

The complaint

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

What happened

Ms P was advanced five home collected loans – likely more than that - and I've included some of the information we've received about these loans in the table below. We have not been sent records of any of the earlier loans.

Loan number	loan amount	agreement date	repayment date	number of weekly instalments	cost per week per loan
12	£350.00	7 November 2013	13 November 2014	50	£12.25
13	£300.00	27 November 2014	18 November 2015	50	£10.50
14	£300.00	18 November 2015	4 August 2016	33	£15
15	£300.00	21 November 2016	1 September 2017	33	£15
16	£200.00	23 November 2017	2 August 2018	33	£10

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

One of our adjudicators reviewed the complaint. She thought Morses had made a reasonable decision to approve loans 12 and 13 so she didn't uphold Ms P's complaint about these loans. For loans 14 to 16 our adjudicator considered that the lending had become harmful for Ms P so she upheld Ms P's complaint about these loans.

Ms P had taken 3 loans in 24 months and our adjudicator considered that a pattern was developing so she upheld the complaint about the last three loans.

Morses disagreed and gave several reasons why, all of which I have reviewed. Ms P's representative acknowledged the adjudicator's view but made no comments on it.

The unresolved complaint was passed to me to decide. On 1 June 2023 I issued a provisional decision in which I gave reasons why I differed in my view about the pattern of lending which our adjudicator had referred to.

And I gave Morses and Ms P time to send to me additional information if they wished. On the 5 July 2023 I issued a second provisional decision.

Both of those provisional decisions are duplicated here for ease of reading and in smaller type to differentiate them.

What I provisionally decided – and why – on 1 June 2023.

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 P 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 P'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 P. These factors include:

- Ms P 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 P 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 P 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 P. The adjudicator thought this applied in Ms P's complaint from loan 14. But I disagree and I explain why later in this provisional decision.

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

I will start by asking both parties to check whether Ms P had earlier loans. The loan chain table we have been presented with commences at loan 12 and so that is an indicator that Morses may have lent to Ms P earlier.

Alternatively, as I know that Morses had purchased another lending company, it's likely that other company lent to Ms P. The acquisition date was 10 March 2014. As part of that purchase, Morses likely accepted liability for those loans approved which were still active after 10 March 2014. So that may explain the lack of information for loan 12 and for any earlier loans. But there has been no information provided to me about Ms P's application for loans 13 and 14. Morses has told us it has no credit search information at all for any of the loan applications.

In any event, the numbering starting at 'loan 12' does provide me with a reason to say that Morses knew that Ms P had been taking loans for some time. And so, I think that from the first loan application for which Morses actually received her application and reviewed it before lending (as opposed to it being an inherited loan which was already in place) then

Morses ought to have carried out additional checks to be clear why she was returning for the twelfth or thirteenth time for more credit. And I say that because of the amount of time she'd been borrowing I think Morses ought not to have relied on the information Ms P was telling it. And yet here, for Ms P's applications, the spreadsheet I have from Morses which is meant to provide us with the details of Ms P's income and expenditure for each loan has zero income and zero expenditure for loans 12 to 14 inclusive. And the information I have in the FRL gives an average income and nothing more.

So, on current evidence it seems that Morses lent to her at loans 13 and 14 knowing nothing about her. This is a provisional decision and so Morses has time to send me more details if it has it – such as any paper applications which I have seen on other complaint cases. The Morses FRL says –

'Your application history shows you declared you had an average income of £155.50, expenditure of £49.00 and a disposable income of £106.50 which was more than adequate to meet your repayments'

The 'average' was taken from the two sets of records it had which were for loans 15 and 16 only. And the expenditure figures were based on information I'd consider totally inadequate. Morses' reasoning for defending this complaint – namely – Ms P had enough to pay for the loans - is not based on very substantial information in my view. On current evidence I do not think that Ms P had enough to repay these loans, and I do not think that any reasonable person reviewing this information would have come to the conclusion that Ms P could repay these loans.

Ms P took a loan from Morses each November. But loans 14 to 16 were shorter loan terms and so there were gaps in the lending. The gaps were over three months between loans 14 and 15 and almost three months between loans 15 and 16. These were not long enough to break the lending relationship but were enough for me to conclude that Ms P was not reliant on the loans and so I disagree with the foundation of our adjudicator's uphold.

And loan 15 was for £300 and loan 16 for £200 so the amount Ms P was taking was reducing and not increasing which usually I'd expect to see if Ms P had been, or was becoming, reliant on the Morses' credit.

Looking at the repayment history I can see that Ms P paid down loan 12 relatively well and seemed to have overpaid on many occasions and paid it down to £0. Ms P's payment history for loan 13 was less stable in that there were records indicating often she could not make the £10.50 weekly payment and only paid a few pounds. This would have indicated some trouble there but not necessarily significant. She did pay it back but only a week late.

Loan 14 (November 2015) was taken on the same day she repaid loan 13 and it was for the same sum as loan 13 - £300. It was more money each week but for a much shorter period – 33 weeks. But I've no information at all about what Morses had found out about her income and expenditure. Ms P took four extra weeks to pay it down to £0.

Then there was a gap in the lending until November 2016 came round and Ms P applied for and got a further £300 which was loan 15.

This time Morses has provided information to tell me that it knew her weekly income was £159 it had validated as being from benefits. It had noted her expenditure was £80 being £60 a week for childcare and £20 a week for groceries. According to the records Morses has provided, Ms P paid for nothing else. But there's no explanation as to whether this was a plausible scenario.

On the skeleton figures I have here I do not think it was plausible. And I consider £159 a week to have been a low income and as such Morses ought to have taken additional care. Which, on current evidence, I don't think it did.

Ms P took an extra seven weeks to pay off loan 14 which I consider would have indicated to Morses that Ms P was struggling.

In November 2017 (Loan 16) Ms P was approved for a smaller loan of £200 over 33 weeks at £10 each week and the figures for Ms P's income and expenditure are even less believable. Ms P had told Morses that she had an income of £152 a week (benefits) and her only expenditure was £18 utility bills cost. Whereas for loan 15 Ms P had not been paying for any utility bills and at loan 16 Ms P, apparently, did not need childcare or groceries.

I consider the information Morses had about the loan applications poor and makes no proper case with which to defend the complaint.

I have reviewed the submissions made by Morses to us after it had received our adjudicator's view letter, none of which persuade me as they are not backed up by records or facts.

However, I am not able to cross-refer with any details or evidence Ms P may have as none has been sent to me. For me to uphold the loans on the basis that Morses ought to have carried out more checks, I need to be satisfied as to what Morses would have seen had it done that. But without any evidence from Ms P for the period of the lending then I'm not able to reach a conclusion on that.

Ms P and her representative have time to send to me additional information about that lending period if they wish. My provisional decision is that I do not uphold the complaint.

What I provisionally decided in my second decision dated 5 July 2023 – and why

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Morses has not responded to the first provisional decision. I have no information from either party about any loans issued before 7 November 2013 and so this provisional decision is limited to the loans approved and set out in the loan table at the beginning.

Ms P's representative has sent to us Ms P's credit file which does extend back about six years. From that I have seen that Ms P had serious arrears with a mail order account in February 2015 to June 2016 which covers loan 14.

Ms P had a defaulted account in November 2017 and arrears and a poor bank account record leading to the account being closed in November 2017.

So although limited, this information about Ms P's situation in those years for some accounts, combined with the information (or lack of it) I outlined from what I had gathered from the records Morses gave me, has led me to make a provisional decision to uphold loans 15 and 16.

So, on current evidence and for the reasons given here and in my first provisional decision, my second provisional decision is that I plan to uphold loans 15 and 16.

The end of the two duplicated provisional decisions.

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.

Ms P's representative has responded to say that Ms P agrees with my second provisional decision. Moses has not replied.

Given the responses, I am issuing my final decision in which I uphold Ms P's complaint about loans 15 and 16. The reasoning is outlined in the combined provisional decisions duplicated here and which form part of this final decision.

Putting things right

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 P from loan 15, 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 P 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 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 P 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 P 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 should do as follows:

- refund all interest and charges Ms P paid on loans 15 & 16;
- pay interest of 8% simple a year* on any refunded interest and charges from the date they were paid (if they were) to the date of settlement;
- remove any negative information about loans 15 & 16 from Ms P's credit file;

* HM Revenue & Customs requires Moses to take off tax from this interest. It must give Ms P a certificate showing how much tax it's taken off if she asks for one.

My final decision

My final decision is that I uphold the complaint in part and I direct that Moses Club PLC does as I have outlined in the 'putting things right' section of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 9 August 2023.

Rachael Williams

Ombudsman