

The complaint

Mr S, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted his loans. Had it done so, Morses would've realised he couldn't afford the repayments.

What happened

Mr S was advanced five home collected loans between August 2017 and November 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	number of weekly repayments	highest repayment per loan
1	£400.00	22/08/2017	20/02/2018	33	£20.00
2	£500.00	15/12/2017	12/11/2018	52	£17.50
3	£800.00	22/11/2018	01/10/2019	52	£28.00
4	£500.00	13/06/2019	06/05/2020	52	£17.50
5	£1,000.00	29/11/2019	19/11/2020	53	£35.00

Following Mr S's complaint Morses wrote to his representative to explain that it wasn't going to uphold the complaint. Mr S'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 loan 1 so he didn't uphold Mr S's complaint about it.

The adjudicator said when loan 2 was approved, as there was an outstanding loan, Mr S was committed to spending a significant portion of his income in servicing the loan and so he upheld the complaint about loans 2 and 3. Finally, he thought the lending was now harmful for Mr S by the time loans 4 and 5 were granted and so he upheld Mr S's complaint about those loans as well.

Morses disagreed with the outcome the adjudicator had reached. I've summarised its comments below:

- Only 24% of Mr S's income – which was made up of benefits was used to service loans 1 and 2.
- The loans were repaid without undue difficulty and Mr S had a good repayment history.
- There was a 10-day break after repaying loan 2 and before taking loan 3.
- Relevant checks were completed before each loan was approved which showed the loans to be affordable.
- Mr S's income was verified using the benefit documentation he supplied.

- For loans 4 and 5, Morses used Office of National Statistics (ONS) information to pre-populate minimum amounts for items such as rent, council tax, transport, insurance and groceries.

Mr S's representative confirmed it had received the adjudicator's assessment, but no further comments were provided.

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 Mr S could afford to pay back the amounts he'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 Mr S'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 Mr S. These factors include:

- Mr S 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);
- Mr S 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);
- Mr S 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 Mr S. The adjudicator thought this applied in Mr S's complaint from loan 4.

Morses was required to establish whether Mr S could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr S was able to repay his 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 Mr S's complaint.

Neither Moses nor Mr S (or his representative) appear to disagree with the outcome the adjudicator reached about loan 1. I therefore no longer think the loan is in dispute. So, I say no more about it. Instead, this decision will focus on whether loans 2 – 5 ought to have been granted.

Loans 2 and 3

For loan 2, Mr S declared an income of £153 per week and Moses said this was verified with the benefit information Mr S provided – although it hasn't provided details of what documentation it received from him.

Mr S's outgoings were declared as being £75 for the week – which included the £20 a week repayment Mr S was already making to Moses for loan 1. This left, Mr S with £78 per week in disposable income to afford the repayment of £17.50.

However, with the outstanding Moses loan Mr S was due to pay it a total of £38.50 per week – which is more than a quarter of Mr S's total weekly income – and he was committed to paying this for a number of months, given that he still had time left to repay loan 1 and loan 2 was due to be repaid over the course of a year.

So, the repayment for loan 2, in my view, represented a significant proportion of Mr S's income. In these circumstances, there was a significant risk that Mr S wouldn't have been able to meet his existing commitments without having to borrow again.

For loan 3, the percentage of his income which Mr S was due to have to use to pay decreased because there were no overlapping loan, and he also declared an increase to his weekly income. But, the fact he needed to return fairly quickly for a new loan is evidence that he was unlikely to have been able to sustainably meet his weekly repayments for this loan – and likely any subsequent loans without borrowing again.

Loans 4 - 5

For these loans, Moses has shown that it asked Mr S for details of his income and expenditure. For loans 4 Mr S declared he was still in receipt of benefits and received weekly income of £281.30 and for loan 5 he declared an income of £252. Moses 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, while it had increased since the earlier loans, for these two it remained fairly stable with weekly outgoings of £138.55 when loan 4 was granted and £130.50 when loan 5 was advanced.

This left a minimum weekly disposable income of £121.50 when loan 5 was granted. Based solely on Mr S's income and expenditure information Moses could've been reasonably confident he would be able to afford the repayments he was committed to making for these loans.

But its arguable whether these checks went far enough considering how long Mr S had been indebted to Moses, his future weekly commitment, loan term and what Moses already knew about Mr S's finances. For example, Mr S having loans running concurrently. So, I do think it's fair to say that at this point in time, Moses ought to have done more – beyond relying on the ONS and what Mr S was providing about his expenditure.

By now, it would've been reasonable for Moses 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 Moses to conclude these loans were unaffordable for Mr S.

So, in addition to looking at the checks that Moses did as well as the percentage of his income Mr S would need to use to repay these loans, I've also looked at the overall pattern of Moses' lending history with Mr S, 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 particular circumstances of Mr S's case, I think that this point was reached by loan 4. I say this because:

- At this point Moses ought to have realised Mr S was not managing to repay his loans sustainably. Mr S had taking out his four loans in 22 months. So Moses ought to have realised it was more likely than not he was having to borrow further to cover a long-term short fall in his living costs.
- From his first loan, Mr S was generally provided with a new loan while he already had outstanding loans. To me, this is a sign that Mr S was using these loans to fill a long-term gap in his income rather than as a short-term need.
- Over the course of the lending relationship, Mr S's weekly commitments usually increased with each loan, when loan 4 was granted his commitment was more than double the amount due for loan 1. However, the fact that these loans were lent in a concurrent manner, ought to have led it to realise these loans weren't sustainable anymore.
- Mr S wasn't making any real inroads to the amount he owed Moses. Loan 5 was taken out 27 months after Mr S's first loan and was to be repaid over a year. His final loan was also his largest capital loan to date and as loan 4 was still outstanding it resulted in his largest weekly repayment due to Moses of £52.50. Mr S had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Mr S lost out when Moses provided loans 4 and 5 because:

- these loans had the effect of unfairly prolonging Mr S's indebtedness by allowing him 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 Mr S borrowed was likely to have had negative implications on Mr S's ability to access mainstream credit and so kept him in the market for these high-cost loans.

Overall, I'm upholding Mr S's complaint about loans 2 – 5 and I've outlined below what Moses 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 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 Mr S may have simply left matters there, not attempting to obtain the funds from elsewhere. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he 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 he had done that, the information that would have been available to such a lender and how he 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 Mr S 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 Mr S 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 Mr S with loans 2, 3, 4 and 5.

- A. Morses should add together the total of the repayments made by Mr S 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 Mr S which were considered as part of "A", calculated from the date Mr S originally made the payments, to the date the complaint is settled.
- C. Morses should pay Mr S the total of "A" plus "B".
- D. Morses should remove any adverse information recorded on Mr S's credit file in relation to loans 2 and 3. The overall pattern of Mr S's borrowing for loans 4 and 5 means any information recorded about them is adverse, so it should remove these loans entirely from Mr S's credit file.

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

My final decision

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

Morses Club PLC should put things right for Mr S as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 June 2023.

Robert Walker
Ombudsman