DRN-3660348

Financial Ombudsman Service

The complaint

Mr P complains (through a representative) that Morses Club PLC (Morses) didn't carry out proper affordability checks before it advanced his loans.

What happened

Mr P took three loans between June 2021 and March 2022. 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	£250.00	18/06/2021	27/12/2021	35	£12.50
2	£300.00	30/09/2021	15/01/2022	35	£15.00
3	£300.00	28/03/2022	06/05/2022	35	£15.00

The 'weekly repayment' column above is the cost per week per loan. So, where loans overlapped the cost will be greater. For example, when loans 1 and 2 were running at the same time Mr P's weekly commitment was £27.50.

Morses considered Mr P's complaint and issued its final response letter. Morses investigated the complaint and concluded it had made a reasonable decision to provide these loans and so it didn't uphold his complaint.

Mr P didn't agree with the outcome reached by Morses and his representative referred the complaint to the Financial Ombudsman in July 2022.

The complaint was considered by an adjudicator who didn't think any of the loans should have been granted. In the adjudicator's view the portion of Mr P's income that would have to be used to make the repayments was too high and therefore the loans were likely to be unsustainable for him.

Morses disagreed with the adjudicator's recommendation to uphold the complaint. I've summarised its response below.

- The income for loan one was verified against the credit file so Morses says the information it obtained was accurate.
- The loans were issued after June 2019 which means Morses used figures from the Office of National Statistics (ONS) in order to pre-populate minimum amounts for expenditure.
- Mr P's disposable income shouldn't be needed for existing commitments.
- Morses doesn't consider the proportion of Mr P's income that would be needed to repay these loans was excessive.
- The relevant checks were completed before all the loans were approved.
- Mr P repaid loan 3 much earlier than it expected.
- Mr P had a good repayment history.

- There was also a short break in lending of around two months between loans 2 and 3.
- Mr P didn't tell Morses of any financial difficulties he may have been having.

Neither Mr P or his representative provided any further comments following the adjudicator's assessment.

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 P 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' 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 P'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 P. These factors include:

- Mr P 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 P 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 P 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 P.

Morses was required to establish whether Mr P 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 P 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 P's complaint.

For loan one Mr P declared he had a weekly income of around £124.50 with outgoings of £51.76. This left around £72 per week to make his weekly repayment of £12.50.

For loan two Mr P declared that his weekly income had decreased to £117.92 and his declared weekly expenditure was £61.80. Leaving just over £57 to a week to afford the combined loan repayments of £27.50 per week.

Finally, for loan three, Mr P's weekly declared income decreased again to £110 with his weekly outgoings increasing again to £69. This left around £41 per week disposable income to afford the repayment on this loan of £15.

Morses says for loans 1 and 3 it also carried out an income verification check, which given my understanding of Morses' processes were done through a credit reference agency. Although based on the spreadsheet provided by Morses there is no salary or benefits (such as a pension) recorded.

Whereas for loan 2, Morses has recorded that Mr P was in receipt of benefits and it saw some evidence of this. It's worth saying again that Morses hasn't provided the information that it saw or provided details of the type of benefit that was provided. Given, what has been recorded for loans 1 and 3, I think it's highly likely, that during the course of this lending relationship Mr P was in receipt of some benefits.

Considering the information Mr P provided about his income and expenditure, Morses may have felt, these loans were pounds and pence affordable because this is what the information showed. However, as I've explained above, that is only part of what Morses had to consider before granting these loans.

Before loan one was granted Morses also carried out a credit check and it has provided the results of that search. Morses was aware that there were no delinquent accounts or defaults recorded on Mr P's credit file. He did have six active accounts but only four had balances on them. In total Mr P owed other creditors £563 and he was, at the time utilising 93% of his available credit.

Although Mr P had a relativity low amount of debt, it is clear that he was making almost full use of his available credit. In my view, the results wouldn't have prompted Morses to have either carried out further checks or to have declined Mr P's applications for credit. But this was information Morses needed to consider when deciding whether the loan repayments were sustainable for him.

However, in saying that I don't think, given what I've seen that Morses made a fair decision when it decided to lend these loans to Mr P. I'm, therefore, upholding Mr P's complaint in full.

As Morses has pointed out in response to our adjudicator, Mr P was committed to spending 10% of his income when loan one was advanced, 23% when loans one and two where outstanding and 13% for loan three. In my view these payments, in this case were too high when considering what it knew about Mr P's circumstances.

In these circumstances, there was a significant risk, in my view that Mr P wouldn't have been able to meet his existing commitments without having to borrow again. So, I think it's unlikely Mr P would've been able to sustainably meet his repayments for these loans.

I say this because Mr P was making a commitment to pay Morses for 35 weeks for each loan and I think it's fair to say that Mr P's income was modest and potentially made up solely of benefits. On top of that, the information Morses was given suggested that with each loan application Mr P's income decreased. Which is concerning.

While Morses doesn't think those percentages are excessive I think they were. There is clearly going to be a line beyond which it wouldn't have been reasonable for Morses to lend, but that's going to be particular to the circumstances of each individual complaint. And whilst a large proportion is going to increase the likelihood in any case that something has gone wrong there isn't an automatic cut off – we'll always look at the broader circumstances – as I've done here.

I'm not suggesting that just because Mr P had a modest income which was likely made up from benefits that funds couldn't be lent to him but what Morses needed to do is appreciate that taking into account the commitments that he had to it and over the time period was in my view not sustainable.

I've considered what Morses says in response to the adjudicator, but I don't think these comments change my mind. As I've said above, some checks were carried out which may have shown the loans were affordable, but Morses also had to consider whether the loans were sustainable and I don't think, in this case it did that.

In addition, while I can see the two-month gap between loans two and three, I don't think that makes a difference to the outcome that I've reached. I say this because, the information Morses was given as part of the application process did show, in my view that these loans were unlikely to be sustainable for him.

Based on what I've seen I'm upholding Mr P's complaint in full and I've outlined below what Morses needed to do in order to put things right.

Putting things right

In deciding what redress Morses' should fairly pay in this case I've thought about what might have happened had it not lent to Mr P, 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 P may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 P 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 P 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 Mr P any of his loans.

A. Morses should add together the total of the repayments made by Mr P towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything it has already refunded.
B. Morses should calculate 8% simple interest* on the individual payments made by Mr P which were considered as part of "A", calculated from the date Mr P originally made the payments, to the date the complaint is settled**.**
C. Morses should pay Mr P the total of "A" plus "B".
D. Morses should remove any adverse information you have recorded on Mr P's credit file in relation to these loans.

*HM Revenue & Customs requires you to deduct tax from this interest. Morses should give Mr P 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 P's complaint in full.

Morses Club PLC should put things right for Mr P as I've directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 September 2022.

Robert Walker
Ombudsman