

## The complaint

Ms O, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans.

## What happened

Morses, initially said it had only advanced three home collected loans between December 2020 and June 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 (weekly)	weekly repayment
1	£300.00	10/12/2020	01/06/2021	34	£15
2	£300.00	04/05/2021	outstanding	34	£15
3	£500.00	01/06/2021	outstanding	35	£25

Ms O has had some problems repaying her final two loans, and as of June 2022, Morses' statement of account shows there is a total outstanding balance of £845.

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 1 and 2 were running at the same time Ms O's weekly commitment to Morses was £30.

Following Ms O's complaint Morses wrote to her representative to explain that it wasn't going to uphold her complaint. Ms O's representative then referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint and she didn't uphold it. She concluded it was reasonable for loans one and two to be provided. The adjudicator did conclude that perhaps by loan three further checks may have been needed but she hadn't seen anything to make her think the complaint should be upheld.

Ms O's representative responded to the assessment with the following;

*Our client does not accept this decision and would like the Ombudsman to look and this and give a final decision.*

The case was then passed to an ombudsman to decide. However, after the complaint was referred for a decision, further enquires were made with Morses, at which point further loans were identified as being lent to Ms O.

I have put together a new loan table below which includes, as far as we are aware Ms O's total lending history. I've used the same loan numbers as Morses has done in the spreadsheet it provided.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
3	£120.00	02/08/2010	01/08/2011	34	£6.00
4	£200.00	20/12/2010	15/08/2011	34	£10.00
5	£100.00	01/08/2011	23/12/2011	34	£5.00
6	£260.00	15/08/2011	16/02/2012	34	£13.00
7	£0.00	08/12/2011	02/11/2012	20	£0.00
8	£160.00	23/12/2011	06/12/2013	34	£8.00
9	£100.00	26/01/2012	28/10/2013	34	£5.00
10	£260.00	16/02/2012	12/12/2013	34	£13.00
11	£200.00	12/12/2013	03/07/2014	34	£10.00
12	£100.00	20/02/2014	14/07/2014	34	£5.00
13	£200.00	03/07/2014	16/11/2015	34	£10.00
14	£100.00	10/07/2014	24/11/2015	34	£5.00
15	£100.00	14/07/2014	24/11/2015	34	£5.00
16	£200.00	24/11/2015	24/11/2016	33	£10.00
17	£200.00	24/11/2015	24/11/2016	33	£10.00
18	£250.00	24/11/2016	15/06/2017	33	£12.50
19	£150.00	26/01/2017	01/12/2017	33	£7.50
20	£250.00	15/06/2017	sold	33	£12.50
gap in lending					
21	£300.00	10/12/2020	01/06/2021	34	£15.00
22	£300.00	04/05/2021	outstanding	34	£15.00
23	£500.00	01/06/2021	outstanding	35	£25.00

Given the loan numbers provided to the Financial Ombudsman by Morses there must have been a further two loans before loan three. But as neither party has any further information about those loans, I can't consider them as part of this decision.

Ms O has had some problems repaying loan 20 as well as loans 22 and 23. Morses has shown from its statement of account that the balance was sold to a third-party collection agency in November 2018.

In addition, loan seven in the table above, wasn't a home collected loan. It was a '*Morses Club Card*' – which attached a variable rate of interest. My understanding of this product is that it was in effect a flexible credit facility. However, looking at the statement of account, while it seems that Ms O held the facility for nearly a year it seems there was only one drawdown on 8 December 2011 and then this was repaid / refunded on 25 January 2012. After this date, there doesn't appear to be any further drawdowns on this facility.

I've kept this in mind when thinking about the overall lending relationship.

There is a gap in lending of over two years between loans 20 being sold to a third party and when loan 21 was advanced. In my view, this gap is significant enough to have broken the chain of lending, meaning there are two chains. I've therefore in this provisional decision considered that there were two chains of lending, loans 1 – 20 and loans 21 - 23.

The complaint was then passed to me. I issued my provisional decision explaining the reasons why I was intending to partly uphold Ms O's complaint. A copy of the provisional findings follows this and form 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.*

*Morses had to assess the lending to check if Ms O 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've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Ms O'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 Ms O. These factors include:*

- Ms O 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 O 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 O 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 O.*

*Morses was required to establish whether Ms O 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 O 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 Ms O's complaint.*

### **Loans 3 -9**

*For these loans it is likely that Morses made enquires with Ms O to find out what her weekly income and expenditure was. But Morses hasn't provided the details Ms O gave it. This could be down to a number of reasons but the most likely, is due to the passage of time, as these loans were approved up to 12 years. So, I don't consider it unreasonable or unusual that this information may no longer be available. This means I don't know what it knew about Ms O's income or expenditure details.*

*In addition, Ms O hasn't provided any details about her financial position at the time these loans were approved. Given, the lack of information I can't fairly come to the conclusion that Morses did something wrong when it advanced these loans, so I can't uphold Ms O's complaint about them.*

### **Loans 10 – 20**

*In addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Ms O, 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 Moses should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Ms O's case, I think that this point was reached by loan 10. I say this because:

- At this point Moses ought to have realised Ms O was not managing to repay her loans sustainably. Ms O had taken out eight loans in this chain of lending in 18 months. So Moses ought to have realised it was more likely than not Ms O was having to borrow further to cover a long-term short fall in her living costs.
- By approving loan 10, Ms O now owed Moses £947 in capital and interest, this was the largest amount Ms O had owed Moses to date and at this point in time with loan 10 Ms O had three loans running concurrently – the most she'd had to date.
- From the first loan in this chain onwards, Ms O was generally provided with a new loan on the same day a previous loan was repaid and at times had a number of loans running at the same time. To me, this is a sign that Ms O 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, there wasn't as far as I can see a sustained decrease in Ms O's indebtedness or weekly repayments.
- Ms O wasn't making any real inroads to the amount she owed Moses. Loan 20 was taken out nearly seven years after Ms O's first loan based information which has been provided. This loan was also twice as large as Ms O's first loan. Ms O had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.
- Ms O also has obvious repayment problems repaying some of these loans, for example it took Ms O more than twice as long to repay loans 13, 14 and 15 than she was contracted to. The fact she had problems repaying several loans indicates she couldn't afford them, and the loans weren't sustainable.

I think that Ms O lost out when Moses provided loans 10 - 20 because:

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

### **Loans 21 – 23**

As I've said above, there is a significant gap between loan 20 being passed to a third-party collection agency until when she returned for loan 21. I think, in those circumstances it is fair for Moses to have treated loan 21 as the first loan in a new chain. This does have implications for the type and level checks Moses may need to do, in order to have carried out a proportionate check before it approved these loans.

For these loans, Moses has shown that it asked Ms O for details of her income and expenditure. Her income for each loan was £356. With her declared weekly expenditure around £230 per week for loan 21, around £200 per week for loan 22 and £275 for loan 23. Based solely on her income and expenditure information Moses could've been confident Ms O would be able to comfortably afford the repayments she was committed to making of no more than £40 per week.

Moses also carried out a credit check when loan 21 was approved, and a copy of those results have been supplied to the Financial Ombudsman Service. Having reviewed the results, I am concerned about the information Moses was provided with and I don't think it reacted appropriately. A summary of what I've seen can be found below.

- £9,414 of existing debt.
- Three defaults with one having been settled. The most recent default was recorded some two years before loan 21 was advanced.
- Five accounts in delinquency – this is the stage where payments had been missed

*but not a sufficient number to lead to a default. The most recent account had entered delinquency the month before loan 21.*

- *Ms O had a history of taking out home credit loans, with 14 such loans being advanced with the previous 12 months and 2 in the last 3 months.*

*The results are concerning because it shows, to me because it was showing a picture of someone who was having current and immediate repayment problems with other credit given how recently the last credit account had entered into delinquency. In addition, there were also signs that Ms O had been a regular user of home credit (from other provider(s)) within the last year. I think that may have led Moses to question whether it really knew enough about Ms O's financial circumstances.*

*Therefore, given what the credit results show, I'm intending to conclude that the checks Moses carried out before these loans were approved wasn't sufficient. Instead, I think it needed to gain a full understanding of Ms O's actual financial position to ensure this loan was 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 Ms O had declared and provided and revealed whether there was any other information that Moses might've needed to consider about Ms O'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, I have to be satisfied that had Moses carried out a proportionate check it would've likely discovered that Ms O couldn't afford these loans.*

*However, neither Ms O nor her representative has provided any details of her actual living costs at the time either through bank statements or a full credit report. I therefore, can't fairly conclude what further checks may have shown Moses about Ms O's finances. As this is the case, I can't uphold Ms O's complaint about these loans.*

*Overall, I'm intending to uphold Ms O's complaint about loans 10 – 20 only.*

## **Response to the provisional decision**

Both Moses and Ms O were asked to provide anything further for consideration as soon as possible, but no later than 1 November 2022.

Ms O's representative emailed to confirm it accepted the provisional decision.

Moses also emailed to confirm it was accepting the findings in 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 neither party has anything further to add and both Moses and Ms O's representative accepted the findings in the provisional decision. I see no reason to depart from the findings I previously made.

I still don't think Moses ought to have approved loans 10 – 20 for Ms O because these loans weren't sustainable for her.

I've outline below what Moses needs to do in order to put things right for Ms O.

## 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 provided loans 10 - 20 to Ms O, 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 O 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 Ms O 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 Ms O 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 provided loans 10 – 20.

If Morses has sold the outstanding debt Morses should buy it back if Morses is able to do so and then take the following steps. If Morses is not able to buy the debts 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 Ms O 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 Ms O which were considered as part of "A", calculated from the date Ms O 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 Ms O as though they had been repayments of the principal on all outstanding loans. If this results in Ms O 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 due for loans 20, 22 and 23, then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus, then the surplus should be paid to Ms O. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Ms O.
- E. The overall pattern of Ms O's borrowing for loans 10 – 20 means any information recorded about it is adverse, so Morses should remove these loans entirely from Ms O's credit file. Morses do not have to remove loan 20 from Ms O's credit file until these have been repaid, but Morses should still remove any adverse information recorded about those loans.

\*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Ms O 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 Ms O's complaint in part.

Morses Club PLC should put things right for Ms O as directed above.

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

Robert Walker  
**Ombudsman**