

complaint

Miss C complains Morses Club PLC was irresponsible when lending her money and that correct affordability and credit checks were not carried out.

background

Between June 2013 and August 2015 Miss C took out nine loans ranging from £300 to £600. I have addressed loans one to six in a separate complaint as Miss C took these loans out by a company that has since merged with Morses Club. By October 2015 Miss C had started to struggle to make the payments to loan six.

In 2018 Miss C complained to Morses Club that the loans had been unaffordable and mis-sold to her. Morses Club did not agree. It said it had done proper affordability checks and concluded that Miss C's disposable income, based on information provided by Miss C, was sufficient to afford the repayments. Miss C didn't agree and brought her complaint to this service.

Initially our adjudicator concluded that Morses Club should have done more to ensure loans seven to nine were affordable to Miss C, and concluded they weren't.

Morses Club disagreed with this view and argued it had undertaken checks that were proportionate to the amounts borrowed. And it said it was entitled to rely on the accuracy and sufficiency of information provided by Miss C as to her financial status. Our adjudicator agreed and amended her view.

Miss C wasn't happy and asked for a final decision from an ombudsman. She said Morses Club should have known at the time that she was on a debt management plan, as it would've been recorded on her credit file.

After considering all of the evidence, I issued a provisional decision on this complaint to Miss C and Morses Club on 23 January 2019. I said:

Miss C took out loans one to six with an organisation that has since merged with Morses Club. My provisional findings relating to those loans are relevant in deciding whether or not Morses Club undertook appropriate checks for loans seven to nine; details of which are in the table below. In that decision, I determined that subject to further information loans five and six were unaffordable. It follows then that loans seven to nine were also unaffordable.

Loan	Principal	Charge	Date sold	Date settled	Repayments
7	£600	£450	17/3/15	31/8/16 (debt sold)	£21.00
8	£600	£450	18/6/15	31/8/16 (debt sold)	£21.00
9	£500	£375	25/8/15	31/8/16 (debt sold)	£17.50

Morses Club said it is legal and accepted to be able to borrow up to £500 each time while in an Individual Voluntary Arrangement (IVA) and the loan amounts weren't substantial. Miss C was in a debt management plan, which is similar to but not the same as an IVA. But I accept in theory that Morses Club was legally able to loan Miss C money.

It also said the checks it did were proportionate to the amounts borrowed. It said on loans of this value checking bank statements is not proportionate and it's possible to borrow much

higher sums from lenders without checking bank statements. Morses Club said Miss C's payment record across the majority of her loans was nearly perfect, which is why she received further loans and that payments being made regularly would suggest the loans were affordable.

My view is that proportionate checks for loan one would be different to those that may be needed for loans seven to nine.

I determined in my other provisional decision that the checks done were proportionate for loans one to four. Morses Club said it did a credit check for loan one. By the time Miss C applied for loan five, loans three and four were still outstanding; loans five and six were for higher amounts; and Miss C's disposable income was static. At this point I considered it appropriate for further checks on affordability to have been done, in addition to relying on Miss C's income and expenditure self-assessment; for which evidence was never sought.

Had it been done then, or indeed had Morses Club done so at the point of the application for loan seven, it would've seen on her credit file that Miss C was in arrears with a payday loan in August 2013 and had defaulted on it by February 2014. I'm satisfied this would've been a red flag for further checks at that point, including possibly viewing Miss C's bank statements.

From	Loans (outstanding balance)	Total of repayments	Disposable income (Weekly income)
Loan 7 – 17/3/15	Loan 5 (£439), loan 6 (£665) and loan 7	£59.50	100 (300)
Loan 8 – 18/6/15	Loan 6 (£467), loan 7 (£798) and loan 8	£59.50	177 (220) Lack of detail in the outgoings
Loan 9 – 25/8/15	Loan 6 (£341), loan 7 (£609), loan 8 (£861) and loan 9	£77.00	165 (300) From wages to benefits

Morses Club agreed to refund the interest on loans eight and nine, because accounts six and seven had not been repaid at the times they were issued, and Miss C has obviously struggled to repay these loans. Miss C applied for loan seven three months after loan six and hadn't paid off loans either of loans five or six. Miss C's stated disposable income had dropped between loans six and seven from £120 to £100.

I've looked at the loan applications. For loan eight there is a lack of detail describing Miss C's outgoings and for loan nine her income changes from wages to benefits. This itself does not disqualify Miss C from further borrowing, but does indicate a change in circumstances which would warrant further checks. However, no additional checks were done for any of loans seven, eight or nine.

I believe additional checks for loans five and six would have impacted Morses Club's decision to agree to loan seven. Morses Club said at no point during its lending was a debt management account shown on Miss C's credit file while it lent to her, as it first appeared in 2017. It said the accounts showing in her debt management plan are with another debt management specialist, L, and four of them are Morses Club accounts.

I'm not disputing this, but Morses Club hasn't provided any evidence a credit check was done on Miss C after loan one. And had one been done at any point after loan two the late

payments and default would've been seen. While I can't say this itself would've prevented Moses Club from agreeing further loans, I'm satisfied it would've been enough to trigger further checks for loan seven.

Moses Club said it had spoken to Miss C's debt management specialist, H, and discovered Miss C had not declared her loans to it, which it believed showed an intent by Miss C to deceive both parties. And it believed that by refunding interest it's rewarding this behaviour.

It said many previously adjudicated cases had advised that Moses Club could rely on the accuracy of information the customer provides, and if the customer did not provide accurate information to enable it to make a decision it could not be held at fault. I'm not disputing that Miss C has not been entirely truthful. She had a responsibility to provide accurate information to all parties. But this doesn't completely absolve Moses Club of its own duties to do other due diligence as the loans became more frequent and for higher values. In addition, my role is to look at the individual circumstances of the complaint.

I was pleased Moses Club had agreed to refund interest on loans eight and nine but, subject to any further evidence I may receive, I believed it should go further and refund interest on loan seven also.

Both Miss C and Moses Club agreed with my provisional findings.

my findings

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

My provisional decision was sent to Miss C and Moses Club and both parties accepted it. So I see no reason to depart from its conclusions.

my final decision

My final decision is to instruct Morses Club PLC to:

- Refund all interest and charges that Miss C paid on loan seven;
- Refund all interest and charges that Miss C paid on loans eight and nine, if it hasn't already done so;
- Pay interest of 8% simple a year on all refunds from the date of payment to the date of settlement;
- The total refund should be paid towards the outstanding capital balance;
 - If the refund clears the outstanding capital balance, the remaining funds should be paid directly to Miss C;
 - If the refund doesn't clear the outstanding balance, Morses Club and Miss C should agree on an affordable repayment plan; and
- Remove any negative information about loans seven, eight and nine from Miss C's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 8 April 2019.

Maxine Sutton
ombudsman