DRN-3778544

The complaint

Mr W, through his representative, complains that Morses Club PLC lent to him irresponsibly.

What happened

Using information from Morses, here is a brief table about the loans approved and the income and expenditure figures Morses used.

Loan	Start Date	Capital	Settled	Term weeks	Repay	Income	Expenses
1	03/12/2015	£200.00	23/03/2016	20	£15.00	£414.00	£125.00
2	23/03/2016	£300.00	01/12/2016	33	£15.00	£500.00	£210.00
3	01/12/2016	£300.00	15/06/2017	33	£15.00	£451.00	£140.00
4	15/06/2017	£400.00	26/01/2018	33	£20.00	£350.00	£180.00
5	09/02/2018	£500.00	10/08/2018	33	£25.00	£404.00	£0.00
6	10/08/2018	£600.00	29/03/2019	33	£30.00	£255.00	£98.00

The first two applications for the loans were done as paper applications and I have been sent those copies. Mr W's income came from benefits. He was living with another person.

After Morses' final response letter was issued, in which it said it did not uphold Mr W's complaint, one of our adjudicators at the Financial Ombudsman Service looked at the complaint. He thought that there was evidence of unsustainability and/or harm because Mr W had been borrowing from Morses for some time and the amounts had increased a lot. Our adjudicator considered that Morses should put things right for loans 4 to 6.

Morses disagreed and gave reasons why – all of which I have reviewed.

The unresolved complaint was passed to me to decide. On 4 November 2022 I issued a provisional decision in which I explained and gave reasons as to why I thought that only loan 6 should be upheld.
I gave time for both parties to respond. Morses agreed and we informed Mr W's representative that Morses had agreed to it. Mr W has agreed to it as well. So, I set out here the reasoning and findings in the decision I issued on 4 November 2022 which are unchanged as the final determination.

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 high cost, short-term and home credit lending - including all the relevant rules, guidance and good industry practice - on our website.

Morses had to assess the lending to check if Mr W 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 considered a number of different things, such as how much was being lent, the size of the repayments, and Mr W'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 Mr W. These factors include:

- Mr W 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 W 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 W 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 W. Our adjudicator considered this to be the case for Mr W for loans 4 to 6.

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

My decision is that I uphold loan 6 only as the small amount of evidence I have from both sides for the application made in August 2018 shows that Mr W's income dropped from £404 a week to £255 a week and his application was for the largest amount in the lending relationship - £600. And I have considered other elements of the complaint in coming to this conclusion.

Loans 1 to 3

At loan 1 Morses carried out a credit search which is dated 30 November 2015. That set of results have been sent to me and it's rare that I see a credit file information with so little on it.

It seems that Mr W had one 'SHARE' account which had been opened just two months before he applied to Morses for loan 1 and had no debt.

Morses does not repeat its credit search after the first loan – I do not know why – and so there are no others. But I don't consider it's unreasonable of me to think that for loans 1, 2 and 3, all of which were December 2015 and in 2016, that the credit search dated November 2015 likely was enough to inform Morses as to Mr W's position.

Added to which Mr W had told Morses of his income and outgoings. And looking at the handwritten forms, Mr W had said on one that he could afford an additional £100 a week and on the other £50 week. So, it seems very likely that Mr W was able to afford these three loans comfortably on current evidence.

So, I have relatively little doubt that Mr W was able to afford loans 1 to 3. I do not uphold the complaint about loans 1 to 3.

Loans 4 and 5

I don't consider I have enough evidence to be satisfied that Mr W was unable to repay loans 4 and 5 sustainably or that the repayment amounts of £20 and £25 a week were such a sum that they caused Mr W harm. Especially considering the historic information for 2015 and 2016 which I have outlined above. And especially with the total lack of any evidence or financial information about Mr W for the period covering loans 4 and 5.

Morses had recorded £0 expenditure costs for loan 5 which is inappropriate and shows lack of care in my view. The loans did not overlap. I do not uphold loans 4 and 5.

Loan 6

Again, it is unfortunate that I have so little information from either party by this stage. Mr W has sent me nothing about his financial situation in or around 2018. And Morses has given me a table to show his weekly income was £255 and his weekly expenditure was £98 made up of food at £70 and 'media' at £8. The third item recorded as expenditure was 'other credit' at £20 a week. This was the first time this had been recorded and so Morses knew that Mr W had started to take credit elsewhere.

But I do think that after lending continuously for two years and 9 months to Mr W (and I think that the 10 day gap between loans 4 and 5 is neither here nor there) Morses ought to have realised that he was filling a hole left by the repayments for the earlier loans. And the repetitive nature of the lending was otherwise unsustainable.

I say this because he had been indebted to Morses for two years and 9 months. This was a reasonably long time to be using high cost credit in itself. At loan 6 Mr W was making a commitment to make repayments for a further 33 weeks and the £30 a week was on top of the other credit it now knew Mr W had. The £30 a week commitment for loan 6 was the highest weekly payment he had had to pay in all of the lending relationship.

Borrowing consecutively for many months and without any breaks highlights the fact that Mr W was likely to be having trouble making ends meet.

I think that Mr W lost out because Morses provided loan 6:

- this loan had the effect of unfairly prolonging his indebtedness by allowing him to take expensive credit over an extended period of time; and

- the number of loans and the length of time over which Mr W borrowed was likely to have had negative implications on his ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I'm upholding the complaint about loan 6 and Morses should 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 stopped lending to Mr W at loan 6, 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 W may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him 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 reconstruct now accurately.

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 W 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 Mr W 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 W loan 6. I understand all the loans have been paid off.

A) Morses should add together the total of the repayments made by Mr W 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 W which were considered as part of "A", calculated from the date Mr W originally made the payments, to the date the complaint is settled.
C) Morses should pay Mr W the total of "A" plus "B".
D) The overall pattern of Mr W's borrowing for loan 6 means any information recorded about it is adverse, so it should remove loan 6 entirely from Mr W's credit file.

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

My final decision

My final decision is that I uphold Mr W's complaint in part and I direct that Morses Club PLC does as I have outlined in the 'putting things right' section of the final decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 13 December 2022.

Rachael Williams
Ombudsman