

The complaint

Mr C complains that Morses Club PLC (Morses) forced him to take out a second loan which he didn't want. He says he was victimised because of his disability.

Mr C further complains that the interest on the loans was too high and Morses wasn't able to tell him the term of the loans.

What happened

Overall, Mr C took the following loans – I've included these to understand the overall context of Mr C's lending relationship with Morses.

loan number	loan amount	agreement date	repayment date
1	£200.00	22/08/2018	05/12/2018
2	£150.00	21/11/2018	10/05/2019
3	£200.00	05/12/2018	20/03/2019
4	£200.00	20/03/2019	06/09/2019
5	£150.00	10/05/2019	05/10/2019
6	£300.00	25/10/2019	sold
7	£200.00	04/12/2019	sold

Mr C had some problems repaying loans 6 and 7 and no payments were made towards them from September 2020. Morses has said the outstanding balances were sold to a third-party collection agency in March 2022.

Mr C explained to the Financial Ombudsman when he brought the case here in April 2022 that he was struggling to pay what he owed. He said at the time, he was due to make repayments to Morses of £88 a month (in total) for both loans. At this time Mr C also told us about his learning disability as well as his physical and mental health problems.

Following Mr C's complaint, Morses issued its final response letter to him. It explained that Mr C contacted it on 18 March 2022 and stopped payment because Mr C was unhappy Morses' agent had contacted him to promote further lending. Morses explained the agent who previously dealt with Mr C no longer works for it and so it "*...is unable to dispute the claims raised regarding further lending.*" Unhappy with this response Mr C referred his complaint to the Financial Ombudsman.

Morses also explained that shortly after this complaint was raised with Morses, Mr C raised a separate complaint about the affordability of the loans – and it provided a separate reference number to Mr C.

The complaint was considered by an adjudicator who didn't uphold it. She explained that there wasn't enough evidence to suggest that something went wrong when the second loan was granted that Mr C says wasn't needed. And she couldn't get any information or anything from the agent as they no longer worked for Morses.

She went on to explain that given her understanding of the Morses' application process, her view was that Mr C would've been given information about the term of the loan. Finally, she reiterated that as an outstanding balance was due to be paid, Morses should treat Mr C fairly and with forbearance.

Mr C disagreed with the outcome and wanted to take the complaint further.

Morses didn't respond to or acknowledge the adjudicator's assessment.

As no agreement was reached the case was passed to me. I decided to issue a provisional decision and I outlined why I thought Mr C's complaint ought to not be upheld, based on the evidence that had been provided. A copy of the provisional findings follows this in smaller text size and forms part of this final decision.

Both Morses and Mr C were asked to provide any further comments as soon as possible, but in any event no later than 24 March 2023.

Morses let the Financial Ombudsman know it had nothing further to add.

Mr C didn't agree. He says he did show the Morses' agent his benefit letter, but the agent just gave him the loan and didn't explain anything to him.

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.

To be clear, this complaint isn't to do with unaffordable lending and so I make no finding about whether Morses did all it should've done before it provided these loans. Morses has explained that the affordability of Mr C's loans was dealt with separately and I've seen a copy of the final response letter which partly upheld Mr C's complaint about his loans.

I also want to be clear, that Mr C hasn't said which loans he was unhappy with or when it was that the agent made him take another loan. Mr C said he took a loan for £235 for carpets – and he didn't need the next loan. But the table above doesn't provide a loan with that amount outstanding, so I don't know which loan Mr C is referring to.

I am assuming it is the final two loans in the table above because these are the two loans that as far as I can see have outstanding balances. Although I accept that the amount borrowed for loan 6, doesn't match the amount Mr C mentions. Morses has also said, that these balances were sold to a third-party debt collection agency in March 2022.

Or it could be that Mr C accepts the first loan in 2018 was the loan that he did indeed need and then didn't want nor need any of the remaining loans. In response to the provisional decision Mr C may wish to clarify which of his loans are the ones he used to purchase a carpet and what he deems the "second loan" to be that he took out and which he says wasn't needed.

Mr C says he's been victimised due to his disability – and from that I assume he means the agent gave him loans that he didn't want nor need and the agent only did this because of his disability – Mr C has explained he has mental health problems and a learning disability.

Morses has confirmed the agent that dealt with Mr C no longer works for the company. But it did confirm to the Financial Ombudsman that it was the same agent that granted all of Mr C's loans. As the agent no longer works for Morses it won't be possible to get their testimony around what happened when each loan was granted and / or what Mr C declared to Morses about his disability. But what Morses has said, is the contact notes which it has provided ought to be a record of the conversations that the agent had with Mr C.

The adjudicator asked Mr C for further information about his disabilities and the impact these have on his daily life. Mr C provided more information to us about this in an email. I won't go into too much detail to respect Mr C's privacy but in short he explained details of his mental health problem, a physical disability that he has as well as saying "...I don't understand about money...."

Mr C mentioned in the email I've quoted from above about the checks that Morses did before the money was advanced. But as I've said the types of checks and therefore the affordability of the loans is a separate matter which was dealt with in a separate final response letter.

Morses also confirmed that the first it was made aware of Mr C's disability was on 3 March 2020 when Mr C's support worker contacted it for details of the loans – it is worth saying here that this was after all of the loans were advanced.

I can see this within the contact notes which have been provided that the first mention of the disability was on 5 March 2020. This seems to have been prompted after some sort of discussion with Mr C's support worker.

The next note, was made on 6 March 2020 where the agent tried to collect payment, wasn't successful but as part of this he tried Mr C's care worker. So, at the very least, at this point in time, Morses was on notice that Mr C was vulnerable and he may have needed additional help because he had a support / care worker who Morses was aware of.

It then seems from April 2020 Mr C had problems paying due to the fact he was isolating because of the COVID-19 pandemic. But in August 2020, with the help of his support worker a repayment was agreed – and initially was successful.

In March 2021, Mr C set up a new repayment plan again with the help of his support worker, before Morses in April 2021, was informed that Mr C was working with a third-party debt management company to manage his debts.

Morses says the payments for some of these loans – and mainly from May 2019 were done through an online portal -which means its agent wasn't always visiting Mr C at his home. In addition, Morses says that Mr C made further loan applications through its online portal.

I have reviewed the FCA CONC Guidelines chapter 2.10 – Mental Capacity Guidance. Mr C says the agent provided him with loans he didn't want or need and only did that because of his disabilities.

And reviewing the CONC Guidelines referred to by Morses, I do not consider that there was a breach. A firm when granting a consumer credit agreement '...should consider the customer's individual circumstances.'

CONC 2.10.4 Guidance states that

'A firm should assume a customer has mental capacity at the time the decision has to be made, unless the firm knows, or is told by a person it reasonably believes should know, or reasonably suspects, that the customer lacks capacity.'

And the FCA Guide lists some behavioural indicators which, if the lender observes any, may lead to the firm having reasonable grounds to suspect that a customer may have some form of 'mental capacity limitation'. These are in CONC 2.10.8 and are a guide list.

Mr C, beyond explaining to the Financial Ombudsman what his mental health and disabilities difficulties are I've not seen anything that makes me think Morses ought to have reasonable grounds to suspect he had some limitations. And even if Morses did have any grounds (which I do not think it had), CONC 2.10.7 guidance states '...this does not necessarily mean that the customer does not have the mental capacity to make an informed borrowing decision.'

I accept that Mr C has or had the help of a support worker, but I have no further information as to the reasons why he has a need for extra support and how this may or may not have impacted his decision to apply for loan(s). And based on what I've seen Moses wasn't aware of the support worker until after the final loan had been granted.

Overall, I haven't seen enough evidence to conclude that Moses in some way gave Mr C additional loans solely because of his disability.

Term of the loans

My understanding of Moses sales process would've been to have conducted an affordability review and then asked Mr C to sign a credit agreement. I've seen a copy of the credit agreement for the first loan – which has Mr C's signature on it.

So as an example, for loan 1 in the table above, the credit agreement contained details of the loan amount, the term – 33 weeks, the cost of the loan (per week) and then a summary of the loan which includes the total amount of interest that will be paid assuming Mr C stuck to the credit agreements.

Based on my understanding of the sales process, Mr C would've been asked to sign the credit agreement for each of the loans – and each agreement would've likely contained the same information (loan specific) in the same format. So, I can't reasonably conclude that Mr C ought to not have been aware of the terms of the loan.

In addition, it seems that for each loan Moses did charge the amount of interest as stipulated in the credit agreement. And indeed, some loans, like loan 2 were repaid early and so Mr C received an interest rebate on those loans.

I appreciate he says the loan interest was too high, but I've not seen anything to say the interest hasn't been charged in line with the credit agreement. For example, after September 2020, when he had repayment problems Moses didn't add any further interest or late fees as a result of non-payment.

I understand, that even following the partial uphold for Mr C's unaffordable lending complaint that an outstanding balance will still be due. As its likely a third party is collecting the money, I want Mr C to be aware that whoever is collecting the balance it has a duty to treat him fairly and with forbearance.

I therefore am not able to uphold Mr C's 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.

Moses didn't have anything further to add to what it had already provided.

I've thought about Mr C's comments, and I explained in the provisional decision that even if Moses had been aware of Mr C's disabilities at an earlier date it still would have lent to Mr C, based on the evidence I have. And in response to the provisional decision no new information has been provided which may have led me to alter my view.

I appreciate Mr C says the loan(s) weren't explained to him and I can't know for sure what he was told for each loan application. But I'm satisfied the information about each term was outlined within each loan credit agreements Mr C signed as part of his application.

So, I've reached the same conclusions I reached before, and so I do not uphold Mr C's complaint.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 May 2023.

Robert Walker
Ombudsman