

The complaint

Ms F, through her representative, complains that Morses Club PLC lent to her when she could not afford it. She says Morses lent to her irresponsibly.

What happened

Ms F was approved for 9 loans. Here is a brief loan table.

Loan	Start Date	End Date	Capital Amount	Interest amount	Term in weeks	Repayment amount each week	Weeks Live	Still Live
1	07/07/2015	03/12/2015	£150.00	£105.00	34	£7.50	21	No
2	03/12/2015	02/06/2016	£200.00	£130.00	33	£10.00	26	No
3	02/06/2016	27/10/2016	£300.00	£195.00	33	£15.00	21	No
4	27/10/2016	01/06/2017	£400.00	£260.00	33	£20.00	31	No
5	01/06/2017	08/02/2018	£400.00	£260.00	33	£20.00	36	No
Gap in lending								
6	30/08/2019	21/04/2020	£200.00	£130.00	33	£10.00	34	No
7	21/04/2020	10/11/2020	£200.00	£140.00	34	£10.00	29	No
8	10/11/2020	06/05/2021	£400.00	£280.00	34	£20.00	25	No
9	06/05/2021		£400.00	£300.00	35	£20.00	48	Yes

In October 2022 Morses told us that the account was still open with a £10 outstanding balance on loan 9.

One of our adjudicators looked at the complaint after it was referred to the Financial Ombudsman Service. He thought that loans 5 and 9 (not loans 1 to 4 and not loans 6 to 8) ought to be the ones that Morses puts right for Ms F.

Ms F's representative did not respond and Morses has responded to agree to loan 9 but not loan 5. So, I consider that the only loan left in dispute now is loan 5.

The unresolved complaint was passed to me to decide.

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.

We've set out our general approach to complaints about irresponsible lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Ms F could repay the loans in a sustainable manner.

These checks could consider several different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. In the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Moses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the *lower* a customer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable. Our adjudicator considered this applied to loans 5 and 9 in this complaint.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines sustainable as being without undue difficulties and in particular, the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've decided to uphold Ms F's complaint in part and have explained why below.

Ms F didn't disagree with our adjudicator's opinion about loans 1 to 4 and loans 6 to 8. Because of this I don't think there is any ongoing disagreement about these loans. And Moses has accepted the outcome for loan 9. So, I won't be deciding about that lending. But they were part of the borrowing relationship Ms F had with Moses. So, they are something I will consider when considering the complaint.

Loan 5 comes at the end of the first loan chain as there was a significant gap in the lending after loan 5. I haven't recreated individual, proportionate affordability checks for loan 5 because I don't think that it is necessary to do so. I've looked at the overall pattern of Moses' lending history with Ms F, with a view to seeing if there was a point at which Moses 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 circumstances of Ms F's case, I think that this point was reached by loan 5. I say this because:

- At this point she had been indebted to Moses for over two years.
- Ms F's first loan was for £150 and loan 5 was for £400. So, the amount Ms F's borrowing had more than doubled as well as her having been indebted to Moses for a significant time.

- At this point Moses ought to have known that Ms F was likely borrowing to meet an ongoing and increasing need. And this indicates her problems may have been worsening.
- So, because of these factors, Moses ought to have realised it was more likely than not Ms F's indebtedness was unsustainable.

I appreciate that Moses feels that the checks it did were enough to show the lending was affordable. But I think the lending pattern itself shows the loan was not sustainable.

I think that Ms F lost out because Moses continued to provide borrowing for loan 5 and at loan 9 because:

- these loans had the effect of unfairly prolonging Ms F's indebtedness by allowing him to take expensive credit over an extended period of time.
- the length of time over which Ms F borrowed was likely to have had negative implications on her ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, overall, I'm also upholding the complaint about loans 5 and 9 and Moses should put things right.

Putting things right

Moses ought not to have approved loans 5 and 9 for Ms F and so it needs to put things right for her.

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it stopped lending to Ms F at loan 5 and at loan 9, 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 F may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him and this particular lender which they may not have had with others. 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 F 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 F would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Moses' liability in this case for what I'm satisfied it has done wrong and should put right. Moses shouldn't have given Ms F loans 5 and 9.

LOAN 5

- A. Morses should add together the total of the repayments made by Ms F towards interest, fees and charges on loan 5, 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 F which were considered as part of "A", calculated from the date Ms F originally made the payments, to the date the complaint is settled.
- C. Morses should pay Ms F the total of "A" plus "B".
- D. The overall pattern of Ms F's borrowing for loan 5 means any information recorded about it is adverse, so it should remove these loans entirely from Ms F's credit file.

AND LOAN 9

Morses shouldn't have given Ms F loan 9 on which there is a small outstanding balance. Morses has agreed already to redress Ms F for this loan but the calculations done last year will need to be refreshed.

- A. Morses should remove all interest, fees and charges from the balance on the loan and treat any repayments made by Ms F as though they had been repayments of the principal. If this results in Ms F having made overpayments then Morses should refund these overpayments with 8% simple interest* calculated on the overpayments, Morses should then refund the amounts calculated.
- B. If there is still an outstanding balance then the amounts calculated should be used to repay any balance remaining. If this results in a surplus then the surplus should be paid to Ms F.
- C. The overall pattern of Ms F's borrowing for loan 9 means any information recorded about it is adverse, so it should remove it entirely from Ms F's credit file.

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

My final decision

For the reasons I've explained, I partly uphold Ms F's complaint. Morses Club PLC should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 20 February 2023.

Rachael Williams
Ombudsman