DRN-3372793

Financial Ombudsman Service

The complaint

Mrs T, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans. Had it done so, Morses would've discovered Mrs T was struggling financially and had a poor credit history.

What happened

Mrs T was advanced seven home collected loans between December 2013 and February 2020. 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	£100.00	24/12/2013	25/06/2014	32	£5.00
2	£200.00	16/04/2014	28/11/2014	34	£10.00
3	£200.00	25/06/2014	21/01/2015	34	£10.00
4	£300.00	03/12/2014	10/06/2015	34	£15.00
5	£300.00	21/01/2015	sold	34	£15.00
6	£350.00	12/06/2015	sold	34	£17.50
break in lending					
7	£200.00	25/02/2020	sold	34	£10.00

Mrs T had some problems repaying loans 5, 6 and 7. Morses told us that it had sold the balances of these loans to a third-party collection agency, as of January 2022 the outstanding balance due was £734.97.

The 'weekly repayment' column in the table above is the cost per week per loan. Where loans overlapped the cost per week was increased, for example when loans 1 and 2 were running at the same time Mrs T's weekly commitment to Morses was £15.

Following Mrs T's complaint Morses wrote to her representative to explain that it wasn't going to uphold her complaint. Mrs T's representative didn't accept the outcome and referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. He didn't uphold Mrs T's complaint about loans 1 – 4. But he thought loans 5 – 7 should be upheld.

He said, for loan 5 that Mrs T was committed to spending a significant portion of her income on repayments and loan 6, in his view the pattern was now harmful, so the loan was unsustainable for her. For loan 7, he said the credit checks provided to us from Morses showed Mrs T was already committed to paying a significant amount of her income towards other creditors. This led the adjudicator to partly uphold the complaint.

Morses agreed with the adjudicator's assessment and it offered to pay compensation in line with his recommendation. But as Mrs T had an outstanding balance the refund for loans 5 – 7 would go towards reducing the balance from £735 to £79.72.

This offer was put to Mrs T's representative who told us Mrs T declined the offer. The representative said.

> *We will send on any further evidence of our client's financial situation at the time as soon as we have it.*

No further information has been received and because no agreement has been reached, the case has been passed to me to resolve.

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.

Morses had to assess the lending to check if Mrs T 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 T'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 T. These factors include:

- Mrs T 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 T 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 T 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 T.

Morses was required to establish whether Mrs T 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 T 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 T's complaint.

Morses has already accepted that loans 5 – 7 shouldn't have been advanced and it has outlined the compensation that it will pay. As Morses has already accepted something went wrong with these loans, I no longer think they are in dispute, so I've not made a full finding about them.

But given that I also don't think these loans ought to have been provided, Morses' offer to settle these loans is therefore fair and reasonable. So, I have included them in the putting things right section at the end of the decision.

Instead this decision will focus on whether Morses made reasonable decisions to lend in relation to loans 1 – 4.

Loans 1 – 4

For all of these loans, it is likely Morses asked Mrs T about what her declared weekly income and what her declared weekly expenditure was.

However, due to the passage of time, Morses hasn't been able to provide and / or locate any evidence of the information Mrs T declared for loans 1 – 3. Equally, I haven't seen anything from Mrs T to suggest what her income and expenditure may have been at the time of the third three loans.

But I've also not seen anything to suggest that Mrs T's financial position was materially different when loan 4 was granted. I have the information she declared for loan 4, which I go into detail about below. Given what little I do have, I don't think it is unreasonable to conclude that Mrs T may have declared similar figures for loan 1 – 3. I think it is likely therefore Morses would've thought the lending was affordable.

Morses has been able to provide information relating to loan 4. For this loan Mrs T declared she had a weekly income of £160. Mrs T declared her weekly expenditure to be £100. This left Mrs T £60 per week in disposable income to be able to afford the contractual repayments of £25 per week (weekly cost for loans 3 and 4).

Based on the information Mrs T declared Morses could've been confident she was in a position to afford the contractual repayments she was due to make for these loan. Given this was still quite early on the lending relationship which means, in my view, Morses could rely on the information Mr T had provided.

I think the checks that Morses did were proportionate and it didn't need to do any further checks before agreeing to these loans.

I've also thought about that some of these loans overlapped but even taking into account the higher weekly repayments as a result of this the loans still looked affordable. So, this doesn't change my mind about the checks that Morses carried out.

I'm therefore not upholding Mrs T's complaint about these loans.

I've outlined below what Morses has already agreed to do for loans 5 – 7.

Putting things right

Morses has already accepted that loans 5 to 7 shouldn't have been provided to Mrs T. But for completeness and in line with what it has already agreed I've outlined below what it has agreed to do.

If Morses have sold the outstanding debts Morses should buy these back if Morses are able to do so and then take the following steps. If Morses are 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 Mrs T towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything Morses have 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 Mrs T 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 Mrs T 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 Mrs T. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mrs T.
E. Morses should remove any adverse information recorded on Mrs T's credit file in relation to loans 5 and 7. The overall pattern of Mrs T's borrowing for loan 6 means any information recorded about it is adverse, so Morses should remove this loan entirely from Mrs T's credit file. Morses do not have to remove loan 6 from Mrs T's credit file until it has been repaid, but Morses should still remove any adverse information recorded about this loan.

*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.

My final decision

For the reasons I've explained above, I'm not upholding Mrs T's complaint about loans 1 – 4.

But Morses Club PLC should put things right for Mrs T as it has already agreed to do and as directed above for loans 5 - 7.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 22 July 2022.

Robert Walker
Ombudsman