

The complaint

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

What happened

Ms G was advanced five home collected loans and I've included some of the information we've received about them in the table below.

loan number	loan amount	agreement date	repayment date	number of weekly instalments	highest repayment per loan
1	£200.00	26/11/2016	23/05/2017	33	£10.00
2	£300.00	23/05/2017	14/11/2017	33	£15.00
3	£600.00	14/11/2017	03/07/2018	33	£30.00
4	£600.00	03/07/2018	outstanding	33	£30.00
5	£1,000.00	24/07/2018	outstanding	52	£35.00

Ms G has had some problems repaying her final two loans, and Morses told us as of December 2022 she still owed £1,540.

Following Ms G's complaint Morses wrote to her representative to explain that it wasn't going to uphold it. Ms G's representative didn't accept the outcome and instead referred the complaint to the Financial Ombudsman Service, where an adjudicator reviewed the complaint. He thought Morses had made a reasonable decision to provide loans 1 – 3 so he didn't uphold Ms G's complaint about them.

He also concluded the lending was now harmful for Ms G by the time loans 4 and 5 were granted and so he upheld Ms G's complaint about these loans.

Morses disagreed with the outcome the adjudicator reached and provided reasons that I've read and fully considered.

As no agreement could be reached, 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 G 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 G'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 Morse should have done more to establish that any lending was sustainable for Ms G. These factors include:

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

Morse was required to establish whether Ms G 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 G 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 G's complaint.

Neither Morse nor Ms G (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 and I say no more about them.

Loans 4 and 5

For these loans, Morse has shown that it asked Ms G for details of her income and expenditure. For loan 4 Ms G declared a weekly income of £358. For loan 5 she declared she received £440 per week. Morse 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, for loan 4 – Morse has recorded these to be £203 per week and then £215 for loan 5. This left weekly disposable income as low as £155 when loan 4 was advanced. Based solely on Ms G's income and expenditure information Morse could've been reasonably confident she would be able to afford the repayments she was committed to making for loans 4 and 5.

But it's arguable whether these checks went far enough considering how long Ms G had been indebted to Morse, her future weekly commitment and what Morse already knew

about Ms G's finances. Considering these loans were taken only weeks apart, Ms G for loan 5 declared larger weekly expenditure, on rent, council tax, and her credit card costs. I do think, given all this that Moses ought to have been concerned about the information Ms G had provided about her living costs.

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 Ms G because Moses also needed to consider whether the loan repayments were sustainable for Ms G.

I've also looked at the overall pattern of Moses' lending history with Ms G, 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 Ms G's case, I think that this point was reached by loan 4. I say this because:

- At this point Moses ought to have realised Ms G was not managing to repay her loans sustainably. Ms G had taken out four loans in 20 months. So Moses ought to have realised it was more likely than not Ms G was having to borrow further to cover a long-term shortfall in her living costs.
- From her first loan, Ms G was provided with a new loan on the same day a previous loan was repaid - and loan 5 was the first-time loans overlapped. To me, this is a sign that Ms G 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 G's weekly commitments generally increased, when loan 4 was granted, her commitment was more than three times the amount due for loan 1. There was no time when her weekly commitment decreased. However, the fact that these loans were lent in a consecutive manner, ought to have led it to realise these loans weren't sustainable anymore.
- Ms G wasn't making any real inroads to the amount she owed Moses. Loan 5 was taken out 20 months after Ms G's first loan and was to be repaid over the longest term. This loan was also for five times the value of her first loan – and with loan 4 still running this led to a weekly repayment of £65 – which was more than six times the size of Ms G's commitment at loan 1. Ms G had paid large amounts of interest to, in effect, service a debt to Moses over an extended period.

I think that Ms G lost out when Moses provided loans 4 and 5 because:

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

Overall, I'm upholding Ms G's complaint about loans 4 and 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 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 G 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 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 G 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 G 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 provided Ms G with loans 4 and 5.

If Morses have sold the outstanding debt Morses should buy it back if Morses is able to do so and then take the following steps. If Morses is not able to buy the debt back then Morses should liaise with the new debt owner to achieve the results outlined below.

- A. Morses should add together the total of the repayments made by Ms G towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses have already refunded.
- B. Morses should calculate 8% simple interest* on the individual payments made by Ms G which were considered as part of "A", calculated from the date Ms G originally made the payments, to the date the complaint is settled.
- C. Morses should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Ms G as though they had been repayments of the principal on all outstanding loans. If this results in Ms G having made overpayments then Morses should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. Morses should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance, then any refund amount can be used to repay any balance remaining on any outstanding loans. If this results in a surplus, then the surplus should be paid to Ms G. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Ms G.
- E. The overall pattern of Ms G's borrowing for loans 4 and 5 means any information recorded about them is adverse, so Morses should remove these loans entirely from Ms G's credit file. Morses do not have to remove these loans from Ms G's credit file until they have been repaid, but Morses should still remove any adverse information recorded about these loans.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Ms G 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 G's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms G to accept or reject my decision before 4 July 2023.

Robert Walker
Ombudsman