

The complaint

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

What happened

Miss J was advanced three home collected loans between November 2017 and May 2019. 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	£400.00	07/11/2017	29/01/2019	33	£20.00
2	£100.00	29/01/2019	28/08/2020	33	£5.00
3	£400.00	30/05/2019	outstanding	52	£14.00

Miss J has had problems repaying her final loan, and as of July 2022 an outstanding balance remained of £218.

Morses considered Miss J's complaint and didn't uphold it. Miss J's representative then referred the case to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. He thought Morses had made a reasonable decision to provide these loans. The adjudicator did say for the later loans Morses ought to have built a more detailed picture of Miss J's finances. But he wasn't able to say what a more detailed review would've shown because he did not have the evidence from Miss J.

Miss J's representative didn't agree with the outcome. I've summarised its comments below.

- It took Miss J 64 weeks to repay loan one and so, when loan 2 was granted, further checks should've been carried out.
- Loan 2 also took longer than the agreed term to repay as well – 81 weeks compared to a 48-week loan term.
- Miss J has had problems repaying all the loans and so Morses should've realised this and not provided loans 2 and 3 to Miss J.

The case was then passed to an ombudsman to make a decision about the complaint.

I the proceed to issue a provisional decision explaining the reasons why I was intending to uphold Miss J's complaint in part. A copy of the provisional findings follows this in italics and a 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.

Morses had to assess the lending to check if Miss J 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 considered a number of different things, such as how much was being lent, the size of the repayments, and Miss J'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 Miss J. These factors include:

- *Miss J 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);*
- *Miss J 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);*
- *Miss J 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 Miss J.

Morses was required to establish whether Miss J 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 Miss J 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 Miss J's complaint.

Neither Morses nor Miss J's representative appear to disagree with the outcome the adjudicator reached about loan 1. I therefore no longer think the loan is in dispute and so I say no more about it. But I have kept it in mind when thinking about the overall lending relationship.

Loan 2

Loan 2 was taken on the same day that Miss J repaid loan 1 and this loan was for a much smaller amount. However, it took Miss J significantly longer than Morses had anticipated to repay her first loan. Loan 1 was contracted to be repaid over 33 weeks, but it actually took Miss J 64 weeks – almost twice as long – to fully repay it.

So, although, loan 2 was for a much smaller sum the fact it had taken Miss J so much longer to repay the first loan means I don't think Morses' checks went far enough before loan 2 was approved.

Before this loan was approved, Morses asked Miss J for details of her income and expenditure. Miss J declared a weekly income of £140 and outgoings of £92. Leaving £48 per week in disposable income. So, based on this information Morses may have felt the loan

was affordable. It's also worth saying here that Miss J's income had dropped significantly since loan 1.

I do think, given what had gone on that Moses needed to do more checks before granting this loan such as verifying the information she had provided. But, I don't need to consider what the further checks may have shown, in order to reach a fair outcome because, I think there is enough in the information Miss J provided along with the repayment problems for loan 1 to uphold this loan and I've explained why below.

I do have some concerns about the expenditure information Miss J provided as part of the loan application. As I've said above, based on what was declared she had £48 per week in disposable income however, for loan 2 she declared that her food bill was £0 and didn't have utilities.

Whereas when you look at the information declared for loans 1 and 3, both of these headings have figures in. So, I think, on balance, given what was declared for other loans that Miss J did have both groceries as well as utilities to pay. Looking at what was declared for loans 1 and 3, she had spent across the two areas around £45 per week. So, adding that to the rest of the declared outgoings Miss J had, this left her with around £4 per week after repaying the Moses loan.

In my view the loan was unlikely to be affordable given the small amount of money left over each week and coupled with the fact the significant repayment problems Miss J had when repaying loans 1 and 2.

Loan 3

Moving forward, Miss J was granted another loan shortly after loan 2, this meant that Miss J's weekly commitment was £19 per week. This is very close to the £20 per week commitment Miss J was making for loan 1, and for which she had significant repayment problems in settling.

There was also a significant change in her income and expenditure again- and no further checks were carried out. But I also don't think this loan ought to have been approved. I say this because given the previous repayment problems and the continued change in her income and expenditure information I don't think loan 3 should've been granted either as it was unlikely to be affordable.

This was borne out by the fact that Miss J had problems repaying loan 3 as well, and an outstanding balance still remains. Although, Moses wouldn't have known this at the time it demonstrates her inability to repay the loan.

Therefore, I'm intending to uphold Miss J's complaint about these loans.

Response to the provisional decision

Both Miss J and Moses were asked to provide anything further for consideration as soon as possible, but in any event, no later than 30 November 2022.

Moses emailed the Financial Ombudsman Service agreeing with the findings which had been reached in the provisional decision.

Neither Miss J or her representative responded to or acknowledged 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 Morse has accepted the outcome as outlined in the provisional decision and neither Miss J nor her representative have provided anything further. I see no reason to depart from the findings I made in the provisional decision.

I still don't think Morse ought to have granted loans 2 and 3 to Miss J due to her problems repaying previous Morse loans as well as the information she gave to it as part of her income and expenditure assessment.

I've outlined below what Morse needs to do in order to put things right for Miss J.

Putting things right

In deciding what redress Morse should fairly pay in this case I've thought about what might have happened had it stopped lending to Miss J from loan 2, 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 Miss J may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them 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 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 Miss J 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 Miss J would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morse's liability in this case for what I'm satisfied it has done wrong and should put right.

Morse shouldn't have given Miss J loans 2 and 3.

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

- A. Morse should add together the total of the repayments made by Miss J towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything you have already refunded.
- B. Morse should calculate 8% simple interest* on the individual payments made by Miss J which were considered as part of "A", calculated from the date Miss J originally made the payments, to the date the complaint is settled.
- C. Morse should remove all interest, fees and charges from the balance of loan 3, and treat any repayments made by Miss J as though they had been repayments of the principal. If this results in Miss J having made overpayments then Morse 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. Morse 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 due on loan 3. If this results in a surplus, then the surplus should be paid to Miss J. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss J.
- E. Morses should remove any adverse information recorded on Miss J’s credit file in relation to loans 2 and 3.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Miss J 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 Miss J’s complaint in part.

Morses Club PLC should put things right for Miss J as directed above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss J to accept or reject my decision before 29 December 2022.

Robert Walker
Ombudsman