DRN-3186765

The complaint

Ms L says Morses Club PLC (Morses) lent to her irresponsibly. She says that she had a poor credit history when the loans were approved and she struggled to meet the repayments. She thinks that Morses should've seen this and not lent to her.

What happened

This complaint is about four home collected loans Morses provided to Ms L between October 2018 and February 2020. Some of the information I have been provided about the lending is in the table below. The repayment is the totals that Ms L would repay to Morses.

loan	date taken	amount	repayment	instalments	date repaid
1	17/10/2018	£300	£15	33	24/05/2019
2	24/05/2019	£300	£15	33	20/01/2020
3	20/09/2019	£500	£32.50	52	outstanding
4	19/02/2020	£400	£31.50	53	outstanding

Our adjudicator partially upheld the complaint. He thought that the amount Ms L was repaying by loan 3 was too high a proportion of her income. And she was likely to struggle with the repayments going forward. By loan 4 he thought the lending pattern itself was harmful.

Morses disagreed with the adjudicator's opinion. It said that the loans looked to be affordable given what Ms L declared about her income and expenditure. And whilst Ms L had some problems repaying loan 3, these were mostly under control by the time loan 4 was advanced.

As no agreement has been reached the complaint has been passed to me.

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 irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Morses needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Ms L could repay the loans in a sustainable manner.

These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, 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:

- the *lower* a customer's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may 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.

And the loan payments being affordable on a strict pounds and pence calculation might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. The industry regulator defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments. And it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

I've decided to uphold Ms L's complaint in part, and I've explained why below.

Ms L didn't disagree with our adjudicator's opinion about loans 1 and 2. Because of this I don't think there is any ongoing disagreement about these loans. So, I won't make a decision about this lending. But these loans were part of the borrowing relationship Ms L had with Morses. So, they are something I will think about when considering the other lending she took.

Given Ms L's circumstances, I think it's reasonable to say that any further expenditure could've potentially caused Ms L financial difficulty. I'll explain why in relation to loans 3 and 4.

The point of sale information shows that Ms L was in rented accommodation, and she says she was unemployed. Ms L's income was around £185 a week. Her expenditure was recorded as being about £60 a week. I think it's reasonable to describe this income, and what she was recorded as having left over, as modest.

And looking at the information Morses had taken from Ms L there are signs of possible financial problems. Firstly, the expenditure amounts that Morses recorded for her seem very low. I'm not sure if, for example, £20 a week on groceries is realistic, even for a single person. I think it's likely she was spending more than this across a number of categories (which would also explain the need to borrow).

And the credit reference agency information Morses obtained in relation to loan 1 shows that Ms L did have some other debts. She may have been making smaller repayments to these, but two of the debts were unsatisfied county court judgements. It's not clear what her other liabilities were, and the court judgements were from over a year and half ago, but taking all of this into account I think it's reasonable to say Ms L's financial situation was likely to be precarious.

I think the £32.50 she was due to pay to Morses for loans 2 and 3 combined was a high amount of her income, especially as it's likely she would have further outgoings. Taking all what I've said into account I think the weekly repayments for loans 2 and 3 together meant that Ms L was probably paying too much and so Morses shouldn't have approved loan 3.

Morses said that the repayment was low, and it was only a small proportion of Ms L's disposable income. I don't agree with this as it's around 18% of her income. And, this isn't the only important factor here as I've outlined above. I think when all of Ms L's circumstances are considered approving loan 3 wasn't responsible.

I've also considered the pattern of lending up to loan 4 and I think the loan history and pattern of lending itself clearly demonstrates that further lending was likely to be unsustainable. Ms L had now been borrowing for 16 months and she'd taken four longer term loans over this period. The loan amounts had increased and so had the repayments. Ms L had struggled to make the repayments at times. Particularly to loan 3.

So, I also think Morses was irresponsible to approve loan 4.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had it stopped lending to Ms L from loan 3, 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 L may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between her and this particular lender which she may not have had with others. 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 Ms L 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 Ms L 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 given Ms L loans 3 and 4.

If Morses has sold the outstanding debts Morses should buy these back if it is able to do so and then take the following steps. If Morses is not able to buy the debts 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 L 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 Ms L which were considered as part of “A”, calculated from the date Ms L 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 L as though they had been repayments of the principal on all outstanding loans. If this results in Ms L 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. If this results in a surplus then the surplus should be paid to Ms L. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Ms L.

E) Morses should remove any adverse information recorded on Ms L’s credit file in relation to loan 3. The overall pattern of Ms L’s borrowing at loan 4 is adverse, so it should remove this loan entirely from Ms L’s credit file. Morses does not have to remove loan 4 from Ms L’s credit file until it has been repaid, but Morses should still remove any adverse information recorded about it.

*HM Revenue & Customs requires Morses to deduct tax from this interest. Morses should give Ms L a certificate showing how much tax Morses has deducted, if she asks for one.

My final decision

For the reasons I’ve explained, I partly uphold Ms L’s complaint.

Morses Club PLC should put things right by doing what I’ve said above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms L to accept or reject my decision before 20 April 2022.

Andy Burlinson
Ombudsman