan. I've already outlined above, why now, I don't think Moses checks went far enough. So in addition to looking at the checks that Moses did I've also looked at the overall pattern of Moses' lending history with Ms H, 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 Ms H's case, I think that this point was reached by loan 8. I say this because:

- At this point Moses ought to have realised Ms H was not managing to repay her loans sustainably. Ms H had taken out six loans in this chain of lending within 39 months So Moses ought to have realised it was more likely than not Ms H was having to borrow further to cover a long term short fall in her living costs.*
- Ms H had shown that she'd had problems repaying her loans late, each loan in the second chain of lending had been repaid slightly later than Moses had anticipated. I think, the fact this had happened on each loan was an indication she was struggling to meet her weekly commitment.*
- From the first loan in this chain onwards, Ms H generally provided with a new loan on the same day a previous loan had been repaid.*
- Ms H wasn't making any real inroads to the amount she owed Moses. Loan eight was taken out over three years after Ms H's first loan in the second chain. And her final loan was for the same amount as her first. Ms H had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.*

I think that Ms H lost out because Moses provided loan eight because:

- this loan had the effect of unfairly prolonging Ms H'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 Ms H borrowed was likely to have had negative implications on Ms H's ability to access mainstream credit and so kept her in the market for these high-cost loans.*

So, I'm upholding the complaint about loan eight only, and I've outlined below what Moses' needs to do in order to put things right for Ms H.

Response to the Provisional Decision

Both Ms H and Moses were asked to provide any further comments and evidence they wanted considering as soon as possible, but in any event, no later than 15 September 2022.

Morses didn't respond to or acknowledge receipt of the provisional decision.

Ms H's representative said the following (verbatim);

*"We have looked at the provisional outcome from the Ombudsman and we would like to confirm with you whilst you are upholding Loans 8
Does that mean also Loans 1-5 is upheld still by Morses that they offered first time."*

An adjudicator clarified the proposed uphold with Ms H's representative who said;

"... the upholding of the 1 loan is fine please carry on with case."

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'm pleased to hear that Ms H's representative accepted the findings about loan eight only.

However, Ms H's representative initially said loans 1 – 5 are upheld as well as Morses previously offered. For completeness, I've reviewed the information on file, and I can't see that loans 1 – 5 have ever been offered on.

Looking at the final response letter from Morses, it said the complaint wouldn't be upheld and didn't make an offer to settle the complaint.

The adjudicator, in her assessment, explained why she wasn't upholding the complaint about loans 1 – 5. But instead would uphold loans 6 – 8. But I disagreed with the adjudicator's outcome which is why a provisional decision was issued.

Given the information Morses collected from Ms H about loans 1 – 5, the gap in lending, her repayment history and the value of the loans, I agree with the adjudicator that Morses made a reasonable decision to provide these loans. This means I am not upholding Ms H's complaint about these loans.

Overall, I do think, that by the time of loans 6 and 7 that Morses needed to do further checks before it granted these loans. But as, I couldn't conclude what Morses would've likely discovered by carrying out further checks I wasn't able to uphold Ms H's complaint about loan 6 and 7 either.

Finally, I still think, for the reasons I've outlined in the provisional decision that loan 8 should have been granted as the lending was now unsustainable for Ms H.

I've gone on below to outline what Morses needs to do in order to put things right for Ms H.

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 provided loan eight, 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 Ms H 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 Ms H 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 Ms H 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 loan eight and I am planning to direct it to do the following;

- A. Morses should add together the total of the repayments made by Ms H towards interest, fees and charges on this loan, including payments made to a third party where applicable, but not including anything you have already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Ms H which were considered as part of "A", calculated from the date Ms H originally made the payments, to the date the complaint is settled.
- C. Morses should pay Ms H the total of "A" plus "B".
- D. The overall pattern of Ms H's borrowing for loan eight means any information recorded about it is adverse, so Morses should remove the loan entirely from Ms H's credit file.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Ms H a certificate showing how much tax Morses 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 Ms H's complaint in part.

Morses Club PLC should put things right for Ms H as outlined above.

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

Robert Walker
Ombudsman