

The complaint

Mrs R complains (through a representative) that Morses Club PLC (Morses) didn't carry out proper affordability checks before it advanced her loans. Had it carried out proper checks it would've discovered Mrs R couldn't afford them.

What happened

Mrs R took five loans between October 2015 and October 2016. 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	10/10/2015	23/01/2016	20	£15.00
2	£300.00	23/01/2016	25/07/2016	33	£15.00
3	£200.00	07/05/2016	18/10/2016	33	£10.00
4	£400.00	25/07/2016	07/07/2018	33	£20.00
5	£300.00	18/10/2016	10/05/2019	33	£15.00

The 'weekly repayment' column above is the cost per week per loan. So, where loans overlapped the cost will be greater. For example, when loans 2 and 3 were running at the same time Mrs R's weekly commitment was £25.

Morses considered Mrs R's complaint and issued its final response letter. Morses concluded it had made a reasonable decision to provide these loans and so it didn't uphold her complaint.

Mrs R's representatives didn't agree with the outcome reached by Morses and her representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who thought a reasonable decision to lend had been made for loans 1 - 4. But in the adjudicator's view, loan 5 shouldn't have been granted as Mrs R was committed to using a significant portion of her income to meet the loan repayment.

Morses disagreed with the adjudicator's recommendation and I've summarised its response below.

- While loans 4 and 5 were running concurrently, the total repayments only represented 18% of her income and Morses doesn't consider this to be excessive.
- Loans 1 – 3 had been repaid early and she received an interest rebate.
- Loans 4 and 5 did run longer than the contracted term but Morses was aware of the reasons for this and forbearance is built into the way the loans are structured.
- Loan 5 was affordable for Mrs R at the point of sale.

Mrs R's representative confirmed receipt of the assessment but no further comments were provided.

As no agreement has been reached, the case has been passed to me for a 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.

We've set out our general approach to complaints about this sort 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 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. Morses' checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mrs R'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 R. These factors include:

- Mrs 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);
- Mrs 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);
- Mrs 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 Mrs R.

Morses was required to establish whether Mrs 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 Mrs 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, 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 R's complaint.

Mrs R appears to have agreed with the outcome that the adjudicator reached and Morses hasn't disagreed with the adjudicator's assessment about loans 1 - 4. Therefore, these loans are no longer in dispute, so I know longer think I must make a finding about them. But I have kept these loans in mind when thinking about the overall lending relationship.

Instead, this decision will focus on whether Morses was right (or wrong) to have advanced loan 5.

Loan 5

For this loan, Mrs R declared she had a weekly income of around £195 and Morses was aware that Mrs R's income was solely made up of benefits. Mrs R had outgoings of around £108. The outgoing figure included the repayment Mrs R was already making towards loan 4. Which left around £87 per week to make her weekly repayment of £15. Overall, for loan 5, Mrs R had a weekly commitment to Morses of £35.

However, in saying that I don't think, given what I've seen that Morses made a fair decision when it decided to lend loan 5 to Mrs R. I'm, therefore, upholding Mrs R's complaint about it and I've explained why below.

As Morses has pointed out in response to our adjudicator, Mrs R was committed to spending around 18% of her income towards meeting her commitments to Morses when loan 5 was granted (and with loan 4 running concurrently). In my view these payments in this case were too high when considering what it knew about Mrs R's circumstances.

In these circumstances, there was a significant risk, in my view that Mrs R wouldn't have been able to meet her existing commitments without having to borrow again. So, I think it's unlikely Mrs R would've been able to sustainably meet her repayments for this loan. Which, moving forward was shown, by the fact that Mrs R has struggled to repay not just this loan but also loan 4.

While Morses doesn't think those percentages are excessive I think they were. There is clearly going to be a line beyond which it wouldn't have been reasonable for Morses to lend, but that's going to be particular to the circumstances of each individual complaint. And whilst a large proportion is going to increase the likelihood in any case that something has gone wrong there isn't an automatic cut off – I will always look at the broader circumstances – as I've done here.

I'm not suggesting that just because Mrs R had a modest income which was likely made up solely from benefits that funds couldn't be lent to her but what Morses needed to do is appreciate that taking into account the commitments that she had to it and over the time period was in my view not sustainable.

I've considered what Morses says in response to the adjudicator, but I don't think these comments change my mind. As I've said above, some checks were carried out which may have shown the loans were affordable, but Morses also had to consider whether the loan was sustainable and I don't think, in this case it did that.

Based on what I've seen I'm upholding Mrs R's complaint about this loan.

Putting things right

In deciding what redress Morses' should fairly pay in this case I've thought about what might have happened had it not given Mrs R loan 5, 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 R 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 Mrs R 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 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 Mrs R loan 5.

- A. Morses should add together the total of the repayments made by Mrs R towards interest, fees and charges on the loan, including payments made to a third party where applicable, but not including anything you have already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Mrs R which were considered as part of "A", calculated from the date Mrs R originally made the payments, to the date the complaint is settled.
- C. Morses should pay Mrs R the total of "A" plus "B".
- D. Morses should remove any adverse information you have recorded on Mrs R's credit file in relation to loan 5.

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

My final decision

For the reasons I've explained above, I'm upholding Mrs R's complaint in part.

Morses Club PLC should put things right for Mrs R as I've directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 24 November 2022.

Robert Walker
Ombudsman