

The complaint

Miss M, through her representative, complains that Morses Club PLC, lent to her when she could not afford it.

What happened

Using information supplied by Morses, here is a loan table. The last loan is with a debt collector. Morses has agreed to put things right for Miss M in relation to loan 6.

Loan	Start Date	End Date	Capital Amount	Interest amount	Term in weeks	Repayment amount each week	Weeks Live
1	28/09/2017	19/01/2018	£200.00	£100.00	20	£15.00	16
2	14/12/2017	23/02/2018	£200.00	£130.00	33	£10.00	10
3	19/01/2018	23/02/2018	£200.00	£100.00	20	£15.00	5
4	22/03/2018	17/09/2018	£500.00	£325.00	33	£25.00	26
5	17/05/2018	17/09/2019	£300.00	£195.00	33	£15.00	70
6	17/09/2018	17/09/2019	£500.00	£325.00	33	£25.00	52

After receiving the complaint, Morses issued its final response letter (FRL) in which it said it did not uphold Miss M's complaint. Her representative referred it to the Financial Ombudsman Service. One of our adjudicators did an assessment of the complaint and told Morses she felt it ought to be loan 6 that was the part of the complaint to be upheld.

Our adjudicator received information from Morses to say that it was content to put things right for Miss M for loan 6. It explained as follows:

'The customer holds an outstanding balance of £568.75 with a Debt Collection Agency, this comprises of £243.75 capital and therefore they haven't made any repayments towards this interest, we will therefore instruct the DCA to remove the interest balance and leave the outstanding capital owing.

Please note the DCA cannot remove the loan from the credit file until the new balance is paid, we will however request any negative information relating to loan 6 is removed.'

This resolution offer was put to Miss M's representative and it was not accepted. So, our adjudicator asked Miss M's representative for additional documents and financial records about her circumstances when the loans were being approved for her.

Our adjudicator did not receive anything and so she used the information she had and did a comprehensive view. In it she gave her opinion that Morses ought to have done some additional checks at loan 5 but as we had nothing to refer to about Miss M's financial situation in May 2018 then she could not take that further. Our adjudicator reiterated the uphold for loan 6 which Morses has agreed to.

We have not heard more from Miss M and her representative has said that it is having trouble getting in touch with her. However, that last communication was almost two months ago. 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 high cost, short-term and home credit lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Miss M 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 have considered a number of different things, such as how much was being lent, the size of the repayments, and Miss M's income and expenditure.

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 M. These factors include:

- Miss M 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 M 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 M 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 M.

Morses was required to establish whether Miss M 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 M 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, 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 M's complaint.

I've reviewed the credit search Morses carried out before loan 1. I can see that Miss M had historic debt and had several defaults which were from some time before she first approached Morses. She also had a relatively recent default on her credit file but I do not consider that would have been enough to prevent Morses from lending to Miss M. This was her first loan and for a relatively modest sum.

Miss M has not sent to us anything about her financial situation during this lending relationship with Morses and so I can't conclude that the information it had from Miss M for her income and her expenditure was incorrect. And so, I've had to use that evidence. And it seems that Miss M had enough disposable income each week to afford the loans 1 to 4.

This is a duplicate of part of the records Morses had. I have inserted it here as it shows that by loan 5 it knew Miss M had other credit and it reached over 18% of her income. And Miss M was asking for £300 and still had loan 4 outstanding.

Loan number	Income	Total Other Credit	Percentage of total credit
1	£298.00	£0.00	0.00%
2	£316.00	£15.00	4.75%
3	£292.00	£10.00	3.42%
4	£295.00	£10.00	3.39%
5	£276.00	£50.00	18.12%
6	£387.00	£25.00	6.46%

So, I think that Morses ought to have done further checks to find out what was going on with Miss M such that she needed to keep coming back for credit. But, without the information from Miss M I'm not able to assess what it is that Morses would have seen if it had made those further enquiries.

So, on the evidence I have I do not uphold the complaint about loans 1 to 5.

Morses has agreed to uphold loan 6 and so I need not go into detail on that loan, other than to endorse that uphold.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Miss M at loan 6, 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 M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her 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 Miss M 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 Miss M 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 given Miss M loan 6. My understanding is that this is outstanding and with a debt collector.

If Morses has sold the outstanding debt it should buy it back if it is able to do so and then take the following steps. If Morses can't buy the debt back then it should liaise with the new debt owner (or the debt collector) to achieve the results outlined below.

- A. Morses should remove all interest, fees and charges from the balance on the loan and treat any repayments made by Miss M as though they had been repayments of the principal. If this results in Miss M having made overpayments then Morses should refund these overpayments with 8% simple interest* calculated from the date Miss M originally made the payments to the date the complaint is settled. 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 Miss M. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Miss M. But I'd remind Morses of its obligation to treat Miss M fairly and with forbearance – if needed.
- C. Morses should remove any adverse payment information recorded on Miss M's credit file in relation to the loan. It has said that due to the DCA involvement this is what will happen – *'Please note the DCA cannot remove the loan from the credit file until the new balance is paid, we will however request any negative information relating to loan 6 is removed.'*

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

My final decision

My final decision is that I uphold the complaint in part and I direct that Morses Club PLC does as it has already agreed to do which is as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 24 February 2023.

Rachael Williams
Ombudsman