DRN-2114723

The complaint

Mrs T complains that Morses Club Plc lent to her irresponsibly.

What happened

Using information from Morses, I have created a brief loan table of Mrs T's borrowings.

Loan	Approved	Repaid	Amount	Length	Other notes
1	No information				Lender in liquidation
2	25/02/2014	27/01/2015	£800	50 weeks	27 Jan 2015 £195 paid off in lump sum small ESR
3	27/01/2015	22/03/2016	£800	50 weeks*	22 March 2016 £84 paid off in lump sum
4	22/03/2016	16/05/2017	£800	52 weeks*	16 May 2017 £354 paid off lump sum
5	16/05/2017	17/07/2018	£800	52 weeks*	17 July 2018 £336 paid off lump sum
6	17/07/2018	02/01/2020	£800	52 weeks*	2 January 2020 £140 paid off lump sum
7	17/07/2018	06/08/2019	£200	33 weeks*	Paid off
8	02/01/2020		£800	53 weeks	Ongoing

*Indicates that the loan was repaid late

Mrs T appears to be continuing to repay loan 8 weekly when she can.

Morses had no information about Loan 1 as it was an account inherited when it took over another finance company. That has now gone into liquidation, the formal process in which a registered company is bought to an end. This means that this service is not able to take on or progress anymore complaints relating to it. So, we have not come to any findings on that loan.

Morses had said in its final response letter to Mrs T that she was 'out of time' to complain about Loan 2. I asked Morses for consent to include Loan 2 as part of our investigation and it gave that consent.

One of our adjudicators looked at the details of the complaint and thought that Morses should put things right for Mrs T from Loan 4 onwards.

Morses was content to accept the findings on Loan 8 and it explained: '*We agree account 8 shouldn't have been provided due to the time in which it took to repayment* [sic] *account 6* *and 7 and therefore we believe account 8 would've been unsustainable to Mrs T*'. Morses offered to remove the outstanding interest of £684 and it said that the capital still owing would be £128. That was August 2020 and so these figures may have altered as Mrs T has continued to make some repayments.

Morses disagreed in relation to Loans 4 to 7 and added:

- Mrs T never borrowed more than 2 loans per year and so that's not an indication of unsustainability; and
- her borrowing only increased by £200 throughout the relationship; and
- '*at this point'* it verified her income externally with credit reference agencies. Her wages were significant and do not agree that Mrs T had difficulties repaying; and
- the account notes it had for Mrs T had references to multiple luxury holidays; and so, this non-essential spending does not suggest undue difficulty; and
- Mrs T's husband and daughter contributed to the household bills

Mrs T had the offer on Loan 8 explained to her. None of the other points raised by Morses was explained to Mrs T. The complaint remained unresolved and was passed to me for a decision.

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 have set out our general approach to complaints about short-term lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses needed to take reasonable steps to ensure that it did not lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mrs T could repay the loans in a sustainable manner. These checks could consider several different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. In the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Morses should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include: where a customer's income is particularly low; where the repayments are particularly high; and/or where the frequency of the loans and the length of time over which a customer has been given loans need to be looked at: repeated refinancing could signal that the borrowing had become, or was becoming, unsustainable.

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Morses was required to establish whether Mrs T could sustainably repay her loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

The loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines 'sustainable' as being the ability to repay without undue difficulties. The customer should be able to make repayments on time, while meeting other reasonable commitments, and without having to borrow to meet the repayments. Before CONC was applicable in April 2014, the Office of Fair Trading Irresponsible Lending Guide defined it in much the same terms.

And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower will not be able to make their repayments sustainably if they need to borrow further in order to do that.

I have carefully considered all the arguments, evidence and information provided in this context and what this all means for Mrs T's complaint.

Considering Morses' very specific arguments relating to non-essential spending, then I asked for additional information from both parties including the account notes from Morses and bank statements from Mrs T. I explained to Mrs T that Morses had said it had evidence of non-essential spending and therefore Morses had not accepted the adjudicator's opinion for Loans 4 to 7. Mrs T accepts that she has been on holiday on occasions and one was a gift from her daughter for a significant wedding anniversary.

The bank statements I have received and/or been able to open range from January 2016 to September 2018 some with gaps in the middle. These relate to the joint account for Mrs T and her husband. So, the picture is that of the household situation rather than of Mrs T's alone. But I note that Morses was aware that others in the house contributed to the bills and outgoings, and I have seen that in some of the applications Mrs T's husband's income was noted by the Morses agent as well as her own. So, I do not think it untoward to review these statements with this aspect in mind.

As Mrs T has not disagreed with the outcome for Loans 2 to 3 (Loan 1 was not considered due to the original lending company being in liquidation) then I do not think they are in dispute. And Morses has conceded on Loan 8 and so apart from clarifying the redress for that loan I do not plan to review it as it is undisputed.

So, my decision will relate to a review of Loans 4 to 7, taken within the context of the overall lending relationship.

The account notes from Morses show that the entries relate to Mrs T giving reasons as to why she was not able to pay that week. I do think that Morses was on notice that a lot of excuses not to pay were being given to it. And on some occasions the notes record the term '*financial problems'*. And I think that the multiple reference to going on holiday is something that Morses and its agents noticed, and despite this continued to lend. Mrs T has given me an account of the agent topping up loans in order to use on a holiday despite being in arrears. I'd expect those notes on Mrs T's account and these conversations between Mrs T and her agent to have prompted further enquiries and the additional and proper full financial review would have revealed a household in trouble and not in a position to cope with any more lending.

By Loan 4 – approved in March 2016 – with two years of continuous lending history then at the very least Morses ought to have been doing additional checks and carrying out a full financial review.

Morses explains in detail as to how it differs from other high cost lenders and payday lenders. And one unique element is the weekly and often face-to-face contact with the customers – here Mrs T. Home collection is usual and so the opportunities to Morses and its agents to ask pertinent questions, to see bank statements and to enquire about details of Mrs T's finances and/or the household situation were many and varied.

Looking to see what Morses would have seen had it asked Mrs T for those details I am struck by the sheer amount of debt and numerous loans Mrs T and her household had to deal with.

By Loan 4 Morses had been lending to Mrs T for two years and, as I said earlier, I'd expect it to have carried out a full financial review. And one way to do that was to review bank statements and if it was to do that, I'd expect Morses to look at the previous full month's bank statements before approving a loan. So, looking at February and March 2016 in the lead up to Mrs T's approval for Loan 4, I have seen the following. In the first two days of February 2016, the bank statements reveal payments to lenders (mainly payday lenders) of £1,345, and a new loan credited to their account of £250 from one of those same lenders. This is before the usual outgoings being insurances, TV, phone, utilities and other matters.

If Morses had seen this I do not think that it would have considered it sensible to lend to Mrs T whether it viewed her finances independently of her husband or in conjunction with him.

Another example to show the deterioration of the situation, was in November 2016 the statements reveal 9 or 10 payday lenders or high cost lenders were being paid from this joint account and the total paid out on 1 November 2016 alone was £2,002. Plus, another £281 on regular outgoings such as TV licence and insurances on that day. And there is evidence of a payment to a debt collection agency which would have alerted an observant reviewer that either Mr or Mrs T had debt issues. These figures relate to 1 November 2016 only and do not account for the other transactions in that month and so the figures I have outlined above are even higher for the whole month.

Mrs T and her household clearly were borrowing to repay other loans and in my view were struggling to make ends meet. The situation did not appear to improve. For instance: in November 2017 the figures were no better than a year earlier. And in July 2018 Mr and Mrs T took out a consolidation loan for £7,500 with a repayment commitment of just under £400 a month. This repayment became part of the many they already had to pay.

And as I have said earlier, the nature of the relationship between a home credit provider and a home credit customer is meant to be close contact and dealings with the customer in their own home. And so, I think that this review or additional pertinent questions could have been asked of Mrs T easily and often and they were not. Or if they were, the import of those answers to the queries were not properly looked at and likely noted but not acted upon.

Morses has said '*at this point'* it verified Mrs T's income externally with credit reference agencies. I have not been told at what point in time this was done. And the sentence reveals an income verification not a full credit search. And I have not received any records of those verifications.

I've looked at the overall pattern of Morses' lending history with Mrs T, 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 T's case, I think that this point was reached by Loan 4. I say this because:

- all the reasons I have given earlier in this decision; and
- it's clear to see that Mrs T seemed to be repaying her loans by taking out further lending from other lenders and Mrs T was being provided with a new Morses loan the same day she was settling a previous one; and
- on 17 July 2018 Morses approved two loans for Mrs T adding up to further debt of £1,000 which was more than she'd taken before; and

- Morses ought to have realised it was more likely than not Mrs T was having to borrow further to cover the hole repaying her previous loans was leaving in her finances and that Mrs T's indebtedness was increasing unsustainably; and
- she borrowed to repay other debts thereby perpetuating the circle of debt and prolonging her indebtedness; and
- Mrs T wasn't making any real inroads to the amount she owed Morses. Loan 8 was taken out almost six years after Mrs T's loan in February 2014 Mrs T had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I think that Mrs T lost out because Morses continued to provide borrowing from Loan 4 onwards because:

- these loans had the effect of unfairly prolonging Mrs T's indebtedness by allowing her to take expensive credit over an extended period; and
- the sheer number of loans was likely to have had negative implications on Mrs T's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, I am upholding the complaint about Loans 4 to 8 (Loan 8 already having been conceded) and Morses should put things right as outlined below.

Putting things right

If Morses has sold the outstanding debts it should buy these back if able to do so and then take the following steps. If Morses is not able to buy the debts back then it 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 Mrs T towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything it has already refunded.

B) Morses should calculate 8% simple interest* on the individual payments made by Mrs T which were considered as part of "A", calculated from the date she 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 Mrs T as though they had been repayments of the principal on all outstanding loans. If this results in her 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 the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans and any principal Morses has already written-off. If this results in a surplus then the surplus should be paid to Mrs T. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with her. Morses shouldn't pursue outstanding balances made up of principal it has already written-off.

E) The overall pattern of Mrs T's borrowing for loans four to eight means any information recorded about them is adverse, so Morses should remove these loans entirely from her credit file. Morses does not have to remove outstanding loans from her credit file until these have been repaid, but it should still remove any adverse information recorded about these loans.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Mrs T a certificate showing how much tax it has deducted, if she asks for one. If Morses intends to use the refund to reduce an amount Mrs T owes, Morses must do this after tax.

My final decision

My final decision is that I uphold Mrs T's complaint in part and direct that Morses Club Plc do as I have outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 1 December 2020.

Rachael Williams
Ombudsman