DRN-3837948

The complaint

Ms F, through a representative complains that Morses Club PLC (Morses) didn't carry out sufficient proportionate affordability checks before it lent to her.

What happened

Ms F was advanced five home collected loans between August 2017 and July 2021. 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 (weeks)	weekly repayment
1	£1,000.00	11/08/2017	07/08/2018	52	£35.00
2	£500.00	07/08/2018	08/08/2019	52	£17.50
3	£650.00	08/08/2019	09/07/2020	52	£22.75
4	£650.00	09/07/2020	12/06/2021	53	£22.75
5	£500.00	24/07/2021	15/04/2022	35	£25.00

Following Ms F's complaint, Morses wrote to her representative to explain that it wasn't going to uphold it. Ms F's representative, then referred the complaint to the Financial Ombudsman Service.

An adjudicator reviewed the complaint. She thought Morses had made a reasonable decision to provide loans 1 - 2 and so she didn't uphold Ms F's complaint about these loans. But she thought loans 3 - 6 should be upheld because the lending had become harmful for her.

Morses disagreed with the outcome the adjudicator had reached, and I've read and considered everything it has provided.

Ms F's representative confirmed receipt of the assessment, but no further comments have been provided.

The case was then passed to me, and I issued a provisional decision explaining the reasons why I was intending to uphold Ms F's complaint in part. A copy of the provisional findings follows this in italics and a smaller font, and it 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 Ms F 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 F'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 Ms F. These factors include:

- *Ms F 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 F 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 F 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 F.

Morses was required to establish whether Ms F 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 F 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 Ms F's complaint.

Neither Morses nor Ms F (or her representative) appear to disagree with the outcome the adjudicator reached about loans 1 - 2. I therefore no longer think these loans are in dispute and so I say no more about them. But I have kept them in mind when thinking about the overall lending relationship.

Loan 3

The adjudicator upheld the loan because in her view the lending was now harmful for Ms F.

I accept, that Ms F had been indebted with Morses for around 2 years by the time this loan was advanced – and she was further committing to be indebted for an additional 52 weeks. This, in some situations could be a sign that she was now reliant on the borrowing or at the very least having longer term money management problems.

However, the lending wasn't always increasing in value and there didn't appear to have been any previous repayment problems, in servicing loans 1 and 2. So, taking everything together, I don't think Morses would've or ought to have realised this loan was unsustainable for Ms F and I'm therefore intending to conclude the loan wasn't likely to be so harmful that it would've prompted Morses to have stopped lending to her.

But that doesn't mean that Morses carried out a proportionate check. I do think the time in debt and increased weekly commitment from loan 2 for this loan ought to have alerted Morses to the possibility that Ms F may have been having some wider financial problems.

Overall, I don't think it was reasonable for Morses to have relied on what Ms F declared to it about her income and expenditure even though this information suggested Ms F could *afford these loan repayments.*

Instead, I think it needed to gain a full understanding of Ms F's actual financial position to ensure the loan was affordable. This could've been done in several ways, such as asking for evidence of her outgoings, or looking at bank statements and/or Ms F's full credit file. This might've helped verify information provided and revealed whether there was any other information that Morses might've needed to consider about Ms F's financial position.

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 Ms F couldn't afford it.

Ms F's representative hasn't provided a copy of her credit file or her bank statements 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.

Although Morses didn't carry out proportionate checks, I'm not able to conclude that further checks would've led it to conclude that loan 3 shouldn't have been granted.

So, I'm intending to not uphold Ms F's complaint about the loan.

Loans 4 and 5

For these loans, Morses has shown that it asked Ms F for details of her income and expenditure. She declared, for each loan an income of £380 for loan 4 and £250 for loan 5. Ms F declared £140.75 worth of weekly outgoings for loan 4 and £118 for loan 5. This left a minimum weekly disposable income of £232 to meet her largest weekly repayment of £25.

Based solely on Ms F's income and expenditure information Morses could've been confident she would be able to comfortably afford the repayments she was committed to making.

But it's arguable whether these checks went far enough considering how long Ms F had been indebted to Morses, her future weekly commitment and what Morses already knew about Ms F's finances and the lending. For example, Ms F returning 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 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 F.

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 F, 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 F'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 F was not managing to repay her loans sustainably. Ms F had taken out four loans in 35 months. So Morses ought to have realised it was more likely than not Ms F was having to borrow further to cover a long-term short fall in her living costs.*
- *While Ms F didn't have more than one loan running at the same time, they were lent in a consecutive manner. Which could suggest that Ms F was still in need for credit and so was likely facing longer term cash flow problems.*
- *While it appeared that Ms F had repaid all her loans on time this only seems to have happened because she used later loans to repay them. For example, some of loan 4*

went towards repaying loan 3 and the same thing occurred when loan 5 was granted. This is an indicator that there was a constant need for new funds.

- *Over the course of the lending relationship, Ms F's weekly commitments generally increased from loan 1. Rising from £17.50 per week at loan 2 to £25 a week at loan 5. I accept the commitment drops following loan 1 – when she was committed to pay £35 per week, but this was the first time and only time this had happened in the relationship, but I don't think one decrease is an indicator that Ms F's financial position had improved throughout the later loans.*
- *Ms F wasn't making any real inroads to the amount she owed Morses. Loan 5 was taken out almost 4 years after Ms F's first loan. While this loan was smaller than her first loan, as the repayment term was shorter it actually increased Ms F's weekly commitment compared to her previous three loans. Ms F had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.*

I think that Ms F lost out when Morses provided loans 4 and 5 because:

- *these loans had the effect of unfairly prolonging Ms F'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 Ms F borrowed was likely to have had negative implications on Ms F's ability to access mainstream credit and so kept her in the market for these high-cost loans.*

So, I'm upholding Ms F's complaint about loans 4 and 5.

Response to provisional decision

Both Morses and Ms F were asked to provide anything further for consideration as soon as possible, but in any event no later than 7 December 2022.

Ms F's representative let us know that Ms F had accepted the findings in the provisional decision.

Morses responded and provided some further comments which I've summarised below.

- No evidence has been provided to show Ms F was using other funds in order to meet her repayments.
- There was a short break in lending between loans 4 and 5
- Ms F overpaid loans 3 and 4 each week, she was due to pay £22.75 for each loan but actually paid £25.
- Due to the overpayments, Ms F settled loan 4 earlier than contracted.
- Loan 4 was for a holiday and due to her repayment record Morses had no concerns about lending the money.
- A screen shot of the note the agent made when loan 4 was provided and this shows Ms F declared that there was no change in her circumstances.

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.

I've thought about the additional comments provided by Morses, but this doesn't change the outcome that I'm intending to reach in this case, and I've explained my reasons for doing so below.

I accept Morses has provided a copy of a note made by the agent which shows no change in circumstances and the loans looked affordable. However, I've already explained that while the loans may have looked affordable, Morses' checks didn't go far enough when loans 4 and 5 were provided. So, I don't think it was right to have just relied on Ms F was telling it.

For the same reasons that I've outlined in the provisional decision, Morses' checks really needed to go further before these loans were granted, I say this for a number of factors including, but not limited to the length of the lending relationship and the consecutive nature of the lending. Morses in my view, didn't do this. But as I explained previously, I do think there was enough in what else Morses knew to have alerted it to the fact that these loans were now likely unsustainable for Ms F.

I've considered the gap in lending of around 7 weeks, between loans 4 and 5. However, I don't think in this case the gap is long enough to either consider breaking the lending chain and / or considering that this was a sign that somehow Ms F's financial position had changed significantly enough that meant the loan was no longer unsustainable or she didn't need further credit from Morses.

I've also taken another look at the statement of account, and I do agree with Morses, that loan 4 was fully repaid before loan 5 was taken and the early repayment charge crediting the account at loan 4, was likely due to Ms F's overpayment through the life of loan 3, rather than her using loan 4 to settle that loan. However, I still think the final two loans for Ms F were unstainable.

I still think these loans were unstainable for Ms F and I've explained why below.

- At this point Morses ought to have realised Ms F was not managing to repay her loans sustainably. Ms F had taken out four loans in 35 months. So Morses ought to have realised it was more likely than not Ms F was having to borrow further to cover a long-term short fall in her living costs.
- So, rather than a picture of decreasing indebtedness which would happen when a loan is taken and repaid, there was a pattern of repeated borrowing. I think taking out five high-cost loans, over this period, is a strong indicator that Ms F was starting to struggle financially.
- Right from the start Mrs C was usually provided with a new loan within a short time of settling an earlier one. So, there wasn't an appreciable time when Mrs C wasn't in debt to Morses. This could also suggest Ms F was still in need for credit and so was likely facing longer term cash flow problems.
- Over the course of the lending relationship, Ms F's weekly commitments generally increased from loan 1. Rising from £17.50 per week at loan 2 to £25 a week at loan 5. I accept the commitment drops following loan 1 – when she was committed to pay £35 per week, but this was the first and only time this had happened in the relationship, but I don't think one significant decrease at the start of the lending relationship is an indicator that Ms F's financial position had improved by the time of loans 4 and 5.
- Morses has only said loan 4 was for a holiday, and it isn't necessarily or automatically unreasonable to use this type of credit to do this. But using a high-cost form of borrowing over a prolonged period is still likely to have caused financial problems, and in this case the evidence suggests it left Ms F with little alternative but to borrow again in the future.
- Ms F wasn't making any real inroads into the amount she owed Morses. Loan 5 was taken out almost 4 years after Ms F's first loan. While this loan was smaller than her first loan, as the repayment term was shorter it actually increased Ms F's weekly commitment compared to her previous three loans. Ms F had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.

I still think Morses was wrong to have provided loans 4 and 5 and I've outlined below what it needs to do in order to put things right for Ms F.

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 and 5, 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 F 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 F 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 F 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 shouldn't have provided Ms F with loans 4 and 5.

A. Morses should add together the total of the repayments made by Ms F 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 Ms F which were considered as part of "A", calculated from the date Ms F originally made the payments, to the date the complaint is settled.
C. Morses should pay Ms F the total of "A" plus "B".
D. The overall pattern of Ms F's borrowing for loans 4 and 5 means any information recorded about them is adverse, so Morses should remove these loans entirely from Ms F's credit file.

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

Morses Club PLC should put things right for Ms F as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 5 January 2023.

Robert Walker
Ombudsman