

The complaint

Ms C, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans. Had it done so, Morses would've realised she couldn't afford the loans.

What happened

Ms C was advanced six home collected loans between November 2017 and January 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	number of weekly repayments	highest repayment per loan
1	£300.00	23/11/2017	25/05/2018	33	£15.00
2	£500.00	25/05/2018	11/01/2019	33	£25.00
3	£500.00	11/01/2019	30/08/2019	33	£25.00
4	£250.00	31/05/2019	19/12/2019	33	£12.50
5	£500.00	06/09/2019	17/04/2020	33	£25.00
6	£400.00	14/01/2020	11/09/2020	34	£20.00

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

An adjudicator reviewed the complaint. He thought Morses had made a reasonable decision to provide loans 1 – 3 so he didn't uphold Ms C's complaint about these loans.

However, the adjudicator said when loan 4 was approved, as there were outstanding loans, Ms C was committed to spending a significant portion of her income in servicing her debt to Morses. Finally, he thought the lending was now harmful for Ms C by the time loans 4 - 6 were granted and so he upheld Ms C's complaint about these loans.

Morses disagreed with the outcome the adjudicator had reached for loans 4 - 6. I've summarised its comments below;

- Ms C's borrowing for loans 4 – 6 was in line with loan values that she had previously taken.
- Loans 1 – 3 were repaid without any undue difficulty.
- There is no evidence Ms C was using other funds to repay these loans.
- Ms C declared she had sufficient disposable income to be able to afford loans 4 – 6.
- Morses wasn't aware of any financial difficulties which were affecting Ms C.

Ms C's representative confirmed she accepted the outcome.

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

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 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 C 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 C'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 C. These factors include:

- Ms C 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 C 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 C 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 C. The adjudicator thought this applied in Ms C's complaint from loan 4.

Morses was required to establish whether Ms C 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 C 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 C's complaint.

Neither Morses nor Ms C (or her representative) appear to disagree with the outcome the adjudicator reached about loans 1 – 3. I therefore no longer think these loans are in dispute. So, I say no more about them.

Loan 4 - 6

For these loans, Morses has shown that it asked Ms C for details of her income and expenditure. For loans 4 and 6 Ms C declared a weekly income of £250. For loan 5 she

declared she received £226.51. Morses also says this information was checked with a credit reference agency – but the results of that check haven't been provided.

In terms of expenditure this varied quite considerably between each loan. For loan 4, Ms C declared weekly outgoings of £210, then £122.50 for loan 5 and finally £147.50 for loan 6.

This left weekly disposable income as low as £40 when loan 4 was advanced up to £104.01 per week when loan 5 was granted. Based solely on Ms C's income and expenditure information Morses could've been reasonably confident she would be able to afford the repayments she was committed to making.

But its arguable whether these checks went far enough considering how long Ms C had been indebted to Morses, her future weekly commitment and what Morses already knew about Ms C's finances. For example, loan 4 was the first-time loans had been running concurrently. Moving forward, there are also changes to Ms C's declared expenditure as well, for example no food costs were listed for loans 5 and 6 and rent was declared for loans 3 and 4 but yet Ms C had no rent costs when loans 5 and 6 were granted. Finally, Ms C declared she paid council tax when loans 4 and 6 were given but not when loan 5 was. So, I do think it's fair to say that at this point in time, Morses ought to have had some concerns about the information Ms C was providing about her living costs.

By now, it would've been reasonable for Morses to have at the very least, started to have verified the information it was being given. I've not seen anything to suggest it carried out further checks in this case. However, I don't think I need to try and establish, in this case, whether a proportionate check would've led Morses to conclude these loans were unaffordable for Ms C.

And as the adjudicator pointed out, when loan 4 was granted, Ms C was committed to spending a significant portion of her income servicing the loan. Loan 3, was still outstanding at the time, so her total weekly commitment to Morses was £37.50. Which in my view, is a significant portion considering there were loans overlapping, and before loan 4 was advanced, Ms C only had £40 per week in disposable income, so with a payment of £12.50 it reduced this further to only £27.50.

So, the repayment for loan 4, in my view, represented a significant proportion of Ms C's income. In these circumstances, there was a significant risk that Ms C wouldn't have been able to meet her existing commitments without having to borrow again. So, I think it's unlikely Ms C would've been able to sustainably meet her weekly repayments for this loan – and likely any subsequent loans.

So, in addition to looking at the checks that Morses did as well as the percentage of her income Ms C would need to use to repay loan 4, I've also looked at the overall pattern of Morses' lending history with Ms C, 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 C's case, I think that this point was reached by loan 4. I say this because:

- At this point Morses ought to have realised Ms C was not managing to repay her loans sustainably. Ms C had taking out her four loans in 18 months. So Morses ought to have realised it was more likely than not Ms C was having to borrow further to cover a long-term short fall in her living costs.

- From her first loan, Ms C was generally provided with a new loan on the same day a previous loan was repaid and / or was granted while another loan was still outstanding. To me, this is a sign that Ms C 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, Ms C's weekly commitments to Morses were increasing, when loan 4 was granted her commitment was more than double the amount due for loan 1. There was no time when her weekly commitment decreased. However, the fact that these loans were lent in generally a consecutive and concurrent manner, ought to have led it to realise these loans weren't sustainable anymore.
- Ms C wasn't making any real inroads to the amount she owed Morses. Loan 6 was taken out 26 months after Ms C's first loan and was to be repaid over a similar term. Her final loan was slightly smaller than loan 5 but as this was still outstanding it resulted in her largest weekly repayment to Morses of £45. Ms C had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I think that Ms C lost out when Morses provided loans 4 - 6 because:

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

Overall, I'm upholding Ms C's complaint about loans 4 – 6 and I've outlined below what Morses needs to do in order to put things right.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it had stopping lending from loan 4, 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 C 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 C 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 C 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 Ms C with loans 4, 5 and 6.

- A. Morses should add together the total of the repayments made by Ms C towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything Morses has already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Ms C which were considered as part of "A", calculated from the date Ms C originally made the payments, to the date the complaint is settled.
- C. Morses should pay Ms C the total of "A" plus "B".
- D. The overall pattern of Ms C's borrowing for loans 4 - 6 means any information recorded about them is adverse, so Morses should remove these loans entirely from Ms C's credit file.

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

My final decision

For the reasons I've explained above, I'm upholding Ms C's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms C to accept or reject my decision before 2 June 2023.

Robert Walker
Ombudsman