

## The complaint

Mrs S complains that Morses Club PLC (Morses) provided her loans which she couldn't afford to repay.

## What happened

Mrs S was advanced 7 home collected loans between June 2019 and July 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	£300.00	25/06/2019	03/12/2019	33	£15.00
2	£300.00	03/12/2019	14/08/2020	34	£15.00
3	£200.00	14/02/2020	14/08/2020	34	£10.00
4	£300.00	21/07/2020	26/03/2021	34	£15.00
5	£300.00	14/08/2020	19/03/2021	34	£15.00
6	£200.00	27/11/2020	21/07/2021	34	£10.00
7	£200.00	21/07/2021	outstanding	35	£10.00

Mrs S had some problems repaying loan 7 and based on the statement of account as of January 2022 a balance remains due of £70.

The 'weekly repayment' column in the table above is the cost per week per loan. Where loans overlapped the cost per week was increased, for example when loans 2 and 3 were running at the same time Mrs S's weekly commitment to Morses was £25.

Following Mrs S's complaint Morses wrote to her to explain why it wasn't going to uphold the complaint. Mrs S then referred the complaint to the Financial Ombudsman Service.

Morses then agreed to put thing right for Mrs S in relation to loans 6 and 7. After deducting the outstanding balance due for loan 7, with tax and the 8% included this would lead to a refund of £241.98 to Mrs S. This offer was put to Mrs S, but she declined it.

An adjudicator reviewed the complaint. She concluded that a reasonable decision to provide loans 1 – 5 was made by Morses so she didn't uphold Mrs S's complaint about those loans. But she did think, Morses' offer to put things right for loans 6 and 7 was fair and reasonable.

Morses didn't acknowledge or provide any further comments about the proposed outcome.

Mrs S didn't agree with the adjudicator's assessment, and I've summarised her response below – which is based on her emails to the Financial Ombudsman:

- Mrs S didn't know why other loans (1- 5) weren't upheld when her financial circumstances were the same throughout the entire lending relationship.
- Mrs S could see, by the dates of the loan that she was advanced more money while

other loans were outstanding.

- In 2019, Mrs S had started to fall behind with rent payments.
- Moses did a credit search so ought to have seen that she was behind with her rent and had a debt management plan.
- Loans were taken up to a month apart, and Mrs S doesn't believe that to be responsible.

As no agreement has been reached, the case has been passed to me to resolve. I issued a provisional decision explaining the reasons why I was intending to uphold Mrs S' complaint in full. A copy of the provisional findings follows this in italics and in 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.*

*Moses had to assess the lending to check if Mrs S 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 S'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 S. These factors include:*

- *Mrs S 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 S 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 S 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 S.*

*Moses was required to establish whether Mrs S 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 S 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 S's complaint.*

*For Mrs S's first loan, Moses asked Mrs S to declare her weekly income and her weekly*

expenditure. For loan 1, she declared her weekly income was £254 and her weekly expenditure was declared as being £148. This expenditure has been recorded for rent, council tax, childcare costs, utilities, travel and food.

Based solely on the information Mrs S declared to Moses, it was reasonable for Moses to have concluded Mrs S would be in a position to afford her weekly repayment of £15.

Moses has also said for the first loan only, it carried out a credit search and it has provided the Financial Ombudsman Service with the results. It is worth saying here that although Moses carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what Moses can't do is carry out a credit search and then not react to the to the information it received – if necessary.

Looking at the credit file data provided by Moses I'm satisfied it was aware of some concerning adverse information. It knew that Mrs S had two defaults on her credit file, but the most recent of these defaults was entered into just two months before loan one was approved. This is important, as it shows that close to this loan being granted Mrs S had had a period where she couldn't afford to service a particular line of credit.

In addition, Moses knew that two accounts were marked as being delinquent – this would be a situation where Mrs S had missed contractual payments but not a sufficient number to yet have the accounts defaulted. It also knew that in total Mrs S had nearly £8,000 worth of credit debt and she was (and had been) for around a year using more than her credit limit on one or more of her accounts.

These results are, in my mind concerning enough that it ought to have prompted Moses to carry out further checks not just before loan one, but before all the loans were approved. So, I don't think proportionate checks were carried out before it provided Mrs S with any of her loans.

Instead, I think it needed to gain a full understanding of Mrs S's actual financial position to ensure this loan (and future loans) were affordable. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at her bank statements.

The further checks might've helped verify what Mrs S had declared and provided and revealed whether there was any other information that Moses might've needed to consider about Mrs S's general financial position given the results of the credit check.

However, that isn't the end of the matter. For me to be able to uphold this loan (and future loans), I have to be satisfied that had Moses carried out a proportionate check it would've likely discovered that Mrs S couldn't afford them.

Copies of Mrs S's bank statements haven't been provided, and I only have a partial credit file that doesn't really shed any light on the various loan accounts Mrs S may have had outstanding at the time.

Neither, has anything been provided to show that Mrs S's was in significant rent arrears – as she said. But I don't think I need that information to come to a fair outcome on the complaint. But Mrs S may, if she wishes supply this in response to this provisional decision.

However, a month after loan one was entered into Mrs S has provided a statement of account for a formal debt management plan (DMP) with a third party, and I do have details of that. Based on the information Mrs S has provided the plan covered payments towards two credit cards, two high cost short-term credit loans as well as what I believe is a catalogue shopping account.

This was a formal plan, that would've only been entered into as a result of Mrs S have difficulties serving her creditors. Therefore, given the close proximity of this DMP - as in as much as it was active when loan one was approved, I think had Moses carried out proportionate checks it would've likely discovered the precarious financial position Mrs S

*was likely in, and knowing this it ought to have concluded she already had money management problems and therefore not provided this loan – or any future loans.*

*Moving forward, Mrs S declared broadly similar income and expenditure information for the other loans apart for loan 4 – at this loan Mrs S declared an income of over £1,200 per week. This is far in excess of anything that she declared for any other loans. And there is, no way in my mind that this was an accurate figure and ought to have been a further indicator that further checks were needed.*

*Mrs S also either had more than one loan running at the same time or took new loans with Moses on the same day that a previous loan was repaid. This, together with the concerning credit check results and the DMP ought to have led Moses to conclude that loans 2 – 5 shouldn't have been provided either.*

*Given everything I've said above, I'm intending to uphold Mrs S's complaint about loans 1 –5.*

### **Loans 6 – 7**

*Moses has already accepted these loans ought to not have been provided, so I don't need to make a finding about these loans as there is no ongoing dispute. So, I say no more about them.*

### **Response to the provisional decision**

Both Mrs S and Moses were asked to provide any further comments or evidence as soon as possible but no later than 28 October 2022.

Mrs S confirmed she was happy with the proposed outcome and had nothing further to add.

Moses also emailed to confirm it accepted 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 parties have accepted the findings which I outlined in the provisional decision, I see no reason to depart from what I previously said. So, I still think Moses ought to not have approved any of the loans for Mrs S.

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

### **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 lent to Mrs S, 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 S may have simply left matters there, not attempting to obtain the funds from elsewhere. Or, 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 S 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 S 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 has already accepted that loans 6 and 7 shouldn't have been provided to Mrs S. But for completeness and in line with what it has already offered, I've outlined below what it has agreed to do. However, I also think loans 1 – 5 shouldn't have been provided either.

If Morses have sold the outstanding debts Morses should buy it back if Morses is able to do so and then take the following steps. If Morses isn't able to buy the debt back then Morses should liaise with the new debt owner to achieve the results outlined below.

- A. Morses should add together the total of the repayments made by Mrs S towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses have already refunded.
- B. Morses should calculate 8% simple interest\* on the individual payments made by Mrs S which were considered as part of "A", calculated from the date Mrs S originally made the payments, to the date the complaint is settled.
- C. Morses should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mrs S as though they had been repayments of the principal on all outstanding loans. If this results in Mrs S having made overpayments then Morses should refund these overpayments with 8% simple interest\* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Morses should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on any outstanding loans. If this results in a surplus, then the surplus should be paid to Mrs S. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mrs S.
- E. Morses should remove any adverse information it has recorded on Mrs S's credit file in relation to loans 1 - 5. The overall pattern of Mrs S's borrowing for loans 6 and 7 means any information recorded about them is adverse, so Morses should remove these loans entirely from Mrs S's credit file. Morses do not have to remove loan 7 from Mrs S's credit file until it has been repaid, but Morses should still remove any adverse information recorded about these loans.

\*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs S 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 S' complaint in full.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 December 2022.

Robert Walker  
**Ombudsman**