

The complaint

Mrs H complains (through a representative) that Morses Club PLC (Morses) didn't carry out proper affordability checks before it lent to her. Had it done so, Morses would've discovered she couldn't afford to repay these loans.

What happened

Mrs H was advanced 8 home collected loans between December 2013 and November 2018. 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
2	£400.00	03/12/2013	14/11/2014	50	£14.00
3	£500.00	07/11/2014	30/10/2015	50	£17.50
4	£100.00	15/05/2015	15/05/2015	34	£5.00
5	£500.00	30/10/2015	19/10/2016	52	£17.50
6	£500.00	19/10/2016	17/10/2017	52	£17.50
7	£500.00	17/10/2017	28/09/2018	52	£17.50
8	£500.00	30/11/2018	06/12/2019	52	£17.50

The 'weekly repayment' column is the cost per week per loan. Where loans overlapped Mrs H's commitment to Morses would be greater. For example, when loans 2 and 3 overlapped her commitment to Morses was £31.50 per week.

Following Mrs H's complaint Morses explained in its final response letter that it had carried out affordability checks before these loans were advanced and based on the information it received it was reasonable to lend.

Mrs H's representative didn't agree and instead referred the complaint to the Financial Ombudsman Service.

The case was then reviewed by an adjudicator. He concluded it was reasonable for loans 1 – 4 to have been advanced. So, he didn't uphold the complaint about this lending. However, he thought loans 5 - 8 shouldn't have been granted because the lending pattern was now harmful for Mrs H.

Morses disagreed with the adjudicator's assessment in summary, Morses said:

- These loans were repaid without any obvious hardship.
- Loans 5 – 8 were all for the same value and therefore her weekly commitment remained the same.
- Mrs H had a good repayment history.
- The affordability checks showed loans 5 – 8 to be affordable for Mrs H.
- Mrs H didn't tell Morses about any financial difficulties she may have been

experiencing.

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

I then issued my provisional decision explaining the reasons why I was intending to uphold Mrs H's complaint in part about loans 6 – 8 only. 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 short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Neither Mrs H (or her representative) appear to have disagreed with the adjudicator's findings in relation to loans 1 – 4. So, it seems this lending isn't in dispute and so I no longer think that I need to make a finding about it. But for completeness I don't disagree with the adjudicator's assessment that it wasn't unfair of Moses to have provided these loans. But I have kept these loans in mind when thinking about the overall lending relationship between Moses and Mrs H.

Instead, this decision will focus on whether Moses did anything wrong when it granted loans 5 - 8.

Moses had to assess the lending to check if Mrs H 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've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mrs H'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 Moses should have done more to establish that any lending was sustainable for Mrs H. These factors include:

- *Mrs H 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 H 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 H 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 H.

Moses was required to establish whether Mrs H 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 H 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 H's complaint.

Loans 5

The adjudicator upheld this loan because in his view the loan was harmful for Mrs H because it was now unsustainable for Morses to continue to lend to her.

I can understand why the adjudicator has concluded this, but I don't think, Morses would've concluded these loans were now harmful to Mrs H.

I accept, that Mrs H had been indebted with Morses continuously for around 22 months – and she was further committing to be indebted for an additional 52 weeks. This, in some situations could be a sign that she was now reliant on the borrowing or at the very least having longer term money management problems. Neither can I ignore that the lending was consecutive and at times overlapped, which could show that Mrs H had a continued need for credit.

But I also have to keep in mind that Mrs H's borrowing wasn't increasing, and the loans were due to be repaid over a longer period of time, longer than say a payday loan. Although, I do accept that Mrs H's commitments remained flat, I don't think Mrs H's indebtedness seemed to be increasing unsustainably.

There also hadn't been any obvious repayment problems when Mrs H had settled previous loans.

So, taking everything together, I don't think Morse would've or ought to have realised the loan was unsustainable for Mrs H and I so I am intending to conclude the loans weren't likely to be so harmful that it would've prompted Morses to have stopped lending to her. But that doesn't mean Morse did all it should've done before advancing the loan.

Morses has provided us with the income information it collected from Mrs H, and around this time her income was declared at £170 per week. Her weekly expenditure was declared as £80 which resulted in a disposable income of £90 per week. This may have then led Morses to believe that Mrs H had sufficient disposable income and could afford the loan repayment.

But that doesn't mean that Morses carried out a proportionate check. I do think the time in debt ought to have altered Morses to the possibility that Mrs H may have been reliant on this credit and her indebtedness was potentially extending for another year. These factors ought to have prompted it to consider whether it knew enough about Mrs H's financial position.

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

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

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

However, that isn't the end of the matter. For me to be able to uphold these loans, I have to be satisfied that had Morses carried out a proportionate check it would've likely discovered that Mrs H couldn't afford the loan.

However, Mrs H's representative hasn't provided the Financial Ombudsman with either her credit file or her bank statement. So, without any further information from Mrs H about her

other living costs, it's difficult for me to conclude what Morses would've likely seen had it made better checks.

Although Morses didn't carry out proportionate checks, I'm not able to conclude that further checks would've led it to conclude that this loan was unaffordable for Mrs H. As this is the case, I'm intending to not uphold Mrs H's complaint about loan 5.

Loans 6 – 8

For these loans, Morses has shown that it asked Mrs H for details of her income and expenditure. For loan 6, Mrs H declared she an income of £125 per week with outgoings of £65 per week. Leaving £60 to afford the repayment towards loan 6 of £17.50. Similar checks were carried out for loans 7 and 8.

Based solely on Mrs H'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 H had been indebted to Morses, her future weekly commitment and what Morses already knew about Mrs H's finances and the lending. For example, Mrs H returning for further borrowing on the same day a previous loan had been repaid. By now and continuing on from loan 5, it would've been reasonable for Morses to have at the very least, started to have verified the information it was being given. I've not seen anything to suggest carried out further checks in this case.

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 H, this is because I've also considered whether the lending was sustainable for her.

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 H, 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 H's case, I think that this point was reached by loan 6. I say this because:

- At this point Morses ought to have realised Mrs H was not managing to repay her loans sustainably. Mrs H had taken out six loans in 34 months. So Morses ought to have realised it was more likely than not Mrs H was having to borrow further to cover a longterm shortfall in her living costs.*
- From her first loan, Mrs H was provided with a new loan on the same day a previous loan was repaid. For example, loan 5 was taken out on the same day that loan 3 was repaid. While, loan 6 was taken out on the same day that loan 5 was repaid. To me, this is a sign that Mrs H 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 H's weekly commitments generally remained the same. There was no time when her commitment decreased. Which may have given Morses confidence that Mrs H was no longer reliant on these loans. However, the fact that these loans were lent in a consecutive manner, and her indebtedness wasn't decreasing ought to have led it to realise these loans weren't sustainable anymore.*
- Mrs H wasn't making any real inroads into the amount she owed Morses. Loan 8 was taken out nearly five years after Mrs H's first loan and was to be repaid over another 52 weeks. Her final loan was also the same value as most other loans she had taken. Mrs H had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.*

I think that Mrs H lost out when Morses provided loans 6, 7 and 8 because:

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

So, I'm intending to uphold Mrs H's complaint about loans 6 - 8.

Response to the provisional decision

Both Mrs H and Moses were asked to provide any further information, comment, or evidence for consideration as soon as possible but in any event no later than by 12 October 2022.

Moses responded, agreeing with the proposed outcome.

Neither Mrs H or her representative acknowledged or commented on the proposed outcome.

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.

Moses has accepted the outcome I reached in the provisional decision and as no further information or comments have been provided by either Mrs H or her representative, I see no reason to depart from the findings I previously made.

So, for the reasons outlined in the provisional decision, I still think Moses shouldn't have provided Mrs H with loans 6 – 8 and I've outlined below what Moses needs to do in order to put things right for her.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had if it hadn't lent loans 6 - 8, 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 H 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 H 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 H 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.

Morses shouldn't have provided Mrs H with loans 6 - 8.

- A. Morses should add together the total of the repayments made by Mrs H 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. Morses should calculate 8% simple interest* on the individual payments made by Mrs H which were considered as part of "A", calculated from the date Mrs H originally made the payments, to the date the complaint is settled.
- C. Morses should pay Mrs H the total of "A" plus "B".
- D. The overall pattern of Mrs H's borrowing for loans 6 - 8 means any information recorded about them is adverse, so you should remove these loans entirely from Mrs H's credit file.

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

My final decision

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 10 November 2022.

Robert Walker
Ombudsman