

The complaint

Mr L (through a representative) complains that Morses Club PLC (Morses) gave him loans he couldn't afford to repay.

What happened

Mr L was advanced eight home collected loans between August 2017 and April 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	£400.00	31/08/2017	28/03/2018	33	£20.00
2	£300.00	28/03/2018	28/03/2018	33	£15.00
3	£100.00	08/06/2018	02/03/2019	33	£5.00
4	£100.00	02/03/2019	12/10/2019	33	£5.00
5	£2,000.00	12/10/2019	28/02/2020	53	£70.00
6	£200.00	16/12/2019	27/03/2020	34	£10.00
7	£1,000.00	05/08/2020	04/12/2020	34	£50.00
8	£200.00	29/04/2021	26/11/2021	35	£10.00

Loan two was taken out and repaid on the same day, this means that Mr L wasn't charged any interest for this loan.

The 'weekly repayment' column in the table above is the cost per week per loan. So, where loans overlapped Mr L's weekly commitment was more. For example, when loans 5 and 6 were granted his weekly commitment to Morses was £80 per week.

Following Mr L's complaint Morses wrote to his representative to explain that it wasn't going to uphold it because it had carried out proportionate checks before these loans were advanced.

Mr L's representative didn't accept the outcome and instead referred the complaint to the Financial Ombudsman Service.

The case was then considered by an adjudicator and it was partly upheld. He thought it was fair for Morses to have granted loans 1 – 3. However, he concluded loans 4 - 8 shouldn't have been advanced because it was clear that the lending was now harmful for Mr L.

Mr L's representative appears to have accepted the adjudicator's assessment.

Morses disagreed with the adjudicator's assessment to uphold loans 4 - 8. In summary it said:

- No evidence has been provided to show that Mr L was using funds from loans in order to settle his Morses loans.
- Eight loans over four years, in Morses view, isn't excessive.
- Proportionate checks were carried out before each loan was advanced and these

checks showed the loans to be affordable.

- There were breaks between some of the loans, including a five-month break between loans 6 and 7.
- The reasons Mr L gave for needing these loans was reasonable and not concerning.
- The loans were repaid without any difficulties.

As no agreement was reached, the case was passed to me to issue a decision.

I then issued my provisional decision explaining the reasons why I was intending to partially uphold Mr L's complaint about loans 5 and 6 only. Both parties were given an opportunity to provide further submissions. 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.

Neither Mr L (or his representative) have disagreed with the adjudicator's findings in relation to loans 1 – 3. So, it seems this lending isn't in dispute and so I no longer think that I need to make a finding about them. But I have kept these loans in mind when thinking about the overall lending relationship between Morses and Mr L.

Instead, this decision will focus on whether it was reasonable to advance loans 4 - 8 to Mr L.

Morses had to assess the lending to check if Mr L could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Morses's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr 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 Mr L. These factors include:

- *Mr 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);*
- *Mr 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);*
- *Mr 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 Mr L.

Morses was required to establish whether Mr L could sustainably repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr L was able to repay his 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 Mr L's complaint.

Loan 4

The adjudicator upheld this loan because he concluded that by now the loan was harmful for Mr L because it was now unsustainable to continue to lend to him given the time in debt and his lending hadn't decreased. I can understand why the adjudicator thought this, but I don't think, Moses would've concluded that the loan was now so harmful to Mr L.

I accept, that Mr L had been indebted with Moses for about 18 months, which in some situations could be a sign that he was now reliant on these types of loans or at the very least having longer term money management problems. Neither can I ignore that the lending was almost mostly consecutive, which could show that Mr L had a continued need for credit – without a break.

But I also have to keep in mind that these loans were for fairly small sums (and were decreasing in value) and to be repaid over a longer period of time than say a payday loan. Indeed, loan 4, was Mr L's smallest loan to date with a weekly repayment of a fairly small sum of £5 per week.

So, taking everything together, I don't think Morse's would've, or ought to have, realised this loan was unsustainable for Mr L, but that doesn't mean Moses did all it should've done before advancing the loan.

The income and expenditure information suggested that Mr L had more than sufficient disposable income of £250 to afford the weekly repayment of £5. This would've reasonably led Moses to believe that Mr L had sufficient disposable income and could afford the loan repayments.

But that doesn't mean that Moses carried out a proportionate check. I do think the time in debt was a factor here and Mr L had taken five weeks longer to repay the previous loan – a possible sign that there may have been some financial difficulties. These factors ought to have prompted it to consider whether it knew enough about Mr L's financial position.

Overall, I don't think it was reasonable for Moses to have relied on what Mr L declared to it about his income and expenditure. Even though this information suggested Mr L could afford the loan repayments.

Instead, I think it needed to gain a full understanding of Mr L's actual financial position to ensure the loan was affordable and sustainable. This could've been done in several ways, such as asking for evidence of his outgoings, or looking at bank statements.

This might've helped verify information provided and revealed whether there was any other information that Moses might've needed to consider about Mr L's financial position.

However, that isn't the end of the matter. For me to be able to uphold this loan, I have to be satisfied that had Moses carried out a proportionate check it would've likely discovered that Mr L couldn't afford it.

Mr L's representative hasn't been able to provide copies of his bank statements (which may have showed us and Moses what other commitments Mr L had and / or his living costs) or any other information that shows what Mr L's actual financial position at the time the loan was given. Therefore, without further information, I'm not in a position to conclude that Moses shouldn't have approved the loan.

So, without any further information from Mr L about his other living costs which, it's difficult for me to conclude what Moses would've likely seen had it made better checks.

Looking at everything together though, I've not seen quite enough evidence to suggest Moses shouldn't have given Mr L loan 4. As this is the case, I'm intending to not uphold Mr L's complaint about this loan.

Loans 5 and 6

I've already explained above why I don't think, by this point in time Moses carried out proportionate check. This is especially true when loan 5 was granted because this was a significant increase in what Mr L had taken before, and this loan was scheduled to be repaid over the longest period of time – 53 weeks. So, I still think for these loans Moses' checks needed to go further.

However, I do think Moses shouldn't have approved these loans. In addition to looking at the checks that Moses did I've also looked at the overall pattern of Moses' lending history with Mr 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 these loans.

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

- At this point Moses ought to have realised Mr L was not managing to repay his loans sustainably. Mr L had taken out 5 loans in this chain of lending within 26 months So Moses ought to have realised it was more likely than not Mr L was having to borrow further to cover a long term shortfall in his living costs.
- Mr L had shown that he'd had problems repaying a previous loan, I think, the fact this had happened was an indication that he may have been struggling to meet his weekly commitments.
- Mr L's weekly commitment to Moses by loan 5 had increased from £20 per week to £70 per week – this is a significant increase.
- From the first loan in this chain onwards, Mr L was generally provided with a new loan on the same day a previous loan had been repaid.
- Mr L wasn't making any real inroads to the amount he owed Moses. Loan six was taken out over 28 months after Mr L's first loan. And while his loan was smaller than the first loan he'd taken, he now had a combined weekly repayment of £80, his commitment to Moses was now four times larger. Mr L had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Mr L lost out because Moses provided loans 5 and 6:

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

So, I'm upholding the complaint about loans 5 and 6 and I've outlined at the end of this decision what Moses needs to do in order to put things right for Mr L.

Loans 7 and 8

Again, the adjudicator upheld these loans because he concluded that they continued to be harmful for Mr L. I can quite understand why the adjudicator concluded this, but I don't agree and I've explained why below.

There was a break of five months between Mr L repaying loan 6 and taking loan 7 (and 6 months between repaying loan 5 and taking loan 7), and when Mr L returned for further borrowing this loan was smaller than loan 5.

After successfully repaying loan 7, there was also another break of almost another 5 months, this time Mr L returned for a much smaller sum again.

In these circumstances I am not able to conclude that Mr L was reliant on these loans (by this time) given he had demonstrated that there was time when he didn't need further credit at all and the value of any new credit was decreasing.

As this is the case, I can't conclude, that solely based on the pattern of lending that both these loans should be upheld.

However, that still doesn't mean that Moses did all it should've done. I still have to consider that Mr L (for loan 7) was borrowing again, and a sum of £1,000. Taking into account the total lending relationship I still think it would've been reasonable for Moses for have carried out verification checks into Mr L's circumstances, even though the information it gathered before these loans were approved suggested the loan repayments were affordable.

So, like loan 4, I don't think it was reasonable that Moses continued to rely on the information Mr L was providing it. As I've said, before Moses ought to have been checking the information it was given, perhaps with copy bank statements, a credit file or some other evidence of his living costs. Moses didn't do this so it didn't carry out a proportionate check.

A similar situation arises here as it did at loan 4, as I don't have any information from Mr L about what his actual living costs / outstanding other credit commitments were at the time I can't be sure what Moses would've likely seen had it carried out a proportionate.

As this is the case, I'm also intending to not uphold Mr L's complaint about loans 7 and 8.

Response to the provisional decision

Both Mr L (and his representative) and Moses were asked to provide any further submissions in response to the provisional decision as soon as possible, but no later than 29 September 2022.

Moses responded and confirmed it accepted the findings of the provisional decision.

Mr L's representative also confirmed that he accepted the proposed outcome in 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 both Mr L and Moses have accepted the findings of the provisional decision, I see no reason to depart from the findings that I previously made. I still think Moses shouldn't have approved loans 5 and 6 for Mr L for the reasons given in the provisional decision.

I've outlined below what Moses needs to do in order to put things right for Mr L.

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 advanced loans 5 and 6, 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 Mr L 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 Mr 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 Mr L 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 should not have provided Mr L with loans 5 and 6.

- A. Morses should add together the total of the repayments made by Mr L 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 Mr L which were considered as part of "A", calculated from the date Mr L originally made the payments, to the date the complaint is settled
- C. Morses should pay Mr L the total of "A" plus "B".
- D. The overall pattern of Mr L's borrowing for loans 5 and 6 means any information recorded about them is adverse, so Morses should remove these loans entirely from Mr L's credit file.

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

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mr L's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 3 November 2022.

Robert Walker
Ombudsman