DRN-3711165

The complaint

Mrs H, through a representative complains that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted her loans. She has also said, she struggled to repay the loan balances and often had multiple loans running at the same time.

What happened

Mrs H was initially thought to have only been advanced two home collected loans between March and June 2015. 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 (weekly)	weekly repayment
1	£250.00	11/03/2015	sold	34	£12.50
2	£150.00	25/06/2015	sold	34	£7.50

Mrs H had some problems repaying these loans and the outstanding balances to these loans were sold to a third-party collection agency in April 2016.

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 H's weekly commitment to Morses was £20.

Following Mrs H's complaint Morses wrote to her representative to explain that it wasn't going to uphold her complaint. Mrs H'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 H's complaint about loan 1. But he thought the combined weekly repayment of loans 1 and 2 represented a too high portion of Mrs H's declared weekly income. So, the adjudicator upheld Mrs H's complaint about loan 2 as in his view, the repayments were unsustainable.

Morses agreed with the adjudicator's assessment and it offered to pay compensation in line with the adjudicator's recommendation. Later Morses explained that no payments had been made towards this loan. Meaning Mrs H still owed Morses the capital amount she had borrowed.

This offer was put to Mrs H's representative who told us it didn't accept it and replied with the following;

> *Please could you refer our clients complaint to the ombudsman for final decision as our client does not Agree with the outcome that has been given.*

After the complaint was referred to an ombudsman, further enquiries were made with Morses, at which point further loans were identified as being lent to Mrs H. I have put together a new loan table below which includes, as far as we are aware all of Mrs H's lending history with Morses.

There is a gap in lending of almost three years between loans 1 and 2 being sold to a third party and when Mrs H returned for further borrowing. I've, therefore considered that there were two chains of lending. Loans 1 and 2 and then loans 3 – 18.

loan number	loan amount	agreement date	repayment date	term (weekly)	weekly repayment per loan
1	£250.00	11/03/2015	sold	34	£12.50
2	£150.00	25/06/2015	sold	34	£7.50
gap in lending					
3	£120.00	19/02/2019	23/05/2019	20	£9.00
4	£120.00	23/05/2019	22/08/2019	20	£9.00
5	£150.00	11/07/2019	22/11/2019	33	£7.50
6	£120.00	22/08/2019	22/11/2019	20	£9.00
7	£270.00	24/10/2019	27/05/2020	34	£13.50
8	£500.00	22/11/2019	23/07/2020	34	£25.00
9	£150.00	13/02/2020	23/07/2020	22	£10.50
10	£270.00	22/05/2020	22/05/2020	34	£13.50
11	£300.00	26/05/2020	02/11/2020	34	£15.00
12	£500.00	23/07/2020	14/12/2020	34	£25.00
13	£250.00	05/08/2020	16/02/2021	34	£12.50
14	£700.00	02/11/2020	outstanding	53	£24.50
15	£710.00	14/12/2020	outstanding	53	£24.85
16	£250.00	16/02/2021	27/05/2022	34	£12.50
17	£300.00	23/04/2021	outstanding	52	£11.25
18	£300.00	14/05/2021	outstanding	35	£15.00

Mrs H has had some problems repaying loans 14, 15, 17 and 18 and based on the statement of account Morses has provided an outstanding balance remains of at least £1,141.83 as of 26 August 2022.

I then issued my provisional decision explaining the reasons why I was intending to uphold Mrs H's complaint in full. A copy of my provisional findings follows this in italics and smaller font and forms part of this final decision.

What I said in my provisional decision

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 H 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 H'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 H. These factors include:

- *Mrs H 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 H 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 H 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 H.

Morses was required to establish whether Mrs H 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 H 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 H's complaint.

Morses has already accepted that loan 2 shouldn't have been advanced and it has outlined the compensation that it will pay. As Morses has already accepted something went wrong with this loan, I no longer think it is in dispute, so I've not made a full finding about it. But for completeness I have included it in the putting things right section at the end of this decision. Instead this decision will focus on whether Morses made reasonable decisions to lend in relation to loan 1 as well as loans 3 - 18.

Loan 1

For this loan, Morses has shown that it asked Mrs H for details of her income and expenditure. She declared she had an income of £249 per week with outgoings of £110 per week. This left Mrs H with £139 a week disposable income in which to make her repayments of £12.50.

Based solely on her income and expenditure information Morses could've been confident Mrs H would be able to comfortably afford the repayments she was committed to making. Morses also carried out a credit check when the first loan was approved, and a copy of those results have been supplied to the Financial Ombudsman Service. Having reviewed the results, I am concerned about the information Morses was provided with and I don't think it reacted appropriately. A summary of what I've seen can be found below.

- *One active County Court Judgement (CCJ) recorded 20 months prior to this loan with a balance of £7,828.*
- *She had 10 active credit accounts with outstanding debts of £17,841.*
- *Mrs H had eight defaults recorded on her credit file with the value of the defaulted balances of £17,508.*
- *The most recent default was recorded eight months before this loan was approved.*
- *Mrs H had over £15,000 of delinquent accounts (so accounts in arrears) and in the previous month before this loan was approved one account had entered delinquency.*
- *Mrs H already owed other home credit provider(s) over £2,400.*

Therefore, given what the credit results show, I'm intending to conclude that this loan ought *to not have been provided because the credit results Morses were given indicated that Mrs H was having longer term financial difficulties and was in my view significantly over indebted to other creditors and so couldn't afford to take on further lending.*

I say this because Mrs H had an outstanding CCJ that she didn't seem to be trying to settle, had a number of defaults as well as quite a large current outstanding balance which is owed to her active credit providers. Overall, knowing all of this, I don't think Morses should've approved this loan because it wasn't sustainable for her.

I'm therefore proposing to uphold Mrs H's complaint about this loan.

Loan 3

Mrs H had some significant repayment problems for loans 1 and 2 and Morses sold the balances to a third-party collection agency in April 2016. This was around three years before Mrs H returned to Morses for further lending. So, while Morses, could reasonably treat Mrs H application afresh I do think it needed to consider that a number of years before it had not collected the full repayments on 2 loans.

For this loan, Morses has shown that it asked Mrs H for details of her income and Mrs H declared she had an income of £260 per week. Morses also suggested that this income was checked through a check with the credit reference agency. This would've given Morses confidence that the figure Mrs H declared was accurate.

Mrs H also declared outgoings of £103.50 per week. This left Mrs H with £156.50 a week disposable income in which to make her repayments of £9. Based solely on her income and expenditure information Morses could've been confident Mrs H would be able to comfortably afford the repayments she was committed to making.

Morses also carried out a credit check when this loan was approved, and a copy of those results have been supplied to the Financial Ombudsman Service. I've once again reviewed the results that Morses received. In my view, Mrs H's financial position is no better than it was some three years before, indeed, such as the CCJS her situation had deteriorated. I've summarised the results below.

- *Mrs H now had 3 CCJS recorded on her credit file – for over £8,600 and none of these CCJS had been settled. The most recent CCJ had been recorded just **two** months before the first loan in this chain was approved.*
- *16 active credit accounts with total outstanding debt balances on active accounts of £11,172.*
- *She already owed over £1,600 to at least one other home credit provider.*
- *Mrs H was above her total credit limit available to her – suggesting she was having problems maintaining her current credit balances.*
- *Mrs H had approached 11 different companies within the last six months for credit.*
- *10 accounts were marked as being in default and 14 in delinquency. The valve of the defaulted balances if £9,517 and only one of these defaulted accounts had been settled.*

Therefore, given what the credit results show, I don't think, in this case that it matters whether the loan appeared pounds and pence affordable. I say this because the credit file information provided to Morses showed that Mrs H continued to have financial difficulties in the period of time between loans 2 and 3. She had a new CCJ judgement against her, and seemed to continue to borrow from at least one other home credit provider. In addition, in this time, accounts continued to be defaulted and move into delinquency.

Overall, I'm satisfied the information within the credit checks ought to have alerted Morses to the fact that Mrs H was likely having current and immediate financial difficulties and so it didn't make a fair decision to provide loan 3.

Moving forward, not only loan 3, but I also think all future loans ought to not have been *provided, because after this loan she continued to take loans from Morses, often for increasing amounts and at times she had more than one loan running at the same time. To me, this further reinforced the information Morses saw in the credit file which suggested that Mrs H wasn't in a position to afford any new borrowing.*

Loan 9 – 18

So, in addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Mrs H, 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 particular circumstances of Mrs H's case, I think that this point was reached by loan 9. I say this because:

- *At this point Morses ought to have realised Mrs H was not managing to repay her loans sustainably. Mrs H had taken out seven loans in this chain of lending in a little under a year. So Morses ought to have realised it was more likely than not Mrs H was having to borrow further to cover a long-term short fall in her living costs.*
- *From the first loan in this chain onwards, Mrs H was generally provided with a new loan on the same day a previous loan was repaid and at times had a number of loans running at the same time. To me, this is a sign that Mrs H 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, Mrs H's weekly commitments generally increased, there was no time when the decrease was significant or sustained.*
- *Mrs H would normally have more than one loan running concurrently, indeed, by the end of the lending relationship Mrs H had 5 loans (loans 14 – 18) running at the same time, with weekly commitments of £88.10 (capital borrowed of over £2,200), which was around 25% of her weekly declared income.*
- *Mrs H wasn't making any real inroads to the amount she owed Morses. Loan 18 was taken out over two years after Mrs H's first loan in the second chain. Her final loan was for more than twice the capital amount of Mrs H's first loan in this chain (loan 3). Mrs H had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.*

I think that Mrs H lost out when Morses provided loans 9 - 18 because:

- *these loans had the effect of unfairly prolonging Mrs H's indebtedness by allowing her to take expensive credit intended for short-term use over an extended period of time.*
- *the number of loans and the length of time over which Mrs H borrowed was likely to have had negative implications on Mrs H's ability to access mainstream credit and so kept her in the market for these high-cost loans.*

Response to the provsional decision

Both Mrs H and Morses were asked to provide any further information they wanted considering in response to the provisional decision as soon as possible, but no later than 21 September 2022.

Mrs H's representative responded and explained; "…*we Agree (sic) with this decision so we will look forward to hearing on the final Ombudsman's decision*."

Morses didn't acknowledge or respond to the provisional 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.

As neither party has provided anything further for my consideration, I see no reason to depart from the findings that I reached in the provisional decision.

I still think Morses shouldn't have provided any of the loans to Mrs H. I say this because the credit file data it received showed that Mrs H was likely having financial difficulties at the time it advanced loans 1 through to 8. From loan 9, in my view the lending was now harmful and unsustainable for Mrs H.

I am therefore not upholding Mrs H's complaint in full and I've outlined below what Morses needs to do in order to put things right for her.

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 Mrs H, 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 Mrs H 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 Mrs H 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 Mrs H 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 has already accepted that loan two shouldn't have been provided to Mrs H. But for completeness and in line with what it has already agreed I've outlined below what it has agreed to do.

Morses shouldn't have provided any of the loans to Mrs H.

If Morses has sold the outstanding debt Morses should buy it back if Morses is able to do so and then take the following steps. If Morses is not able to buy the debt 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 H 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 H which were considered as part of "A", calculated from the date Mrs H 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 H as though they had been repayments of the principal on all outstanding loans. If this results in Mrs H 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 H. However, if there is still an outstanding balance then Morses should try to agree an affordable repayment plan with Mrs H.
E. Morses should remove any adverse information recorded on Mrs H's credit file in relation to loans 1 - 8. The overall pattern of Mrs H's borrowing for loans 9 – 18 means any information recorded about it is adverse, so Morses should remove these loans entirely from Mrs H's credit file. Morses do not have to remove loans 14, 15, 17 and 18 from Mrs H's credit file until these have been repaid, but Morses should still remove any adverse information recorded about those loans.

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

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Mrs H's complaint.

Morses Club PLC should put things right for Mrs H as direct above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 20 October 2022.

Robert Walker
Ombudsman