

The complaint

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

What happened

Mrs L was advanced five home collected loans between September 2015 and March 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	15/09/2015	25/05/2016	34	£10.00
2	£300.00	25/05/2016	02/12/2016	33	£15.00
3	£300.00	02/12/2016	26/07/2017	33	£15.00
4	£300.00	26/07/2017	06/03/2018	33	£15.00
5	£1,000.00	06/03/2018	13/03/2019	52	£35.00

Following Mrs L's complaint Morses wrote to her representative to explain that it wasn't going to uphold it.

An adjudicator reviewed the complaint. She thought Morses had made a reasonable decision to provide loans 1 – 3 so she didn't uphold Mrs L's complaint about these loans. But she thought the lending was now harmful for Mrs L by the time loans 4 and 5 were granted and so she upheld Mrs L's complaint about these two loans.

Morses disagreed with the outcome and I've summarised its comments below;

- Mrs L repaid these loans without undue hardship.
- Morses says for loan 5, it carried out more thorough checks before granting it.
- Mrs L's income was checked with the credit reference agency and so Morses was happy the figure declared was accurate.
- These loans appeared affordable for Mrs L.
- Mrs L had a good repayment history.

Mrs L's representative hasn't commented on the outcome reached by the adjudicator.

The case was then referred 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 L 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 L'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 L. These factors include:

- Mrs L 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 L 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 L 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 L.

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

Neither Morses nor Mrs L (or her representative) appear to disagree with the outcome the adjudicator reached about loans 1 – 3. I therefore no longer think these loans are in dispute. I would add, that like the adjudicator, I do agree Morses made a reasonable decision to provide these loans. So, I say no more about these loans.

Loans 4 and 5

For loans 4 and 5, Morses has shown that it asked Mrs L for details of her income and expenditure. She declared, for each loan an income of £250 with outgoings of £70 per week. This left Mrs L with a weekly disposable income of £180 per week for each loan to make her weekly repayments of no more than £35.

Based solely on Mrs L'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 its arguable whether these checks went far enough considering how long Mrs L had been indebted to Moses, her future weekly commitment and what Moses already knew about Mrs L's finances. 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. I've not seen anything to suggest it carried out further checks in this case.

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 loans were unaffordable for Mrs L.

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 L, 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 L'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 L was not managing to repay her loans sustainably. Mrs L had taken out four loans in 23 months. So Moses ought to have realised it was more likely than not Mrs L was having to borrow further to cover a long-term short fall in her living costs.
- From her first loan, Mrs L was provided with a new loan on the same day a previous loan was repaid and some the loans were used to fully repay the previous one. For example, it seems that some of loan 3 went towards repaying loan 2. To me, this is a sign that Mrs L 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 L's weekly commitments generally either increased or remained the same. There was no time when her commitment decreased. Which may have given Moses confidence that Mrs L was no longer reliant on these loans. However, the fact that these loans were lent in a consecutive manner, ought to have led it to realise these loans weren't sustainable anymore.
- Mrs L wasn't making any real inroads to the amount she owed Moses. Loan 5 was taken out 34 months after Mrs L's first loan and was to be repaid over the longest term – 52 weeks. Her final loan was the largest capital loan to date and was more than five times the value of the first loan. Mrs L had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

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

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

So, I'm upholding Mrs L'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 if it hadn't lent 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 Mrs L 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 L 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 L 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 Mrs L with loans 4 and 5.

- A. Morses should add together the total of the repayments made by Mrs L 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 Mrs L which were considered as part of "A", calculated from the date Mrs L originally made the payments, to the date the complaint is settled.
- C. Morses should pay Mrs L the total of "A" plus "B".
- D. The overall pattern of Mrs L's borrowing for loans 4 and 5 means any information recorded about them is adverse, so you should remove these loans entirely from Mrs L's credit file.

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 21 October 2022.

Robert Walker
Ombudsman