DRN-3703029

The complaint

Ms T, through her representative, complains that Morses Club PLC lent to her when she could not afford it.

What happened

Using information we have from Morses, here is a brief loan table.

Reference	Date Taken	Date Repaid	Instalments	Amount	Repayment
1	03/03/2017	06/10/2017	33	£100.00	£5.00
2	28/06/2017	02/02/2018	33	£150.00	£7.50
3	30/10/2017	15/08/2018	52	£400.00	£14.00
4	15/08/2018	19/08/2019	52	£400.00	£14.00
5	19/08/2019	28/07/2020	52	£300.00	£10.50
6	06/12/2019	28/07/2020	34	£300.00	£15.00

After Ms T's complaint had been referred to the Financial Ombudsman Service, one of our adjudicators looked at it and thought that Morses ought to put things right for Ms T for loans 4 to 6.

Morses disagreed and the complaint was passed to me to decide.

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 Ms 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 Ms T's income and expenditure.

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 Ms T. These factors include:

- Ms 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);
- Ms 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);
- Ms 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 Ms T. Our adjudicator that this was the case for Ms T's complaint at loan 4.

Morses was required to establish whether Ms 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 Ms 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, 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 Ms T's complaint.

Morses does not disagree with our adjudicator's outcome for loans 1 to 3. And although Ms T's representative has acknowledged receipt of the adjudicator's opinion it has not replied to give its view either way. We have not heard from Ms T directly.

I have seen from the credit search results Morses carried out that Ms T had a County Court Judgment (CCJ) entered against her just six months before she applied for loan 1. This plus some other factors that search revealed in March 2017 means that I do think additional checks ought to have been done by Morses. But we have nothing from Ms T or her representative to give us details of her financial circumstances at the time. And so, I cannot progress this further.

And Morses has given us these figures (see the small table here) which were figures declared by Ms T and the income had been checked out by Morses. So, I have nothing over and above this evidence to lead me to think that Ms T could not afford the weekly repayments for loans 1 to 3 which were relatively low at £5, then a combined sum of £12.50, followed by a short time at £21.50 and then £14.

LOAN	INCOME	EXPENDITURE	DISPOSABLE INCOME
1	£429.60	£220.96	£208.64
2	£423.34	£274.03	£149.31
3	£408.00	£249.00	£159.00

So, I do not uphold the complaint about loans 1 to 3.

After loan 3, when Ms T applied for loan 4, a few things had altered. Morses has reminded us that her income was £254 a week, £290 a week and £242 a week for loans 4 to 6 inclusive. This demonstrated a significant drop in weekly income and one I'd expect to have acted as an alert to Morses. I think even if it had not done it by that point – August 2018 – I think Morses ought to have carried out more checks. I don't think it did that.

And upon closer inspection of the excel spreadsheet Morses has sent us on which are listed all the figures in its 'income and expenditure' assessment, then her rent each week halved for loans 4 to 6 with no explanation as to why. Her utilities suddenly became hardly anything and on two instances '£0' and her groceries dropped to £20 and £25 a week which is too low to be believed.

Ms T returning for further borrowing on the same day a previous loan had been repaid (loan 3 on 15 August 2018).

Morses has submitted that the loan sums borrowed reduced but in fact, as loans 5 and 6 overlapped, her indebtedness to Morses increased as she was liable for loans 5 and 6 together from December 2019 and was having to repay £25.50 a week.

By now, it would've been reasonable for Morses to have at the very least, started to have verified the information it was being given. I've not seen anything to suggest it carried out further checks in this case.

However, I don't think I need to try and establish, in this case, whether a proportionate check would've led Morses to conclude these loans were unaffordable for Ms T.

So in addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Ms 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 Ms T's case, I think that this point was reached by loan 4. I say this because:

- At this point Morses ought to have realised Ms T was not managing to repay her loans sustainably. Ms T had taken out four loans in 15 months. So Morses ought to have realised it was more likely than not Ms T was having to borrow further to cover a long-term short fall in her living costs. And as I have outlined earlier – there had been a drop in her weekly income when she applied for loan 4.

- it seems that some of loan 4 went towards repaying loan 3 as the balance on Loan 3 from the Morses' statements of account show me that Ms T still owed it £168 before she took loan 4 in August 2018. To me, this is a sign that Ms T was using these loans to fill a long-term gap in her income rather than as a short-term need.

- Over the course of the lending relationship, Ms T's weekly commitments generally either increased or remained the same. Which may have given Morses confidence that Ms T was no longer reliant on these loans. However, the fact that these loans were lent in a consecutive manner, ought to have led it to realise these loans weren't sustainable anymore.

- Ms T wasn't making any real inroads to the amount she owed Morses. Loan 6 was taken out two years and nine months after Ms T's first loan. Ms T had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I think that Ms T lost out when Morses provided loans 4, 5 and 6 because:

- these loans had the effect of unfairly prolonging Ms T's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period

- the number of loans and the length of time over which Ms T borrowed was likely to have had negative implications on Ms T's ability to access mainstream credit and so kept her in the market for these high-cost loans.

So, I'm upholding Ms T's complaint about loans 4 to 6.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened if it hadn't lent loans 4, 5 and 6, as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Ms T may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 T in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Ms T 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 provided Ms T with loans 4, 5 and 6.

A. Morses should add together the total of the repayments made by Ms T 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 Ms T which were considered as part of "A", calculated from the date Ms T originally made the payments, to the date the complaint is settled.

C. Morses should pay Ms T the total of "A" plus "B".

D. The overall pattern of Ms T's borrowing for loans 4, 5 and 6 means any information recorded about them is adverse, so Morses should remove these loans entirely from Ms T's credit file.

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

My final decision

My final decision is that I uphold Ms T's complaint in part and I direct that Morses Club PLC does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms T to accept or reject my decision before 21 October 2022.

Rachael Williams
Ombudsman