

## The complaint

Mrs M, through her representative, complains that Morses Club PLC, lent to her when she could not afford it.

## What happened

Using information provided by Morses, here is a brief loan table of Mrs M's lending.

Loan	Date Taken	Principal	Term and Weekly Repayments	Date Settled
1	27/06/2017	£300	33 x £15	16/11/2017
2	16/11/2017	£500	33 x £25	23/05/2018
3	23/05/2018	£500	33 x £25	05/12/2018
4	05/12/2018	£500	33 x £25	08/02/2019
5	07/02/2019	£800	52 x £28	17/12/2020

Morses final response letter (FRL) did not uphold Mrs M's complaint. Mrs M referred her complaint to the Financial Ombudsman Service. One of our adjudicators thought that loans 4 and 5 ought to be the ones for which Morses put things right. But Morses disagreed.

The unresolved complaint was passed to me to decide.

## 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 irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Morses needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mrs M could repay the loans in a sustainable manner.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Morses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable. This was the basis on which our adjudicator thought that loans 4 and 5 ought to be upheld for Mrs M.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines sustainable as being without undue difficulties and in particular, the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've decided to uphold Mrs M's complaint in part and have explained why below.

Mrs M didn't disagree with our adjudicator's opinion about loans 1 and 3. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't be making a decision about this lending. But they were part of the borrowing relationship Mrs M had with Moses. So, they are something I will take into account when considering the other loans she took.

It is clear from the information Moses has provided in its income and expenditure (I&E) assessment document that Mrs M always has been a very low income earner. For example, for loan 1, Mrs M was recorded as having a weekly income of £125 and her expenditure was £35 which was broken down as £20 for groceries each week, £10 for utilities and £5 a week for another loan. So immediately Moses knew that she was taking at least one other loan. And I think that £25 a week for food was too low a figure to be considered realistic.

And I mention this now as the figures being on the unrealistic scale perpetuates for each of Mrs M's loans. For loan 4, Mrs M had been in debt to Moses for about 18 months and her income seemed to have increased to £179 a week and her expenditure to £64 a week. That, according to the Moses records, included £30 a week for food and £15 a week for other loans. So Moses was aware that her liability to other lenders had increased as had her liability to Moses.

And for loan 5 her income went down and her overall expenditure figure increased but the expenditure on weekly groceries decreased again to £25. These were not realistic figures which leads me to think that the creditworthiness assessments required of Moses were not carried out to the correct level.

I haven't recreated individual, proportionate affordability checks for loans 4 to 5 because I don't think that it is necessary to do so.

I've looked at the overall pattern of Moses' lending history with Mrs M, 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 circumstances of Mrs M's case, I think that this point was reached by loan 4. I say this because:

- At this point he had been indebted to Morses for eighteen months
- Mrs M's first loan was for £300 and loan 4 was for £500. So the amount Mrs M was borrowing had almost doubled as well as her being indebted to Morses for a significant time.
- At this point Morses ought to have known that Mrs M was likely borrowing to meet an ongoing and increasing need. And this indicates her problems may have been worsening. And I refer to some of the comments I have made earlier when reviewing the lending history and the data it had collected on Mrs M over the months.
- So, because of these factors, Morses ought to have realised it was more likely than not Mrs M's indebtedness was unsustainable.
- From loan 4 onwards Mrs M was provided with a new loan a very short time after she settled her previous loan.
- Mrs M wasn't making any real inroads to the amount she owed Morses. Loan 5 was taken out almost two years after Mrs M's first. And it was for a larger amount of £800. Mrs M had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

And I disagree with Morses when it states that her weekly repayment figure from £25 a week to £28 a week for loan 5 was not unreasonable due to her repayment history. But the extension of the indebtedness to 52 weeks is a factor I have considered. And from the repayment records I can see that a large proportion of the loan 5 capital was used to pay off loan 4. The unsustainability showed and extending her term to 52 weeks would not necessarily cure that.

I appreciate that Morses feels that the checks it did were enough to show the lending was affordable. But I think the lending pattern itself shows the loans weren't sustainable.

I think that Mrs M lost out because Morses continued to provide borrowing from loan 4 onwards because:

- these loans had the effect of unfairly prolonging Mrs M's indebtedness by allowing her to take expensive credit over an extended period.
- the length of time over which Mrs M borrowed was likely to have had negative implications on Mrs M's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, overall, I'm also upholding the complaint about loans 4 and 5 and Morses should put things right.

### **Putting things right**

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Mrs M from loan 4, 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 M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her 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 Mrs M 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 M 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 Mrs M loans 4 and 5.

A) Morses should add together the total of the repayments made by Mrs M towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.

B) Morses should calculate 8% simple interest\* on the individual payments made by Mrs M which were considered as part of "A", calculated from the date Mrs M originally made the payments, to the date the complaint is settled.

C) Morses should pay Mrs M the total of "A" plus "B".

D) The overall pattern of Mrs M's borrowing for loans 4 and 5 means any information recorded about them is adverse, so it should remove these loans entirely from Mrs M's credit file. If Morses has sold any of the loans Morses should ask the debt purchaser to do the same.

\*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs M a certificate showing how much tax Morses has deducted, if she asks for one.

### **My final decision**

My final decision is that I uphold Mrs M's complaint in part and I direct that Morse Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 28 October 2022.

Rachael Williams  
**Ombudsman**