DRN-3793403

The complaint

Miss R complains through a representative that Morses Club PLC (Morses) didn't carry out proportionate affordability checks before it granted loans to her.

What happened

Miss R took four home collected loans from Morses between July 2017 and December 2017. A brief summary of the borrowing can be found below.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
1	£200.00	27/07/2017	09/11/2017	20	£15.00
2	£150.00	10/10/2017	sold	33	£7.50
3	£200.00	09/11/2017	sold	20	£15.00
4	£150.00	07/12/2017	sold	33	£7.50

Miss R had some problems repaying loans 2 – 4 and Morses has shown these loans were sold to a third-party debt collector on 17 May 2018.

Following Miss R's complaint, Morses considered it and didn't uphold it. Unhappy with this response, Miss R's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator. She thought, perhaps Morses ought to have done further checks before the loans were granted. But as no new or further information had been provided by Miss R's representatives, she couldn't say what Miss R's financial position was at the time each loan was approved. The adjudicator didn't uphold the complaint.

Morses didn't respond to or acknowledge the adjudicator's assessment.

Miss R's representative didn't agree and asked for the case to be passed to an ombudsman.

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 Miss R 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 have taken into account a number of different things, such as how much was being lent, the size of the repayments, and Miss R'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 Miss R. These factors include:

- Miss R 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);
- Miss R 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);
- Miss R 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 Miss R.

Morses was required to establish whether Miss R could *sustainably* repay the loan – 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 Miss R was able to repay her loan 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 Miss R's complaint.

Loan 1

Before the loan was approved, Morses took details of Miss R's income and expenditure. She declared a weekly income of £250 with declared weekly outgoings of £100. Leaving around £150 per week in which to make her repayment of £15. This loan looked affordable to Morses based on the information Miss R declared.

In addition, before this loan (and only this loan) was granted Morses also carried out a credit search and it has provided a copy of the results to the Financial Ombudsman.

It is worth saying here that although Morses carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. Therefore, it's entirely possible that the information Morses received may not entirely reflect information Miss R may be able to see in her own credit report. There could be for several reasons for this, such as Morses only asking for certain pieces of information. But what Morses shouldn't do is carry out a credit search and then not react to the information it received – if necessary.

Having looked at the credit check results, there was some adverse information which I think Morses needed to take into consideration and react appropriately. Morses knew there were a total of 6 defaults recorded on Miss R's credit file – of which 3 had been settled. The most recent default had been recorded four months before this loan was approved, so Morses was on notice, that close to the loan being approved Miss R must have had some financial difficulties because an account had been defaulted.

Morses was also on notice that Miss R had opened three new credit accounts within the last three months and four within the last six months. This is a fair amount of credit commitment to open, and averages close to one a month. This ought to have prompted further checks because given the regularity in which Miss R opened new credit this could be a sign that she was using other forms of high-cost credit or was using credit to pay back other borrowing. Indeed, the credit search results showed that Miss R already had two existing home credit loans outstanding at the time of loan 1 being granted.

Finally, Morses was aware of outstanding total debt of £1,659 across 8 active accounts. In addition, the credit results explained to Morses that the likely monthly repayment due to other creditors was around £320. Had Morses added this to the declared expenditure the loan would've still looked affordable, even though Morses recording on its income and expenditure spreadsheet that Miss R didn't have any other credit repayments to make.

Overall, I do think there was enough in the credit check results to have prompted Morses to have carried out further checks. I therefore think it would've been reasonable for Morses to have verified the information Miss R provided about her income and expenditure. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at bank statements and/or Miss R's full credit file or any other documentation Miss R could've provided.

However, that isn't the end of the matter. For me to be able to uphold the loan, I have to be satisfied that had Morses carried out what I consider to be a proportionate check it would've likely discovered that Miss R couldn't afford it.

Miss R's representative hasn't provided a copy of her credit file or her bank statements (and has been given time to provide them) covering the period leading up to loan being advanced. Without anything further, I can't be sure what Morses may have seen had it carried out better checks. So, I can't fairly uphold the complaint about this loan.

Loans 2 – 4

Again, the income and expenditure information Morses gathered suggested these loans were affordable for Miss R. Although I do have some concerns with the information Miss R provided and which Morses accepted – for example Miss R declared she had zero expenditure for loan 2. This wasn't realistic given what she declared for loan 1 and for loans 3 and 4.

But I still think, given the results of the credit checks, and the fact all of these loans overlapped it ought to have alerted Morses that it needed to have carried out further checks before granting further lending. These checks needed to have extended to verifying the information Miss R had provided about her income and expenditure. Morses didn't do this.

However, as I've said above, Miss R's representative hasn't provided a copy of her bank statements, her full credit file or any other documentation I may have been able to use in order to try to establish what her actual financial position was at the time. Therefore, while Morses may not have carried out a proportionate check, for the same reasons as loan 1, I'm not in a position to uphold Miss R's complaint about these loans either.

An outstanding balance does remain due and so if Miss R hasn't already done so she may wish to contact the third-party collection agency to discuss repayment of the debt.

My final decision

So, for the reasons I’ve explained above, I’m not upholding Miss R’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss R to accept or reject my decision before 16 December 2022.

Robert Walker
Ombudsman