DRN-3262323

Financial Ombudsman Service

The complaint

Mr J complains Morses Club PLC (Morses) provided him with loans that he couldn't afford to repay.

What happened

Mr J took four loans between June 2017 and November 2019 I've included some of the information we've received about these loans in the table below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£400.00	29/06/2017	06/03/2018	33	£20.00
2	£500.00	26/04/2018	11/12/2018	33	£25.00
3	£500.00	11/12/2018	17/09/2019	33	£25.00
4	£500.00	26/11/2019	23/10/2020	34	£25.00

Morses considered Mr J's complaint and issued its final response letter on this matter and concluded it hadn't made an error when it approved these loans for him.

Unhappy with this response, Mr J referred his complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who didn't think it was wrong for Morses to have granted loans 1 and 2. But the adjudicator thought that loans 3 and 4 shouldn't have been lent.

He said when loan 3 was lent, Mr J's income had reduced by around 50% and was now around a third less than loan 1 even though the weekly repayments Mr J was committed to making had increased. In addition, the adjudicator could see loan 3 was taken the same day as loan 2 had been repaid. Overall, he concluded Mr J's repayment represented a significant portion of his income for his final two loans.

Morses disagreed with the adjudicator's assessment. In summary it said.

- The expenditure figure Morses arrives at includes living costs and credit commitments and Mr J signed to confirm the information recorded was an accurate reflection of his circumstances.
- While Mr J's income had reduced, the figure was checked with the credit reference agencies and Morses says it knows these figures to be accurate.
- For loan 3, Mr J said he could afford repayments of £40 per week and the repayments he was due to make were only £25 so the loan was affordable.
- For loan 4, Mr J said he could afford a loan repayment of £50 per week.
- Morses also provided a breakdown of expenditure for loan 4, which included notes about Mr J's living costs including "…*Mortgage comes out of wifes (sic) wages and benefits*".
- There was also a break in lending between loans 3 and 4.
- Mr J didn't inform Morses that he was having difficulties.

Mr J also disagreed, with the findings the adjudicator reached – a number of emails have been sent to the Financial Ombudsman Service and I've summarised the responses below.

- Mr J was happy with the outcome for loans 3 and 4.
- But Mr J also wants loans 1 and 2 upheld because he said his financial situation was no different at loan 1 as it was at loan 4.
- Mr J also says he had mortgage arrears at the time.
- Mr J's partner appealed a decision and an ombudsman, on another case, upheld all her loans and so all of his loans should be upheld as well.

The adjudicator explained that he was satisfied for loans 1 and 2 that in the early part of the relationship the checks Morses carried out were proportionate. He also explained each case is considered on the individual merits.

As no agreement has been reached, the case has been 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've 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 had to assess the lending to check if Mr J could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. Morses's checks could have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr J'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 Mr J. These factors include:

- Mr J 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);
- Mr J 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);
- Mr J 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 Mr J.

Morses was required to establish whether Mr J could *sustainably* repay the loans – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr J was able to repay his 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 Mr J's complaint.

Loan 1

This was Mr J's first loan with Morses. Before the loan was approved, Mr J told Morses he earned around £760 per week and Morses says it used his credit report in order to verify this amount.

Mr J also declared that he had weekly expenditure of £522, leaving him with around £237 per week to meet his contractual loan repayments of £20.

Morses also carried out a credit search before this loan was approved, and it has provided the results of this check.

Mr J has also provided a copy of his actual credit report that was generated in November 2021 and provides details of his repayment history for the previous six years – which covers the period of time when this loan was approved.

I've thoroughly reviewed the credit file information and overall, while there is some adverse information visible. I don't think the results Morses received ought to have led it to either decline Mr J's application for credit or to have prompted it to carry out further checks.

It is also worth saying here that Morses, wasn't required to carry out a credit search before this loan (or any other loan) was approved. Neither was there a 'standard' that the credit check had to adhere too. What I mean, is that the information Morses receive may not fully reflect the information contained within Mr J's full credit report.

The fact that Morses report may not have been shown all of the same information, isn't an error on its part. But what Morses can't and shouldn't do, is gather information that indicates difficulties or financial problems and then ignore it and not react to it.

Morses was aware that Mr J wasn't insolvent in any way through say a County Court Judgement or any other type. He had 10 active credit accounts of which one had a zero balance.

Morses was also aware, based on the information that he wasn't a regular user of high cost or home credit. There also wasn't any indication from the credit report that Mr J may have been reliant on such credit or credit in general. I say this because Morses was aware that the newest credit account had been open for around seven months.

However, Morses was aware that there were four defaults reported on Mr J's credit file but it was equally told that the most recent of these defaults was recorded 21 months before its check was carried out.

In my view, this is to long ago, to have made Morses' think that Mr J was likely having or was having financial difficulties. After all, a default from nearly two years ago isn't in my view a sign that someone may have been having current or immediate financial difficulties.

Mr J's main concern is that at the time of the loan application he was in significant mortgage arrears – and this is reflected in the credit report he has provided the Financial Ombudsman Service. It shows that a payment record of '6' for at least the last six years (back to November 2015). A typically a payment record of '6' would indicate the account had been defaulted.

The credit report provided by Morses shows that it was aware that Mr J was connected to two mortgage accounts.

Morses was also aware that one of these mortgage accounts had been defaulted. However, given it had been at least two years since the most recent default, it's reasonable to conclude that the mortgage default hadn't been applied recently and was likely to be historic.

Therefore, I don't think Morses knowing that there was a historic default on the credit file connected to a mortgage account, is enough, in this case to warrant further checks by Morses or to have declined the loan.

There is a possible indication within the credit check results that Mr J may have been having problems with the other mortgage account. I say this because the balance of delinquent accounts seems to be large enough, possibly as mortgage areas were being included with the figure.

However, under the relevant sections of the credit check results that are connected with mortgage accounts there isn't, as far as I can see, anything specific about this or anything to indicate that apart from the one defaulted mortgage account that there were other issues.

So, given the credit check results, and what Morses knew about Mr J's wider financial situation, I think it was just about reasonable for this loan to have been granted.

I also, more generally, don't yet think it had reached the stage where Morses needed to more before it lent. For example I don't yet think it would've been proportionate of it to have checked Mr J's bank statements to have verified the information he provided given it was the first loan in the chain.

Based on the information Mr J declared to Morses as well as the information it discovered from his credit report. Morses could've been confident he was in a position to afford the contractual repayment. Given this was the first loan, I think the checks that Morses did were proportionate and it didn't need to do any further checks before agreeing to the loan.

As this is the case, I'm not upholding Mr J's complaint about loan 1.

Loan 2

Mr J repaid loan 1 without any obvious repayment problems. Mr J then didn't return for further borrowing for around six weeks before returning for loan 2, which was slightly larger at £500.

Similar sorts of checks were carried out before loan 2. Morses again asked Mr J about his income (which Mr J had declared to be around £507 per week) and outgoings of around £395.

This left Mr J with around £112 of disposable income. This was sufficient to be able to afford the repayment of £25 per week. Morses, would've reasonably believed that Mr J had sufficient funds in which to afford the contractual repayments that he had to make.

It seems, from what Morses has provided that a credit search *wasn't* carried out for this loan because no further credit reports or checks have been provided by it. I appreciate this may be frustration for Mr J but as there was no requirement to carry out a credit search, I can't conclude Morses made an error here solely because a credit search wasn't carried out.

Overall, I'm reaching the same outcome for this loan as I've reached for loan 1. In my view, Morses carried out proportionate checks which showed Mr J would likely be able to afford the repayments he was committed to making.

I appreciate Mr J will be disappointed by the outcome I've reached for loans 1 and 2. But I do hope my explanation has been helpful especially as he says his partner's complaint was upheld as a result of adverse information being reported about the mortgage.

However, as the adjudicator has explained, each complaint is considered on its own individual merits and based on the information provided by both parties to the complaint. In this case, the outcome I'm reaching for loans 1 and 2 is in my view fair.

Loans 3 and 4

The adjudicator upheld both of these loans, because in his view there was now a pattern whereby Mr J's declared income was decreasing with each loan application and by the point loan 3 was approved this loan and all further loans shouldn't have been given.

Mr J agreed with the outcome that the adjudicator had reached for these loans, whereas Morses disagreed and provided the comments I outlined earlier on in this decision.

Having looked at everything together – including Morses' comments, I think it would be fair and reasonable to uphold Mr J's complaint about these loans and I've explained why below.

For loan 3, Mr J declared his income was now only around £227 per week. This is a significant reduction of more than 50% compared to what he declared for loan 2, around six months before. It was also the case, that for each loan approved by Morses Mr J had declared a decrease in his income.

It's also worth noting a similar pattern for expenditure was also apparent. Mr J's weekly expenditure had decreased, from £394 at loan 2 to £138 for loan 3. This coupled with the decrease in declared income – (which Morses says was checked with the credit reference agency) is in my view concerning.

Although, Morses didn't need to, I've checked the bank statements supplied by Mr J and it does seem that around this time Mr J's income was around £200 per week, so what he declared to Morses *was* an accurate reflection of his circumstances.

So, Morses was on notice that Mr J's income and expenditure was decreasing with each loan, yet his weekly commitment was remaining broadly similar. In my view, given that Mr J had now returned for another loan as well as taking loan 3 on the same day loan 2 was repaid ought to have led Morses to realise that the loan (and future loans) were no longer sustainable for Mr J.

In my view, given the factors in the above paragraph, I think the weekly repayment for this loan now represented a significant portion of an income Morses had checked and which had decreased compared to the two previous loans.

In these circumstances, there was, in my view a significant risk that Mr J wouldn't have been able to meet his existing credit commitment without having to borrow again. So, I think it was unlikely Mr J would've been able to sustainably meet his weekly repayments for this loan.

My view is further reinforced, by the payments problems Mr J went on to have for both loans 3 and 4.

I've thought about the gap in lending between loans 3 and 4 which Morses highlighted of around two months. But in this case, I don't think it changes the outcome that I'm reaching.

Firstly, I've not upheld loan 4 due to the pattern of lending that had developed. I've upheld loan 4 for similar reasons to loan 3. In addition, Morses was aware that it had taken Mr J seven weeks longer to repay loan 3 than Morses had anticipated.

In addition, Mr J had borrowed the same sum for his loan as he had for the previous two loans and once again, Mr J's declared his income had decreased. All of these factors have led me to conclude that loan 4 should be upheld for the same reason as loan 3.

Indeed, the repayment history for loan 4 further, in my view shows this loan ought to not have been provided, given it took Mr J 13 weeks longer to repay this loan than Morses had expected given the contracted term.

I'm therefore upholding Mr J's complaint about loans 3 and 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 Mr J 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 Mr J may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they 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 they had done that, the information that would have been available to such a lender and how they 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 Mr J 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 Mr J would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce Morses's liability in this case for what I'm satisfied it has done wrong and should put right.

Morses shouldn't have given Mr J loans 3 and 4.

A. Morses should add together the total of the repayments made by Mr J towards interest, fees and charges on these loans.

B. Morses should calculate 8% simple interest* on the individual payments made by Mr J which were considered as part of “A”, calculated from the date Mr J originally made the payments, to the date the complaint is settled.
C. Morses should pay Mr J the total of “A” plus “B”.
D. Morses should also remove any adverse information it has recorded on Mr J’s credit file in relation to loans 3 and 4.

*HM Revenue & Customs requires you to deduct tax from this interest. Morses should give Mr J a certificate showing how much tax it deducted, if he asks for one.

My final decision

For the reasons I’ve explained above, I’m upholding Mr J’s complaint in part. I am not upholding Mr J’s complaint about loans 1 and 2.

But, Morses Club PLC should put things right for Mr J as directed above in relation to loans 3 and 4.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr J to accept or reject my decision before 22 July 2022.

Robert Walker
Ombudsman