

## The complaint

Ms R, through her representative, complains that Morses Club PLC lent to her irresponsibly.

## What happened

Ms R was approved for six loans. Here is a brief loan table. There was a significant gap in lending between loans 5 and 6.

Loan	Start Date	End Date	Capital Amount	Interest amount	Term	Repayment amount
1	22/02/2017	29/09/2017	£200.00	£130.00	33	£10.00
2	29/09/2017	15/06/2018	£200.00	£130.00	33	£10.00
3	15/06/2018	29/01/2019	£300.00	£195.00	33	£15.00
4	29/01/2019	16/08/2019	£300.00	£195.00	33	£15.00
5	16/08/2019	29/04/2020	£300.00	£195.00	33	£15.00
5 month gap in lending						
6	23/09/2020	31/03/2021	£300.00	£210.00	34	£15.00

Morses did not uphold Ms R's complaint in its final response letter (FRL) and has challenged our adjudicator's view, which was that loans 4 and 5 should be upheld because the overall pattern of lending was harmful bearing in mind the type of credit as well as the relevant rules, guidance, and good industry practice at the time. Our adjudicator's view was that at loan four Morses should've reasonably questioned whether continuing to offer further loans to a customer who appears to be reliant on this form of lending was unsustainable or otherwise harmful, because:

- Ms R had taken four loans in 23 months, with no breaks in lending.
- The amounts she was borrowing didn't significantly decrease over this period.
- Ms R was repeatedly coming back for new loans on the day a previous loan was repaid.

Morses challenged these findings on the following points which I have summarised:

- there was a break in the lending after loan 5
- six loans in three years were not unreasonable
- the loan repayments were conducted well by Ms R
- It had seen no evidence of any other funds being used to repay its own loans which was causing Ms R to borrow from Morses again
- Ms R's committed weekly payments remained the same after loan 3 at £15
- It carried out an income and expenditure (I&E) analysis and Ms R signed it as true and correct

- The income of £317.64 a week (loan 4 application) was confirmed to the agent at the time and so Moses was confident that was correct. And loan 5 declared income was higher at £378.80 a week which it had verified with credit reference agencies (CRAs)
- After deduction of expenditure Ms R had ample disposable income to repay £15 a week and these repayments were a low percentage of her uncommitted and available income (8.2% and 11.7% for loans 4 and 5 respectively)

I reviewed the complaint and asked Moses to clarify that Ms R had 6 loans only. It responded quickly and I thank Moses for that.

And I asked Ms R, through her representative, to send to us information about her financial situation at the time Moses was lending to her, but we have received nothing from them.

So, I decided to issue a provisional decision on 22 November 2022 upholding one loan only (loan 1). Both parties have been given time to send me evidence in the form of bank statements, proof of income documentation, or copies of documents given to Moses or seen by Moses' agent and dating from the time of the loan applications. It was a matter for the parties as to what they send.

Since my provisional decision was sent, Moses has agreed to the loan 1 uphold.

Ms R has received my provisional decision, but nothing further has been sent by her and as the reply date had been reached (6 December 2022) then I have moved the complaint to its final determination.

### ***My provisional findings dated 22 November 2022 (smaller type)***

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 in relation to loans 4 and 5.

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 the 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. I am issuing a provisional decision because I do not agree with the outcome for loans 4 and 5, and I think that loans 1 and 2 ought to be upheld utilising the information Morses had at the time those two loans were applied for.

### *Loan 1*

Morses carried out a credit search for the first loan. This complaint by Ms R highlights a situation where the results of those credit search results have largely been ignored. I have reviewed them carefully. And the results from February 2017, which is when Ms R first approached Morses, show some of the following details:

- 10 active 'SHARE' accounts of which one was in default and one opened in the previous five months
- total value of all accounts (meaning total debt) of £10,345 - £4,848 on loan and instalment type loans, £3,725 on revolving credit such as credit cards and budget accounts, and £305 on home-credit much like Morses.
- the £305 home credit account was a delinquent account from eight months before and the records suggest that debt remained outstanding. Another record was that the total payments on the active home credit account was £86 a month.
- the new account opened five months before had a value of £895 so not a small sum
- the total value of the default accounts (revolving credit and budget accounts) was £2,427 and Ms R had a defaulted account relating to a telecoms contract.
- total monthly payments on all accounts excluding mortgages – active at that time – was £428 which would have translated into Ms R's situation as just under £99 a week.

Cross-referring the information Morses says it obtained and recorded when Ms R applied, with the income and expenditure (I&E) spreadsheet it has sent to us, then I do not think that they match. Despite the information it had from the credit search results, Ms R's expenditure was listed in the I&E at just £20 a week for food. That is a particularly low sum and one I would query. But proceeding on that £20 figure for food, I've made some calculations.

Ms R's income was recorded as £149 a week and was at a level at which I'd consider Ms R was a low-earner which likely means that Ms R could be more difficult to make any loan repayments given loan amount from a lower level of income. The records for Ms R categorise the benefits income as £115 and then there's a category of 'other' at £34 which must be how the figures add up to total weekly income of £149. But I do not know what that 'other' income was.

Reading the FRL from Morses, it goes into detail as to how these loans were applied for and gives an overview of the procedure. This – loan 1 – was not a '*faster payment loan*' to use the Morses terminology, and so it seems that the affordability checks were completed with the Morses agent present.

The FRL includes this sentence: '*There is no set list of criteria a lender must follow, when providing credit. The checks must be proportionate to the amount and term of the loan and what is known about a customer*'.

But I'd expect an agent to utilise the information he or she had to hand. Having obtained the credit search and having supplied the results to us which were dated the same day as the first loan application, then I can't ignore the details on that set of results.

I plan to uphold loan 1. As Ms R's income was not going to be enough to pay for her existing debt plus the money needed for this loan plus her normal expenditure.

#### *Loans 2 to 6*

Loan 6 was approved after a five month break. After two and a half years of lending to Ms R, I don't consider that the gap would have broken the lending chain, but I do think it was a significant enough break for me to consider it as part of my review of loans 2 to 6.

From loan 2 onwards, I note that Ms R's income increased gradually and Moses has said that at loan 4 its agent had seen income evidence to make it confident that the income figures for loans 4 and 5 were accurate. And so Moses can send me that evidence but in the meantime, proceeding on the basis that these income figures were accurate, then I've reviewed the I&E. Below is a duplicate of the information Moses has provided being the details collected from Ms R at the time:

LOAN	INCOME	EXPENDITURE	DISPOSABLE INCOME
1	£149.00	£20.00	£129.00
2	£226.00	£25.00	£201.00
3	£325.00	£85.00	£240.00
4	£317.64	£136.00	£181.64
5	£378.80	£251.40	£127.40
6	£309.75	£168.00	£141.75

As Ms R's income increased her expenditure did too but still, on the evidence I have now, it seems Ms R was able to afford loans 2 to 6. So, while I do not think that the evidence points towards Ms R being in an unsustainable position with these loans, still I do not have the evidence I need to review Ms R's full financial position.

By loan 4, I would have expected Moses to have reached the point where it needed to cease just relying on the information Ms R had given it. And I say that because by loan 4 it had been lending to Ms R for two years without a break. And the credit search it carried out at loan 1 would be considered to have been out of date.

Moses has explained that it only does credit searches for the first loan but that would have been a relatively straightforward method to check on Ms R's situation.

I'd need to be able to assess what it was that Moses may have seen if it had carried out additional checks from loan 4 and I am not able to do that as I have nothing from Ms R. Recently, we asked Ms R, through her representative, to provide us with any information it was able to send about her financial situation for the Moses lending period. But nothing has been sent to us.

And so, without that I can only rely on the information Moses says Ms R provided to it at the time she applied for the loans. And applying those figures it seems that loans 2 to 6 were affordable.

I plan to uphold loan 1 because of her very low income at the time and the credit search carried out showed a significant amount of debt Ms R was servicing at the time.

#### **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 I have explained earlier, the reply date has been reached, nothing has been received from Ms R other than an acknowledgement of having received the provisional decision. Moses has agreed to the loan 1 uphold.

In the circumstances I see no reason to depart from the findings I made in my provisional decision, all of which are repeated here and form part of this final determination.

For the reasons given I uphold Ms R's complaint for loan 1.

### **Putting things right**

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it had not lent Ms R loan 1, 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 Ms R may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 reconstruct now accurately.

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 loan 1:

- 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) Morses should remove any adverse payment entries on Ms R's credit file for loan 1.

\*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 in part and I direct that Morses Club PLC does 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 9 January 2023.

Rachael Williams  
**Ombudsman**