

The complaint

Ms N complains (through a representative) that Morses Club PLC (Morses) didn't carry out proper affordability checks before it advanced her loans. Had it carried out proper checks it would've discovered Ms N couldn't afford her loans.

What happened

Ms N took five loans between June 2017 and December 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	£200.00	13/06/2017	03/10/2017	20	£15.00
2	£300.00	03/10/2017	01/05/2018	33	£15.00
3	£300.00	12/12/2017	27/07/2018	33	£15.00
4	£300.00	01/05/2018	14/12/2018	33	£15.00
5	£500.00	14/12/2018	28/02/2020	33	£25.00

The 'weekly repayment' column above is the cost per week per loan. So, where loans overlapped the cost will be greater. For example, when loans 2 and 3 were running at the same time Ms N's weekly commitment was £30.

Morses considered Ms N's complaint and issued its final response letter. Morses concluded it had made a reasonable decision to provide these loans and so it didn't uphold her complaint.

Ms N's representatives didn't agree with the outcome reached by Morses and her representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who thought a reasonable decision to lend had been made for loans 1 - 3. But in the adjudicator's view, loan 4 shouldn't have been granted as Ms N was committed to using a significant portion of her income to meet the repayment. The adjudicator also thought by loan 5, the loans were now harmful for Ms N.

Morses disagreed with the adjudicator's recommendation and I've summarised its response below;

- Ms N's weekly repayment remained the same for loans 3 and 4.
- Although loan 5 was slightly larger, Morses doesn't consider this increase to be unreasonable.
- Ms N had a good repayment history.
- Morses checked Ms N's income for these loans through the credit reference agency.
- Morses wasn't aware of any financial difficulties Ms N may have been having.

Ms N's representative confirmed receipt of the assessment but no further comments were provided.

As no agreement has been reached, the case has been passed to me for a 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.

We've set out our general approach to complaints about this sort of lending - including all the relevant rules, guidance and good industry practice - on our website.

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

- Ms N 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 N 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 N 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 N.

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

Ms N appears to have agreed with the outcome the adjudicator reached and Morses hasn't disagreed with the adjudicator's assessment about loans 1 - 3. Therefore, these loans are no longer in dispute, so I no longer think I have to make a finding about them. But I have kept in mind these loans when thinking about the overall lending relationship.

Instead, this decision will focus on whether Moses was right (or wrong) to have advanced loans 4 and 5.

Loan 4

For this loan, Ms N declared she had a weekly income of around £215 with outgoings of around £130. The outgoing figure included the repayment Ms N was already making towards loan 3. Which left around £85 per week to make her weekly repayment of £15. Overall, for loan 4, Ms N had a weekly commitment to Moses of £30.

Moses knew that Ms N's previously declared and checked income was made up of salary as well as benefits. Moses says it evidence of Ms N's income with the credit reference agency, but it hasn't provided the Financial Ombudsman with the evidence it received.

However, in saying that I don't think, given what I've seen that Moses made a fair decision when it decided to lend loan 4 to Ms N. I'm, therefore, upholding Ms N's complaint about it and I've explained why below.

As Moses has pointed out in response to our adjudicator, Ms N was committed to spending around 14% of her income towards meeting her commitment to Moses when loan 4 was granted (and with loan 3 running concurrently). In my view these payments in this case were too high when considering what it knew about Ms N's circumstances.

In these circumstances, there was a significant risk, in my view that Ms N wouldn't have been able to meet her existing commitments without having to borrow again. So, I think it's unlikely Ms N would've been able to sustainably meet her repayments for this loan. Which, moving forward was shown, by the fact that Ms N has struggled to repay a later loan.

I say this because Ms N was making a commitment to pay Moses for another 33 weeks for each loan and I think it's fair to say that Ms N's income was modest and was potentially made up of some benefits.

On top of that, the information Moses was given suggested her income remained broadly similar and her other expenditure costs couldn't have been accurate because loan 4 was the first time that she'd declared any rental costs. But there was no other expenditure that you would expect to see after a customer says they are renting, apart from groceries.

So, give the concerns I have about the expenditure information Ms N provided along with what else Moses knew about her meant, in my view loan 4 was unlikely to be sustainable.

While Moses doesn't think those percentages are excessive I think they were. There is clearly going to be a line beyond which it wouldn't have been reasonable for Moses to lend, but that's going to be particular to the circumstances of each individual complaint. And whilst a large proportion is going to increase the likelihood in any case that something has gone wrong there isn't an automatic cut off – I will always look at the broader circumstances – as I've done here.

I'm not suggesting that just because Ms N had a modest income which was likely made up from potentially benefits and salary that funds couldn't be lent to her but what Moses needed to do is appreciate that taking into account the commitments that she had to it and over the time period was in my view not sustainable.

I've considered what Moses says in response to the adjudicator, but I don't think these comments change my mind. As I've said above, some checks were carried out which may

have shown the loans were affordable, but Morses also had to consider whether the loan was sustainable and I don't think, in this case it did that.

Based on what I've seen I'm upholding Ms N's complaint about this loan.

Loan 5

For this loan, Morses has shown that it asked Ms N for details of her income and expenditure. She declared an income of £272 per week with outgoings of £53 per week. This left Ms N with a weekly disposable income of £219 to make her weekly repayments of no more than £25.

Based solely on Ms N's income and expenditure information Morses could've been confident she 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 Ms N had been indebted to Morses, her future weekly commitment and what Morses already knew about Ms N's finances. For example, according to Morses, for this loan Ms N basically has no outgoings except for food, media and a £3 per week payment towards a credit card which doesn't seem plausible. By now, it would've been reasonable for Morses 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 Morses to conclude these loans were unaffordable for her.

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

Given the particular circumstances of Ms N's case, I think that this point was reached by loan 5. I say this because:

- At this point Morses ought to have realised Ms N was not managing to repay her loans sustainably. This was now Ms N's sixth loan within 18 months. So, Morses ought to have realised it was more likely than not Ms N was having to borrow further to cover a long-term short fall in her living costs.
- Ms N was generally provided with a new loan on the same day a previous loan was repaid. By loan 5, it was the third time that this had happened. To me, this is a sign that Ms N 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, Ms N's weekly commitments stayed roughly the same – reaching weekly commitments of £30 per week before slightly reducing to £25 for this loan. But it is worth saying here that this was Ms N's largest capital loan to date. But Ms N was committed each time to repaying over at least 33 weeks, which I think shows that she was, more likely than not, having longer term problems with a consistent need for credit.
- Ms N wasn't making any real inroads to the amount she owed Morses. Loan 5 was taken out 18 months after Ms N's first loan. Her final loan was more than twice the size of her first and was repayable over a longer term than the first loan. She was committing to spending at least another 33 weeks indebted to Morses. Ms N had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

- I think it's clear this loan wasn't sustainable for Ms N when it took her nearly twice as long as contracted to repay it.

I think that Ms N lost out when Morses provided loan 5 because:

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

So, I'm upholding Ms N's complaint about loans 4 and 5.

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 given Ms N loans 4 and 5, 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 N 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 N 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 N 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 Ms N loans 4 and 5.

- A. Morses should add together the total of the repayments made by Ms N towards interest, fees and charges on these loans, 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 N which were considered as part of "A", calculated from the date Ms N originally made the payments, to the date the complaint is settled.
- C. Morses should pay Ms N the total of "A" plus "B".
- D. Morses should remove any adverse information it has recorded on Ms N's credit file in relation to loan 4. The overall pattern of Ms N's borrowing for loan 5 means any information recorded about it is adverse, so Morses should remove the loan entirely from her credit file.

*HM Revenue & Customs requires you to deduct tax from this interest. Morses should give Ms N a certificate showing how much tax it deducted if she asks for one.

My final decision

For the reasons I've explained above, I'm upholding Ms N's complaint in part.

Morses Club PLC should put things right for Ms N as I've directed above.

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

Robert Walker
Ombudsman