DRN-3826258

The complaint

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

What happened

Mr W took at least 10 loans from Morses. However, due to the age of the first two loans neither Morses nor Mr W has any information about them. However, Morses was able to provide details of the 8 loans summarised in the table below. It is only these loans which will be considered as part of this final decision.

loan number	loan amount	agreement date	repayment date	term (weeks)	weekly repayment
3	£150.00	04/10/2012	03/04/2014	32	£7.50
4	£150.00	20/12/2012	22/08/2014	32	£7.50
gap in lending					
5	£150.00	10/02/2017	15/10/2018	33	£7.50
6	£100.00	31/10/2018	26/02/2019	33	£5.00
7	£300.00	26/02/2019	26/09/2019	33	£15.00
8	£150.00	21/05/2019	06/12/2019	33	£7.50
9	£300.00	26/09/2019	08/10/2020	33	£15.00
10	£400.00	10/01/2020	02/06/2021	53	£14.00

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 2 and 3 were running at the same time Mr W's weekly commitment was £15.

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 W's representative didn't agree and referred the complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator who didn't think Morses made an unreasonable decision to lend loans 3 – 5 and so she didn't uphold those loans. However, she thought, loan 6 shouldn't have been provided due to problems Mr W had in settling loan 5. From and including loan 7 the adjudicator concluded the lending was now harmful to Mr W because it had been unsustainable for him.

Mr W's representative acknowledged receipt of the adjudicator's assessment, but no further comments have been provided.

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

- Morses was aware that Mr W was having problems with his benefit payments which led him to taking longer to repay loan 5.

- For loan 6, Morses verified his benefits, while Mr W's disposable income had gone down it was still enough to afford the loan repayment.
- Mr W for loan 6 and for loan 8 often paid more than the contractual amount due.
- Mr W repaid loans 6, 7 and 8 without any difficulties.
- The loans were granted in a consecutive manner, but Mr W could've chosen to end his relationship with Morses, had he wished.

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 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 taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr W'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 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.

Morses was required to establish whether Mr W 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 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, 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 W's complaint.

It seems, that Mr W's representative hasn't disagreed with the outcome that the adjudicator reached for this complaint – so I don't think there is any ongoing dispute about loans 3 - 5. As a result, I won't be making a finding about these loans

Instead, this decision will focus on whether Morses was right (or wrong) to have granted Mr W loans 6 - 10.

Loan 6

Loan 6 was taken out a couple of weeks after Mr W repaid loan 5. However, it took Mr W significantly longer than Morses had anticipated to repay loan 5. Loan 5 was contracted to be repaid over 33 weeks, but it took Mr W 88 weeks – more than twice as long – to fully repay it.

It is also worth saying here that although loans 3 and 4 were part of a different chain of lending, both of these loans also took considerably longer to repay than contracted. Loan 3 took 78 weeks and loan 4 took 88 weeks to repay, against a term of 33 weeks for both loans. So, I think it's fair to say, that Mr W had demonstrated a history of having quite significant repayment problems.

I've thought about what Morses says as the reason for the delay – but in this case, even though loan 6 was for a smaller sum the fact it had taken Mr W so much longer to repay loan 5 means I don't think Morses' checks went far enough before loan 6 was approved.

Before this loan was approved, Morses asked Mr W for details of his income and expenditure. Mr W declared a weekly income of £117.05 and outgoings of £72.50. Leaving £44.55 per week in disposable income. So, based on this information Morses may have felt the loan was affordable. It's also worth saying here that Mr W's income had dropped significantly since loan 5 was granted.

I do think though, given what had gone on that Morses needed to do more checks before granting this loan such as verifying the information he had provided. But I don't need to consider what the further checks may have shown, in order to reach a fair outcome because, I think there is enough in the information Mr W provided along with the repayment problems for loan 5 (and the historic problems) to uphold this loan and I've explained why below.

In my assessment of the complaint, the fact that Mr W had significant (and recent repayment problems) along with some historic problems and with what I think is fair to say a modest income means I don't think Morses ought to have granted this loan as there was a significant risk that he'd not be able to afford this loan and would therefore, likely need further credit in the future.

I uphold Mr W's complaint about this loan.

Loans 7 – 10

For these loans, Morses has shown that it asked Mr W for details of his income and expenditure. For these loans Mr W declared a weekly income of between £213 and £272. And after his declared outgoings, Morses was aware his weekly disposable income was between £98 and £180 per week.

Based solely on Mr W's income and expenditure information Morses could've been confident he would be able to comfortably afford the weekly repayments he was committed to making of no more than £29.

But it's arguable whether these checks went far enough considering how long Mr W had been indebted to Morses, his future weekly commitment, what Morses already knew about his lending history and Mr W's repayment problems. For example, Mr W typically returned for further borrowing on the same day a previous loan had been repaid. 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 Mr W.

So, in addition to looking at the checks that Morses did I've also looked at the overall pattern of Morses' lending history with Mr W, 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 Mr W's case, I think that this point was reached by loan 7. I say this because:

- At this point Morses ought to have realised Mr W was not managing to repay his loans sustainably. Mr W had taken out three loans in 2 years in this chain of lending. So Morses ought to have realised it was more likely than not Mr W was having to borrow further to cover a long-term short fall in his living costs.
- From his first loan, Mr W was typically provided with a new loan on the same day a previous loan was repaid, and some the loans were used to fully repay the previous one. For example, it seems that some of loan 7 went towards repaying loan 6. To me, this is a sign that Mr W was using these loans to fill a long-term gap in his income rather than as a short-term need.
- Over the course of the lending relationship, Mr W's weekly commitments generally either increased or remained the same. There was no time when his commitments significantly decreased. Which may have given Morses confidence that Mr W was no longer reliant on these loans. However, the fact that these loans were lent in a consecutive manner and at times overlapped, ought to have led it to realise these loans weren't sustainable anymore.
- Mr W wasn't making any real inroads to the amount he owed Morses. Loan 10 was taken out 32 months after Mr W's first loan in the second chain and was to be repaid over the longest term – 53 weeks. His final loan was the largest capital loan to date and was four times the value of the first loan in this lending chain. In addition, loan 9 was still outstanding which led to weekly repayments of £29 which is significantly more than the £7.50 weekly repayments Mr W started with in this chain of lending. Mr W had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.
- I think my view on these loans being unsustainable for Mr W is further reinforced by the fact it took him significantly longer to repay loans 9 and 10. Loan 9 took 54 weeks to repay compared to a term of 33 week. While loan 10 took 73 weeks to repay compared to a loan term of 53 weeks.

I think that Mr W lost out when Morses provided loans 7 - 10 because:

- these loans had the effect of unfairly prolonging Mr W's indebtedness by allowing him 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 Mr W borrowed was likely to have had negative implications on Mr W's ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I'm upholding Mr W's complaint about loans 6 - 10.

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 from 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 them 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 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 W 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 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 loans 6 - 10.

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 you have 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. Morses should remove any adverse information it has recorded on Mr W's credit file in relation to loan 6. The overall pattern of Mr W's borrowing for loans 7 – 10 means any information recorded about them is adverse, so Morses should remove these loans entirely from Mr W's credit file.

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

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

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

Robert Walker
Ombudsman