

The complaint

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

What happened

Ms B was advanced 6 home collected loans between November 2017 and January 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	£200.00	13/11/2017	09/03/2018	20	£15.00
2	£200.00	22/12/2017	01/11/2018	33	£10.00
3	£200.00	09/03/2018	08/11/2018	20	£15.00
4	£200.00	23/11/2018	31/10/2019	20	£15.00
gap in lending					
5	£100.00	31/07/2020	19/01/2021	22	£7.00
6	£100.00	19/01/2021	outstanding	22	£7.00

Ms B had some problems repaying loan 6 and Morses has told the Financial Ombudsman Service the balance was sold to a third-party collection agency with an outstanding balance of £70.

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 1 and 2 were running at the same time Ms B's weekly commitment to Morses was £25.

Following Ms B's complaint Morses wrote to her representative to explain that it wasn't going to uphold the complaint because it had carried out proportionate checks before it granted these loans. Ms B's representative didn't agree with the outcome and referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint and based on the two lending chains she wasn't able to uphold the complaint because in her view, there was nothing in the information Ms B provided that may have led Morses to have declined the lending.

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

Ms B's representative told us she wasn't agreeing with the proposed outcome, it said verbatim:

Our client does not Agree (sic) with the outcome as she was struggling Financially (sic) at the time and also could not Afford (sic) the Loans she was given this is also why she provided her credit file.

She would like this to go for a final decision

The adjudicator went back to Ms B's representative to say that when considering the complaint, she had looked at the credit report provided by Morses. As these comments didn't change her mind, she passed the complaint for a decision.

I then issued my provisional decision explaining the reasons why I was intending to partially uphold Ms B's complaint about loans 3 and 4. 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 Ms 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 Ms 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 Ms B. These factors include:

- *Ms 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);*
- *Ms 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);*
- *Ms 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 Ms B.

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

Loans 1 – 2

Morses carried out similar checks when it granted loans 1 and 2.

Ms B declared she had around £230 weekly income for both loans and outgoings of between £106 and £140. Leave between £90 and £124 per week disposable income to afford her largest weekly repayment of £25.

Based solely, on the income and expenditure it was reasonable for Morses to have believed that Ms B would be able to afford the repayments.

Morses has also said for the first loan only, it carried out a credit search and it has provided the Financial Ombudsman Service with the results. I appreciate that Ms B's representatives have provided a screen shot of the credit file data that it says would've been apparent to Morses at the time but based on what Morses has provided it didn't see the same sort of data.

It is worth saying that there is no requirement within the regulations at the time to have carried out a credit search let alone one to a specific standard. But what Morses couldn't do is carry out a credit search and then not react to any concerning information that it may have seen.

Looking at the credit file data provided by Morses I'm satisfied that while it was aware of some adverse information such as a default. It wasn't in my view sufficient for Morses to either decline the application or to have prompted it to have carried out furthermore in-depth checks.

Based on the information Ms B declared Morses could've been confident she was in a position to afford the contractual repayments she was due to make for these loans. Given this was in the early part of the lending relationship, I think the checks that Morses did were proportionate and it didn't need to do any further checks before agreeing to the loan.

I'm therefore not upholding Ms B's complaint about loans 1 and 2.

Loan 3

For this loan, Morses carried out the same sort of checks as it had done so for loans 1 and 2.

However, when this loan was approved, Ms B hadn't yet repaid loan 2 and so Morses needed to consider the total commitment per week from Ms B which was £25. Ms B declared her expenditure to be £108 per week – and this included the repayment to Morses for loan 2. So, this loan may have looked affordable to Morses.

But there appears to have been a significant change of circumstance before this loan was approved, Ms B's income had now reduced to around £137 per week. This was around £100 down compared to her declared expenditure for loan 1 and 2.

In addition, for this loan, Morses has shown that Ms B's income was likely checked with a credit reference agency for its accuracy. So, on balance, Morses must have felt this was an accurate income for Ms B's income at the time.

This loan had a weekly repayment of £15, so after taking account of her income, expenditure and the loan repayments into account this left Ms B with only £14 per week to cover any other costs that Ms B may have had. Which I don't think was enough.

I say this because the credit report generated at loan one, showed that Ms B had outstanding credit commitments that needed to be repaid, and according to the expenditure information gathered, she declared she didn't have any credit commitments. To me, this doesn't seem plausible.

So, while £14 may have been enough to afford the loan repayments, I don't think given what Morses knew about Ms B's income and her missing expenditure that this loan should've been granted, because I think there was a real risk that Ms B couldn't repay this in a

sustainable manner.

So, I'm intending to uphold Ms B's complaint about this loan.

Loan 4

Again, the same sort of checks were carried out, and this time Moses believed that Ms B had around £133 per week in disposable income in order to meet the cost of this loan per week of £15.

Based on the information Ms B provided, Moses may have felt that she would be in a position to afford the loan repayments she was committed to making and this may well be the case.

However, Ms B had had, in my view significant repayment problems while making repayments to loans 2 and 3.

Loan 2 was due to be repaid over 33 weeks whereas it actually took Ms B 45 weeks to settle this loan. Indeed, looking at the statement of account I can see periods of time, such as September 2018 when very little payments were made (£11) – nowhere near the combined weekly repayment of £25.

Loan 3 should've been repaid over 20 weeks but it actually took Ms B 35 weeks to repay, almost 75% longer than planned.

Loan 4 was also taken out shortly loans 2 and 3 were repaid and Ms B returned to borrow the same amount again. Ms B had demonstrated to Moses that she had struggled to repay loans of £200, yet only a matter of weeks later, Moses provided further lender of the same sum to be repaid over 20 weeks.

Given this, I think there was a real risk Ms B would struggle to repay this loan. Indeed, this is exactly what happened. It took her 49 weeks to settle the loan, which is more than twice as long as planned.

There warning signs were there in her repayment history and Moses, for whatever reasons, appear to have ignored this and lent to her again without considering the impact this loan would have on her or considering whether further checks were required.

Given, this loan was obviously not sustainable for Ms B from the outset I'm intending to uphold Ms B's complaint about this loan as well.

Loans 5 and 6

As the adjudicator pointed out, loan 5 was the first loan in a new lending relationship. This means I think it was reasonable for Moses to have treated Ms B's application afresh and in effect treat her as a new customer. This therefore has implications for the level and type and checks that I think it needed to do.

Ms B returned for these loans after around a nine-month break, and these loans were half the amount that she had borrowed at the end of the first lending chain. This, along with the break had led me to conclude that Moses carried out a proportionate check for these loans and the information it gathered suggested Ms B was in a position to afford the repayments for these loans.

For these loans Moses carried out similar checks as it had done so on the previous loans. It received information from Ms B about her income and expenditure, and after looking at this Moses was aware she had at least £163 per week in disposable income. This was more than sufficient to be able to afford the largest repayment of £7 per week.

Given it was early on in the new lending relationship it was reasonable for Moses to have

relied on the information Ms B provided and there wasn't anything, as far as I can see that would've prompted Moses to have either declined these loans or asked for further information from Ms B.

I'm, therefore, intending to not uphold Ms B's complaint about these two loans. But overall, I am intending to uphold Ms B's complaint about loans 3 and 4 and I've outlined below what Moses needs to do in order to put things right.

Response to the provisional decision

Both Ms B and Moses were asked to provide any further information they wanted considering in response to the provisional decision as soon as possible, but no later than 22 September 2022.

Ms B's representative responded and agreed with the provisional decision, it said (verbatim)

"We have received your decision and we will Accept the upholding of Loans 3 And 4 we will advise our client of this."

Moses didn't acknowledge or respond to the provisional 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.

As neither party has provided anything further for my consideration –(indeed Ms B's representative has accepted the findings I had reached). I therefore see no reason to depart from the findings that I reached in the provisional decision.

So, I still don't think Moses should've provided loans 3 and 4 for the reasons I've outlined in the provisional decision.

I am therefore upholding Ms B's complaint in part, and I've outlined below what Moses needs to do in order to put things right for her.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it not lent loans 3 and 4 to Ms 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 Ms B 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 Ms 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 Ms B 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 has already accepted that loan two shouldn't have been provided to Ms B. But for completeness and in line with what it has already agreed I've outlined below what it has agreed to do.

Morses shouldn't have advanced loans 3 and 4.

If Morses has sold the outstanding debt Morses should buy it back if Morses is able to do so and then take the following steps. If Morses is not able to buy the debt back then Morses 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 Ms 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 Ms B which were considered as part of "A", calculated from the date Ms B originally made the payments, to the date the complaint is settled.
- C. Morses can use any refund due under A and B to offset the outstanding balance due on loan 6. But it can only do this, it is in a position to buy the debt back (if sold) from the third party. If this results in a surplus, then the surplus should be paid to Ms B. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Ms B.
- D. Morses should remove any adverse information recorded on Ms B's credit file in relation to loans 3 and 4.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Ms 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 Ms B's complaint in part.

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

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

Robert Walker
Ombudsman