

The complaint

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

What happened

Mrs B was advanced several loans from Morses under two different identification numbers. Morses says, that currently, it doesn't hold any more information about the lending. It isn't clear why Mrs B has two IDs but as there are two chains of borrowing that may explain it.

The adjudicator did ask Mrs B's representative for any more information about the earlier loans, but Mrs B said she doesn't have anything else to send. Therefore, the decision deals with the loans detailed in the table below.

Loan ID	loan number	loan amount	agreement date	repayment date	number of weekly instalments	highest repayment
6658	9	24/03/2011	£300.00	closed	34	unknown
6658	10	31/05/2011	£300.00	closed	34	unknown
6658	11	20/12/2011	£300.00	closed	34	unknown
6658	12	28/02/2012	£300.00	closed	34	unknown
6658	13	27/06/2012	£300.00	closed	34	unknown
6658	14	08/08/2013	£200.00	closed	34	unknown
6658	15	07/02/2014	£100.00	closed	34	unknown
6658	16	29/04/2014	£200.00	closed	34	unknown
6658	17	27/06/2014	£200.00	closed	34	unknown
6658	18	11/12/2014	£200.00	closed	34	unknown
6658	19	30/01/2015	£300.00	closed	34	unknown
6658	20	21/08/2015	£200.00	closed	34	unknown
6658	21	04/09/2015	£300.00	closed	34	unknown
6658	22	18/12/2015	£400.00	closed	34	unknown
Morses says there is a break in lending of 10 months						
5813	1	£300.00	24/04/2017	10/11/2017	33	£15.00
5813	2	£450.00	10/11/2017	26/04/2018	33	£22.50
5813	3	£450.00	26/04/2018	31/10/2018	33	£22.50
5813	4	£500.00	31/10/2018	16/05/2019	33	£25.00
5813	5	£500.00	16/05/2019	13/12/2019	33	£25.00

Following Mrs B's complaint Morses wrote to her representative to explain that it considered there were two chains of lending because it said there was a break of around 10 months after loan 22 was repaid and before Mrs B returned for further funds. But Morses did uphold Mrs B's complaint in part.

Morses offered to put things right in relation to loans 14, 15 and loans 19 – 22 (under Mrs B's first ID) only. Morses offered to also remove these loans from Mrs B's credit file.

Mrs B'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 9 – 13 in the first chain of lending and loans 1 – 3 in the second chain of lending.

And in addition to what Morses had already agreed to do to put things right for Mrs B he thought loans 16, 17 and 18 in the first loan chain and loans 4 and 5 in the second chain should also be upheld because these loans were now harmful for Mrs B.

Mrs B's representative acknowledged the proposed outcome but didn't have anything further to provide.

Morses responded to the adjudicator's view and initially asked whether the Financial Ombudsman had all the loan information from the first loan chain. The adjudicator responded to say, he had used the information in the final response letter because he had been told there was nothing more Morses could provide. Morses then said, it was "...awaiting further information...". This was chased with Morses again, who confirmed it had nothing further to submit on 5 June 2023.

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.

I just want to start by saying that I am aware the loans are spread over many years and therefore straddle regulation by the two different industry regulators - the Office of Fair Trading (OFT) as well as the Financial Conduct Authority (FCA). And I've kept this in mind when thinking about what Morses ought to have been doing at the time. But what is clear, from the regulations is the amount of continuity between the OFT and the FCA.

Morses had to assess the lending to check if Mrs B 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 Mrs B'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 Mrs B. These factors include:

- Mrs B 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);
- Mrs B 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);
- Mrs B 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 Mrs B.

Morses was required to establish whether Mrs B 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 Mrs B 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 Mrs B's complaint.

Neither Morses nor Mrs B (or her representative) appear to disagree with the outcome the adjudicator reached about loans 9 – 13 in the first loan chain or loans 1 – 3 in the second loan chain. I therefore no longer think these loans are in dispute. So, I say no more about them.

In addition, in the final response letter, Morses conceded that loans 14 and 15 as well as loans 19 – 22 (in the first chain) ought to not have been granted because it considered further checks ought to have been carried out at the time. So again, I say no more about them as Morses has accepted compensation needs to be paid for these loans. And I've included these loans in the 'putting things right section' at the end of the decision.

Therefore, as the above loans don't appear to be in dispute, this decision has focused on loans 16 – 18 in the first loan chain and loans 4 and 5 in the second loan chain.

Loans 16 - 18

For these loans, there is limited information provided by Morses and the adjudicator concluded, given how close together some of them were granted that it is likely this was part of one chain of lending. I don't think that is an unreasonable conclusion to draw – given the start date of each loan under the first loan ID.

For these loans, Morses hasn't provided any information about the checks that it carried out. But my understanding of Morses' process at the time, it is likely it did request details of Mrs B's income and expenditure. However, the results of those checks haven't been provided. Neither has Mrs B's representative provided any information about what Mrs B's actual financial position was at the time these loans were granted.

But its arguable whether the checks Morses likely did before approving these loans went far enough considering that by loan 16 there had been at least 7 loans approved (from loan 9) in a little over three years. And while the weekly commitment wasn't likely increasing, Mrs B was still seeking further credit.

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 Morse to conclude these loans were unaffordable for Mrs B because Morse also needed to consider whether the loan repayments were sustainable for Mrs B.

I've also looked at the overall pattern of Morse's lending history with Mrs B, with a view to seeing if there was a point at which Morse should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Morse should have realised that it shouldn't have provided any further loans. It is worth saying here, that Morse has already accepted loans 14 and 15 ought not to have been advanced.

Given the particular circumstances of Mrs B's case, I think that this point had already been reached by loan 16. I say this because:

- At this point Morse ought to have realised Mrs B was not managing to repay her loans sustainably. Mrs B had taken out eight loans in 37 months. So Morse ought to have realised it was more likely than not Mrs B was having to borrow further to cover a long-term short fall in her living costs.
- From loan 9, Mrs B was being regularly provided with new loans indeed by loan 16, Mrs B had returned for a new loan just two months after her previous loan had been approved. To me, this is a sign that Mrs B 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, Mrs B's weekly commitments likely remained fairly similar given she was regularly borrowing £300 over similar weekly terms.
- Mrs B wasn't making any real inroads to the amount she owed Morse. Loan 18 was taken out nearly 4 years after Mrs B's first loan that we know about in this chain and it was to be repaid over the same term – 34 weeks. Mrs B had paid large amounts of interest to, in effect, service a debt to Morse over an extended period.

Overall, including what Morse has already agreed to do to put things right, I think that Mrs B lost out when Morse provided loans 14 – 22 in the first chain because:

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

Loans 4 and 5 in the second loan chain

For these loans, Morse has shown that it asked Mrs B for details of her income and expenditure. For loan 4 Mrs B declared a weekly income of £308. For loan 5 she declared she received £384 per week. Morse says the income declared for loan 4 was checked with a credit reference agency – but the results of that check haven't been provided. For loan 5, Morse saw evidence of Mrs B's wages – perhaps through a wage slip but Morse hasn't provided the evidence that it saw either.

In terms of expenditure, for loan 4 – Morse has recorded these to have been £224 per week and then £84 per week for loan 5. This left a minimum weekly disposable income of £84 when loan 4 was advanced. Based solely on Mrs B'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 its arguable whether these checks went far enough considering how long Mrs B had been indebted to Morses, her future weekly commitment and what Morses already knew about Mrs B's finances. These loans were approved around five months apart, but Mrs B's weekly expenditure appeared to have drastically decreased by loan 5.

For loan 5 there was no rent or council tax payments – even though Mrs B was still paying utilities. And Morses knew she was still a council tenant. Her food shop decreased as well from £60 a week to £40 per week even though Morses knew she had a dependent. I do think, given all this, Morses ought to have been concerned about the information Mrs B had provided about her living costs.

By now, it would've been reasonable for Morses to have started to have verified the information it was being given. I've not seen anything to suggest it this. However, I don't think I need to try and establish because Morses also needed to consider whether these loan repayments were sustainable for Mrs B.

I've also looked at the overall pattern of Morses' lending history with Mrs B, 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 circumstances of Mrs B's case in this second loan chain, I think that this point was reached by loan 4. I say this because:

- At this point Morses ought to have realised Mrs B was not managing to repay her loans sustainably. Mrs B had taken out four loans in 18 months. So Morses ought to have realised it was more likely than not Mrs B was having to borrow further to cover a long-term short fall in her living costs.
- From her first loan, Mrs B was provided with a new loan on the same day a previous loan was repaid. To me, this is a sign that Mrs B 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, Mrs B's weekly commitments generally increased, when loan 4 was granted, her weekly commitment was now 66% higher than it was 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.
- Mrs B wasn't making any real inroads to the amount she owed Morses. Loan 5 was taken out 25 months after Mrs B's first loan in the second loan chain and was to be repaid over the same term as her other loans in this chain. Mrs B had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I think that Mrs B lost out when Morses provided loans 4 and 5 because:

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

Overall, I'm upholding Mrs B's complaint about loans 14 – 22 in the first loan chain and loans 4 and 5 in the second loan chain and I've outlined below what Morses needs to do in order to put things right.

Putting things right

In deciding what redress Moses should fairly pay in this case I've thought about what might have happened had it had stopping lending from loan 14 in the first loan chain and from loan 4 in the second loan chain, 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 Mrs B 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 Mrs B 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 Mrs B 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 shouldn't have provided Mrs B with loans 14 – 22 in the first loan chain and loans 4 and 5 in the second loan chain.

- A. Morse should add together the total of the repayments made by Mrs B towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything you have already refunded.
- B. Moses should calculate 8% simple interest* on the individual payments made by Mrs B which were considered as part of "A", calculated from the date Mrs B originally made the payments, to the date the complaint is settled.
- C. Moses should pay Mrs B the total of "A" plus "B".
- D. The overall pattern of Mrs B's borrowing for loans 14 – 22 in the first loan chain and loans 4 and 5 in the second chain means any information recorded about them is adverse. So Moses should remove these loans entirely from Mrs B's credit file.

*HM Revenue & Customs requires Moses to deduct tax from this interest. Moses should give Mrs B 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 Mrs B's complaint in part.

Moses Club PLC should put things right for Mrs B as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 5 July 2023.

Robert Walker
Ombudsman