

## The complaint

Ms W, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans. Ms W says these loans weren't affordable for her.

## What happened

Morses provided details granted to Ms W in February and September 2020. 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	£200.00	20/02/2020	23/09/2020	34	£10
2	£200.00	23/09/2020	sold	34	£10

Following Ms W's complaint Morses wrote to her representative to explain that it wasn't going to uphold it. Ms W's representative didn't accept the outcome and referred the complaint to the Financial Ombudsman Service.

An adjudicator then reviewed Ms W's complaint and she didn't uphold it because she thought Morses had made a reasonable decision to provide these loans.

Ms B's representative didn't agree with the outcome, but no reasoning was provided as to why.

The case was then passed to an ombudsman. However, after the complaint was referred to me, further enquiries were made with Morses, at which point further loans were identified as being lent to Ms W. I have put together a new loan table below which includes, as far as I am aware Ms W's total lending history. The two 2020 loans appear in this new loan table as loans 13 and 14.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£200.00	09/05/2011	05/07/2012	34	£10.00
2	£100.00	05/07/2012	04/01/2013	34	£5.00
3	£200.00	04/01/2013	08/11/2013	34	£10.00
4	£300.00	08/11/2013	03/07/2014	34	£15.00
5	£300.00	03/07/2014	13/03/2015	34	£15.00
6	£200.00	13/03/2015	05/05/2016	34	£10.00
7	£100.00	19/05/2016	17/10/2016	33	£5.00
8	£200.00	17/10/2016	27/04/2017	33	£10.00
9	£150.00	05/12/2016	18/05/2017	33	£7.50
10	£200.00	27/04/2017	23/10/2017	33	£10.00
11	£150.00	18/05/2017	sold	33	£7.50
12	£200.00	23/10/2017	sold	33	£10.00

gap in lending					
13	£200.00	20/02/2020	23/09/2020	34	£10.00
14	£200.00	23/09/2020	sold	34	£10.00

Ms W had some problems repaying loans 11 and 12 (in addition to loan 14) which were sold to a third party in June 2018. Loan 14 was sold to a third-party in June 2021. No further update has been provided about what the outstanding balances may be for loans 11, 12 and 14.

The weekly repayment column is the cost per week, per loan. So, when loans overlapped the cost will be greater. For example, when loans 8 and 9 were running at the same time Ms W was contracted to pay £17.50 per week.

There is a gap in lending of almost two years between loans 11 and 12 being sold to a third party and when Ms W returned for further borrowing. I've, therefore in this provisional decision considered that there were two chains of lending. Loans 1 – 12 and then loans 13 and 14.

Morses' loan table which it provided the Financial Ombudsman suggests that there could be at least one further loan which was granted some time before May 2011. However, as neither party has been able to provide any further information about it, then I'm only going to be considering the loans outlined in the table above.

I then issued a provisional decision explaining the reasons why I was intending to uphold Ms W's complaint in part. A copy of the provisional findings follows this in italics and a smaller font and it 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.*

*Morses had to assess the lending to check if Ms W 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 W'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 W. These factors include:*

- *Ms W 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 W 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 W 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 W.*

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

### **Loans 1 – 3**

*For these loans it is likely that Morses made enquires with Ms W to find out what her weekly income and expenditure were. However, due to the passage of time, the information Morses likely obtained is no longer available. This means I don't know what it knew about Ms W's income or expenditure details.*

*In addition, Ms W 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 fairly uphold Ms W's complaint about these loans.*

### **Loan 4**

*Again, as for loans 1 – 3 Morses likely did collect some information about Ms W's income and expenditure but it can't provide the figures it obtained. I also have nothing from Ms W about her position at the time. So, on the face of it, it would seem this loan may be one that shouldn't be upheld.*

*However, that doesn't mean I'm not in a position to uphold the complaint about this loan. This is because Ms W had shown that she had problems repaying previous loans and therefore, would likely have problems repaying her loans going forward.*

*For example, it took Ms W 10 additional weeks to repay loan 3, and then she returned for lending on the same day that loan had been repaid, to borrow a larger sum to be repaid over the same period. I don't quite understand how Morses could've reasonably believed that Ms W would be able to repay this loan in a sustainable manner when she had recently demonstrated that she couldn't repay the previous loan, which was smaller in the same time scales.*

*Therefore, I'm intending to uphold Ms W's complaint about this loan.*

### **Loan 5 – 12**

*So, in addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Ms W, 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 Ms W's case, I think that this point was reached by loan 5. I say this because:*

- *At this point Moses ought to have realised Ms W was not managing to repay her loans sustainably. Ms W had taken out five loans in this chain of lending in 25 months. So Moses ought to have realised it was more likely than not Ms W was having to borrow further to cover a long-term short fall in her living costs.*
- *From the first loan in this chain onwards, Ms W 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 W was using these loans to fill a long-term gap in her income rather than as a short-term need.*
- *Ms W, at times continued to have problems repaying her loans, for example it took Ms W 60 weeks to repay loan six, which was meant to be repaid in 33 weeks. This would suggest to me that Ms W was having problems managing her money and shouldn't have been advanced further loans.*
- *Ms W wasn't making any real inroads to the amount she owed Moses. Loan 12 was taken out over six years after Ms W's first loan. Her final loan was for the same sum as her first loan. So, Ms W had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.*

*I think that Ms W lost out when Moses provided loans 5 - 12 because:*

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

*So, I'm intending to uphold Ms W's complaint about loans 4 – 12 in the first chain of lending.*

#### **Loans 13 and 14**

*There was a significant gap in lending of around 20 months after Ms W's last two loans had been sold to a third-party collection agency and it was also nearly three years since her last loan was advanced.*

*This break, in my view is sufficiently large for Moses to have in effect treated Ms W as a new customer and the start of the new lending relationship. This means, loan 13 could be treated as if it was loan 1 in a new chain of borrowing and this has implications for what Moses needed to do in order to carry out a proportionate check.*

*For these loans, Ms W had declared a weekly income of £256 and £254. With declared outgoings of £174 and £190.20 per week. Which gave Ms W a weekly disposable income of £82 for loan 13 and £73.82 for loan 14.*

*Moses could've reasonably believed Ms W had sufficient disposable income to afford the weekly loan repayment for both loans of £10.*

*In addition, before loan 13, Moses also carried out a credit search and it has provided a copy of the results to the Financial Ombudsman Service.*

*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 information it received – if necessary. Having reviewed the results Moses was given, I do have some significant concerns about her credit file. A summary of what I've seen can be found below;*

- *Two unsatisfied County Court Judgements (CCJ) and the most recent CCJ having been recorded three years before loan 13.*
- *Just under £7,000 of active debt spread across 31 active credit accounts.*
- *Ms W had opened five new credit accounts within the last 6 months – so close to one new credit facility per month.*
- *Ms W already owed another home credit loan provider nearly £1,200.*

- 22 accounts in default, owing nearly £5,000 with the most recent default having been recorded 10 months before loan 13. Of these 22 accounts, six were connected with home credit loans.
- A number of accounts in delinquency – so missed payments but not yet at the level of a default, with the most recent account entering delinquency in the month before this loan was approved.

*Given what the credit results show, I don't think, in this case that it matters whether the loan appeared pounds and pence affordable. I say this because the credit file information provided to Morses showed that Ms W likely having current financial difficulties she had a number of accounts in default, and CCJs which hadn't yet been satisfied. She was also having difficulties as a recent credit account had just moved into delinquency and she seemed to be opening at least one new credit account per month within the last six months – and it's reasonable to conclude these were likely high cost credit loans.*

*Overall, I'm satisfied the information within the credit checks ought to have alerted Morses to the fact that Ms W was likely having current and immediate financial difficulties and so it didn't make a fair decision to provide loans 13 and 14.*

*Overall, I'm intending to uphold Ms W's complaint about loans 4 – 14.*

### **Responses to the provisional decision**

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

Ms W's representative emailed to confirm she had accepted the proposed outcome as outlined in the provisional decision.

Morses also emailed to confirm it had accepted the findings.

### **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 Ms W and Morses have accepted the findings I was intending to reach in this case, I see no reason to depart from those provisional findings. I still think, for the reasons outlined in the provisional decision that Morses was wrong to have advanced Ms W loans 4 – 14.

I've outlined below what Morses needs to do in order to put things right for Ms W.

### **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 lent loans 4 – 14 to Ms W, 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 W 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 W 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 W would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses's liability in this case for what I'm satisfied it has done wrong and should put right.

Morses shouldn't have provided loans 4 – 14.

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 W 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 W which were considered as part of "A", calculated from the date Ms W 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 W as though they had been repayments of the principal on all outstanding loans. If this results in Ms W 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 Ms W. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Ms W.
- E. Morses should remove any adverse information recorded on Ms W's credit file in relation to loan 4 and loans 13 and 14. The overall pattern of Ms W's borrowing for loans 5 – 12 means any information recorded about them is adverse, so Morses should remove these loans entirely from Ms W's credit file. Morses do not have to remove loans 11 and 12 from Ms W'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 W 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 W's complaint in part.

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

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

Robert Walker  
**Ombudsman**

