DRN-3843459

The complaint

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

What happened

Ms M was advanced six home collected loans between February 2018 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	£400.00	20/02/2018	29/10/2018	33	£20.00
2	£300.00	30/10/2018	13/05/2019	33	£15.00
3	£300.00	13/05/2019	20/01/2020	33	£15.00
4	£300.00	19/02/2020	06/11/2020	34	£15.00
5	£600.00	06/11/2020	21/07/2021	34	£30.00
6	£600.00	21/07/2021	29/03/2022	35	£30.00

Following Ms M's complaint Morses wrote to her representative to explain that it wasn't going to uphold it. Ms M's representative didn't accept the outcome and 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 – 3 so she didn't uphold Ms M's complaint about them. But she thought the lending was now harmful for Ms M by the time loans 4 was granted and so she upheld Ms M's complaint about loans 4 - 6.

Morses disagreed with the outcome the adjudicator had reached. I've summarised its comments below.

- Loans were taken in consecutive manner, but Ms M was under no obligation to settle loans and then take further lending.
- No evidence has been provided to show Ms M was using other funds to meet her repayments which would lead her to borrow again.
- Adequate checks were carried out before these loans were approved.
- Ms M had a good repayment history.

Ms M's representative confirmed receipt of the assessment but no further comments were provided.

The case was then passed to an ombudsman to make a decision about the complaint. I then proceeded to issue a provisional decision explaining the reasons why I was intending to uphold Ms M's complaint about loans 5 and 6 only. A copy of the provisional findings follows in smaller font and italics 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 Ms M 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 M’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 M. These factors include:

- *Ms M 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 M 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 M 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 M.

Morses was required to establish whether Ms M 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 M 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 M’s complaint.

Neither Morses nor Ms M (or her representative) appear to disagree with the outcome the adjudicator reached about loans 1 – 3. I therefore no longer think these loans are in dispute. But I have kept these loans in mind when thinking about the rest of Ms M’s lending relationship.

Loan 4

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

I accept, that Ms M had been indebted with Morses for around 2 years (before loan 4 was advanced) – and she was further committing to be indebted for an additional 34 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, while the lending was consecutive, she didn’t ever have more than one loan running at any one time, the loans weren’t increasing in value and there was also no *evidence of serious repayment problems.*

So, taking everything together, I don't think Morses would've or ought to have realised the loan was unsustainable for Ms M and so I am 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, returning to borrowing a similar sum as she had done for previous loans ought to have alerted Morses to the possibility that Ms M may have been having some money management problems.

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

Instead, I think it needed to gain a full understanding of Ms M'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 (such as copies of bills), or looking at bank statements and/or Ms M's full credit file.

This might've helped verify information she had provided and revealed whether there was any other information that Morses might've needed to consider about Ms M'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 M couldn't afford it.

Ms M's representative hasn't provided a full copy of her credit file or copies of 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 say that further checks would've led it to conclude that loan 4 shouldn't have been granted.

So, on current evidence, I'm intending to not uphold Ms M's complaint about this loan.

Loans 5 and 6

For these loans, Morses has shown that it asked Ms M for details of her income and expenditure. She declared, for loan 5 an income of £334 with outgoings of £184 per week. This left Ms M with a weekly disposable income of around £151 per week for loan 5 to make her repayment of £30.

Similar figures were provided for loan 6, with a declared disposable weekly income of around £144 to meet the commitment of £30.

Based solely on Ms M'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 its arguable whether these checks went far enough considering how long Ms M had been indebted to Morses, her future weekly commitment and what Morses already knew about Ms M's finances. For example, Ms M 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 M.*

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 M, 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 Ms M's case, I think that this point was reached by loan 5. I say this because:

- *At this point Morses ought to have realised Ms M was not managing to repay her loans sustainably. Ms M had taken out four loans in 33 months. So Morses ought to have realised it was more likely than not Ms M was having to borrow further to cover a long-term shortfall in her living costs.*
- *From her first loan, Ms M was provided with a new loan on the same day a previous loan was repaid – so they were lent generally, in a consecutive manner. To me, this is a sign that Ms M was using these loans to fill a long-term gap in her income rather than as a short-term need.*
- *Ms M had some minor problems repaying her previous loans, with loans 1, 3 and 4 taking up to 3 weeks longer to repay them than contracted to. The fact this as happening on a regular basis could suggest Ms M had underlining financial problems.*
- *Loan 5 was now the largest capital loan advanced to date and was an increase on loans 2 – 4. There was only one time when her commitment decreased. Which may have given Morses confidence that Ms M was no longer reliant on these loans. However, the fact that these loans were lent in a consecutive manner, ought to have led it to realise these loans weren't sustainable anymore.*
- *Ms M wasn't making any real inroads to the amount she owed Morses. Loan 6 was taken out 37 months after Ms M's first loan and was to be repaid over the longest term – 35 weeks. Her final loan was the joint largest capital loan to date and was more 50% larger in value than the first loan. Ms M had paid large amounts of interest to, in effect, service a debt to Morses over an extended period.*

I think that Ms M lost out when Morses provided loans 5 and 6 because:

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

So, I'm upholding Ms M's complaint about loans 5 and 6.

Response to provisional decision

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

Morses confirmed receipt of the provisional decision and it said it had nothing further to add.

Ms M's representative acknowledged receipt of the provisional decision but no further comments or evidence have been provided.

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 Morses nor Ms M (or her representative) provided anything further for consideration I see no reason to depart from the findings I reached in the provisional decision. I still think, by the time of loan 5, for the reasons given above, the lending was now unsustainable for Ms M and so Morses ought to not have provided loans 5 and 6 to her.

I've outlined below what Morses needs to do in order to put things right for Ms M in relation to loans 5 and 6.

Putting things right

In deciding what redress Morses should fairly pay in this case I've thought about what might have happened had if it hadn't lent loans 5 and 6 to Ms M, 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 Ms M 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 M 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 Ms M 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 provided Ms M with loans 5 and 6.

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

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

My final decision

For the reasons I've explained above in the provisional decision, I'm upholding Ms M's complaint in part.

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

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

Robert Walker
Ombudsman