

## The complaint

Ms R, through her representative, complains that Morses Club PLC lent to her when it had not carried out proper affordability checks. If it had done, it would not have lent to Ms R.

## What happened

Using information from Morses here is a brief loan table:

Loan	Date of Loan	Capital Sum	Date Settled	Term (w)	Weekly Repayment
1	29/03/2017	300.00	01/11/2017	33	15.00
2	01/11/2017	300.00	11/05/2018	33	15.00
3	11/05/2018	300.00	01/11/2018	33	15.00
4	01/11/2018	600.00	25/06/2019	33	30.00
5	25/06/2019	600.00	26/06/2020	33	30.00
6	06/10/2020	500.00	12/07/2021	34	25.00

Ms R's representative complained to Morses in January 2022 and says that she borrowed £2,600 and repaid that with £1,698 interest.

Morses issued its final response letter (FRL) in which it did not uphold Ms R's complaint. The complaint was referred to the Financial Ombudsman Service.

Morses has explained that it would have carried out one credit search before loan 1 which was in March 2017. No other search was done. A copy of the March 2017 results has been sent to us. And Morses said that after 2018 it would have verified the applicant's income.

A preliminary view by one of our adjudicators was that Morses ought to have ceased lending at loan 4. For loans 4 and 5 the reasons given was that Ms R was paying a significant amount of her monthly income towards the repayments: 10.7% and 20% respectively. And - the second reason was that the complaint ought to be upheld for loans 4 to 6 was because of the pattern of lending.

Morses disagreed and said that it had verified Ms R's income as £279 a week for loan 4, £145 a week for loan 5 and £292 a week for loan 6. There was a gap of over three months between loans 5 and 6. And her income increased significantly for loan 6. Morses did not think that Ms R was paying excessive percentages of her income for the debts. There was no reason for Morses to conclude that Ms R was not able to afford loan 6.

After that a formal view was written and sent to both parties in which our adjudicator said that

- The loan 4 repayment to Moses represented a significant proportion of Ms R's income and this increased at loan 5. So, our adjudicator thought that there was a risk that Ms R was not able to meet her existing commitments without borrowing again.
- In addition, our adjudicator thought that the overall pattern of borrowing was such that it was harmful to Ms R and this was the case from Loan 4.

Moses disagreed, and said that Ms R repaid her loans 1 to 4 with no undue hardship and it had no information about any financial difficulties she may have been in. And even though her income reduced at loan 5 it still considered loan 5 was affordable.

Moses repeated that there was a gap in lending before loan 6 and the amount Ms R wanted at loan 6 reduced to £500.

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 high cost, short-term and home credit lending - including all the relevant rules, guidance and good industry practice - on our website.

Moses had to assess the lending to check if Ms R 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. Moses' checks could have considered a number of different things, such as how much was being lent, the size of the repayments, and Ms R's income and expenditure.

I think in the early stages of a lending relationship, less thorough checks might have been proportionate. But certain factors might suggest Moses should have done more to establish that any lending was sustainable for Ms R. These factors include:

- Ms R 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 R 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 R 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 R. Our adjudicator considered this to be the case for Ms R.

Moses was required to establish whether Ms R 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 R 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, 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 R's complaint.

Borrowing consecutively for many years and without any breaks of any significance highlights the fact that Ms R was likely to be having trouble making ends meet. Morses was alert from its own research about Ms R that she had experienced a poor financial situation in the past (historic defaults and a County Court Judgment). I appreciate it was some time before loan 1. But this was not unknown to Morses.

I have reviewed Morses' comment about the gap of about 3 months between loans 5 and 6 but I consider that after 3 and a half years of lending I don't think that a short gap of a few weeks was enough to have led me to come to a different conclusion to the adjudicator's. From Loan 4 I think this is a clear example of repetitive borrowing by Ms R and especially where the loan 5 income dropped significantly to only £145 a week. That would, in my view, place Ms R in the category of a low earner.

Added to which, the proportions of her income going on the Morses repayments were significant at over 10% and then 20% for loans 4 and 5 respectively.

I think that by loan 4 Morses ought to have realised that she was filling a hole left by the repayments for the earlier loans. And the repetitive nature of the lending was otherwise unsustainable. I say this because she had been indebted to Morses for almost two years. This was a reasonably long time to be using high cost credit in itself.

But at loan 4 Ms R was making a commitment to make repayments for a further 33 weeks. The amounts she was borrowing was tending to increase over this period and for the rest of the borrowing relationship with Morses. By the time of Ms R's application for loan 4 she was seeking a capital sum equal to twice her original loan. And Ms R was repeatedly coming back for new loans on the day a previous loan was repaid.

Notwithstanding the small gap between loans five and six, I think that Ms R lost out because Morses provided loans 4 to 6

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

So, I'm upholding the complaint about loans 4 to 6 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 Ms R at 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 Ms R 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 Ms R in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Ms R 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 Ms R loans 4 to 6.

- A) Morses should add together the total of the repayments made by Ms R 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 Ms R which were considered as part of "A", calculated from the date Ms R originally made the payments, to the date the complaint is settled.
- C) Morses should pay Ms R the total of "A" plus "B".
- D) The overall pattern of Ms R's borrowing for loans 4 to 6 means any information recorded about it is adverse, so it should remove them entirely from Ms R's credit file.

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

### **My final decision**

My final decision is that I uphold Ms R's complaint and I direct that Morses Club PLC should do as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 26 November 2022.

Rachael Williams  
**Ombudsman**