

The complaint

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

What happened

Mrs N was advanced six home collected loans between November 2013 and March 2019. 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 |
|-------------|-------------|----------------|----------------|--------------|------------------|
| 40 | £800.00 | 14/11/2013 | 04/12/2014 | 50 | £28.00 |
| 41 | £600.00 | 04/12/2014 | 10/12/2015 | 50 | £21.00 |
| 42 | £600.00 | 10/12/2015 | 08/12/2016 | 52 | £21.00 |
| 43 | £500.00 | 08/12/2016 | 08/12/2017 | 52 | £17.50 |
| 44 | £500.00 | 15/03/2018 | 05/03/2019 | 52 | £17.50 |
| 45 | £200.00 | 05/03/2019 | 12/11/2019 | 33 | £10.00 |

The numbering of the loans in the table above is based on Morses' table that it provided the Financial Ombudsman as part of its submission as well as what was outlined in the final response letter. It is also the same numbering used by the adjudicator in her assessment.

Morses has told us it is likely these earlier loans were provided by a different company. This other company's loan book was acquired by Morses in March 2014, and it only took responsibility for any loans that were still active at the time of purchase. Therefore, this decision will only be able to deal with the loans listed in the table above.

Morses explained in its final response letter that it had carried out affordability checks before the loans were advanced and based on the information it received it was reasonable to lend. Mrs N's representative didn't accept this and referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. She thought Morses had made a reasonable decision to provide loans 40 and 41 so she didn't uphold Mrs N's complaint about these loans. But she thought the lending was now harmful for Mrs N by the time loan 42 was granted and so she upheld Mrs N's complaint about this and all later loans.

Morses disagreed with the outcome the adjudicator had reached. I've summarised its comments below;

- Mrs N's borrowing decreased between loans 42 and 43 and loans 44 and 45 which led to a reduction in her weekly repayments.
- Loans were repaid within the contractual due date.
- Adequate affordability checks were carried out which showed Mrs N was able to afford these loans.
- Mrs N only had one loan outstanding at the time.

Mrs N's representative confirmed receipt of the assessment, but no further comments have been provided.

The case was then passed 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 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've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mrs 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 Mrs N. These factors include:

- Mrs 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);
- Mrs 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);
- Mrs 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 Mrs N.

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

Neither Morses nor Mrs N (or her representative) appear to have disagreed with the outcome the adjudicator reached about loans 40 and 41. I therefore no longer think these loans are in dispute. I say no more about them.

Instead this decision will focus on whether Morses made reasonable decisions to provide loan 42 – 45.

Loans 42 - 45

For these loans, Morses has shown that it asked Mrs N for details of her income and expenditure. She declared, for each loan an income of between £130 and £224 with outgoings of between £53 and £140 per week. This left Mrs N with a weekly disposable income of at least £69 per week for each loan to make her weekly repayments of no more than £21.

Based solely on Mrs 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, its arguable whether these checks went far enough considering how long Mrs N had been indebted to Morses, her future weekly commitment (and the period of time that commitment was due to be paid over) and what Morses already knew about Mrs N's finances. For example, Mrs N usually was returning for further borrowing on the same day a previous loan had been repaid.

By this point in the lending relationship, it would've been reasonable for Morses to have at the very least, started to have verified the information it was being given especially because it was aware that Mrs N had taken 39 previous loans with the other loan company. I've not seen anything to suggest Morses' carried out further checks in this case beyond the checks I've outlined above.

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 Mrs N because Morses also needed to consider whether these loans were sustainable for Mrs N.

So in addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Mrs 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 Mrs N's case, I think that this point was reached by loan 42. I say this because:

- I can't ignore, although I don't have details, that these weren't Mrs N's first loans – while these are the first loans that Morses are responsible for, it does seem Morses was aware of at least 39 previous loans. Whether or not this lending was broken down into different chains, I don't know. But it would suggest that there was an already well-established lending history.
- At this point (loan 42) Morses ought to have realised Mrs N was not managing to repay her loans sustainably. Mrs N had taken out at least two in the previous two years. So Morses ought to have realised it was more likely than not Mrs N was having to borrow further to cover a long-term short fall in her living costs.
- From her first loan, Mrs N was provided with a new loan, usually on the same day a previous loan was repaid. To me, this was a sign that Mrs 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, Mrs N's weekly commitments generally decreased then plateaued. However, I don't think you can say they sustainably

decreased, given the amount of time it took for this lending to reduce and the fact the reductions were generally quite small. While this may have given Moses confidence that Mrs N 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 N wasn't making any real inroads to the amount she owed Moses. While loan 45 was the smallest loan to date, it was taken out over five years after loan 40 was granted. I don't think the fact that this was the smallest loan to date, is a demonstration that her borrowing continuously reducing as it took a number of years to reach this point – and she was committing herself to be indebted for a further 33 weeks. Mrs N had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Mrs N lost out when Moses provided loans 42 - 45 because:

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

So, I'm upholding Mrs N's complaint about loans 42 - 45.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it hadn't lent loans 42 to 45, as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mrs N 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 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 Mrs N would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Moses's liability in this case for what I'm satisfied it has done wrong and should put right.

Moses shouldn't have provided Mrs N with loans 42 - 45.

- A. Moses should add together the total of the repayments made by Mrs 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. Moses should calculate 8% simple interest* on the individual payments made by Mrs N which were considered as part of "A", calculated from the date Mrs N originally made the payments, to the date the complaint is settled.

- C. Morses should pay Mrs N the total of “A” plus “B”.
- D. The overall pattern of Mrs N’s borrowing for loans 42 - 45 means any information recorded about them is adverse, so you should remove these loans entirely from Mrs N’s credit file.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs N 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 N’s complaint in part.

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

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs N to accept or reject my decision before 2 November 2022.

Robert Walker
Ombudsman