Financial Ombudsman Service

Complaint

Mr J has complained that Morses Club PLC acted irresponsibly when it provided him with unaffordable home credit loans.

Background

This complaint is about five home collected credit loans Morses Club provided to Mr J between October 2013 and September 2015. Mr J was also provided with a loan prior to the first one that's the subject of this complaint. But, for reasons that have already been explained to the parties, the complaint about that loan hasn't been looked at as part of this complaint. However, I've taken it into consideration when looking at the overall lending pattern.

This table includes some of the information provided to us by Morses Club about Mr J's loans. Loan 1 is not subject to this complaint.

Loan	Date Taken	Date Repaid	Instalments	Amount
1	10/06/2013	27/02/2014	50 weeks	£350.00
2	17/10/2013	14/08/2014	50 weeks	£300.00
3	27/06/2014	16/12/2014	50 weeks	£400.00
4	14/08/2014	02/09/2015	50 weeks	£300.00
5	16/12/2014	30/05/2017	50 weeks	£400.00
6	02/09/2015	31/10/2017	50 weeks	£300.00

Our adjudicator upheld the complaint about loans 3-6. She considered that if Morses Club had done proportionate checks, it would likely have discovered that Mr J was having problems managing his money and by loan 6 the pattern of borrowing suggested he had become reliant on this form of loan.

Mr J didn't disagree with our adjudicator's view. Morses Club agreed to make an offer on loan 6 but didn't agree with the conclusion in respect of loans 3-5 and asked for an ombudsman to review the complaint. So the complaint has been passed to me for a final decision.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have taken into account all the key relevant rules, guidance and good industry practice.
The Financial Conduct Authority (FCA) was the regulator when Morses Club lent loans 3-6 to Mr J. The FCA's Consumer Credit sourcebook (CONC) is the specialist sourcebook for credit-related regulated activities. It sets out the rules and guidance specific to consumer credit providers, such as Morses Club.

Morses Club needed to take reasonable steps to ensure that it didn't lend irresponsibly. In practice this means that it should have carried out proportionate checks to make sure Mr J could repay the loans in a sustainable manner. These checks could take into account a number of different things, such as how much was being lent, the repayment amounts and the consumer's income and expenditure. With this in mind, in the early stages of a lending relationship, I think less thorough checks might be reasonable and proportionate.

But certain factors might point to the fact that Morses Club should fairly and reasonably have done more to establish that any lending was sustainable for the consumer. These factors include:

- the lower a customer's 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 higher the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the greater the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may even come a point where the lending history and pattern of lending itself clearly demonstrates that the lending was unsustainable.

Morses Club says its checks were proportionate at the time it provided these loans to Mr J. It says it asked Mr J for his income and outgoings and this showed he had disposable income of £266 per week. It says his income was high in relation to the highest repayment of £10.50 per week.

I've carefully thought about what Morses Club has said. But I think that it is overlooking the fact that loan 3 was provided while Mr J was still making payments to loan 2. And, by the time Mr J took out loan 3, he had been borrowing continuously for over 12 months. In addition, he needed to sustain his repayments for loan 3 over a further 50 weeks. I also think Morses Club ought to have realised by this point, that Mr J did not truly have the weekly disposable income of £266, otherwise he wouldn't have needed to borrow a loan of £400.

So by the time Mr J asked for loan 3, Morses Club should have done more than rely on the information Mr J was providing about his finances. I think it should have taken steps at that time to independently verify Mr J's actual financial position. As Morses Club chose to continue proceeding with an over-optimistic declaration of Mr J's disposable income, I don't think that Morses Club's checks before providing Mr J with loans 3 -6 were fair, reasonable or proportionate.

I don't know exactly what proportionate checks would have shown. Mr J provided us with his bank statements and his credit file. And I think this information is the best indication I have of what Mr J's actual financial circumstances were like at the time.

Morses Club was required to establish whether Mr J could sustainably repay his loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

The loan payments being affordable on this basis *might* be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because the Consumer Credit Sourcebook ("CONC") defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time, while meeting other reasonable commitments; as well as without having to borrow to meet the repayments.

It follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further.

So, although Mr J had a good payment history, it doesn't automatically follow that he managed to repay his loans in a sustainable way. And the regulations are quite clear that Morses Club needed to assess the whether the credit it agreed was affordable in a sustainable manner.

Looking at Mr J's actual financial circumstances at the time he took loans 3 -5 (June 2014-December 2014), I can see he had a substantial pay day loan outstanding at the time loan 3 was agreed. In fact, he had been borrowing £1,000 more or less each month back to back for the previous six months and this relationship continued throughout 2014. There were other (perhaps less significant in terms of upholding the complaint) indications that Mr J was having problems managing his money. Apart from a few days each month after his income was paid into the account, along with the payday loan mentioned above, he spent most of the month overdrawn; incurring overdraft usage fees. As the adjudicator mentioned, there some transactions to online betting sites; although these varied in frequency and were more significant in the run up to loan 5.

But overall, I think there is enough here to safely conclude that Mr J was having problems managing his money and Morses Club ought reasonably to have discovered that through proportionate checks. So, I am upholding Mr J's complaint about loans 3-5.

I've also looked at the overall pattern of Morse Club's lending history with Mr J, with a view to seeing if there was a point at which Morses Club should reasonably have seen that further lending was unsustainable, or otherwise harmful. And so Morses Club should have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr S's case, I think that this point was reached by loan 6. I say this because:

- There was an emerging pattern between loans 1 and 5 of Mr J taking new loans shortly after taking out or repaying the previous ones and often overlapping with one another. I think that by loan 6, Morses Club ought fairly and reasonably to have regarded that pattern as established.

- So Morses Club ought to have realised it was more likely than not Mr J was having to borrow further to cover the hole repaying his previous loans were leaving in his finances and that Mr J's indebtedness was increasing unsustainably.

- Mr J wasn't making any real inroads to the amount he owed Morses Club.
  Loan 6 was taken out over two years after loan 1. It (along with overlapping loan 5) was twice the amount Mr J borrowed on loan 1.

I think that Mr J lost out because Morses Club continued to provide borrowing from loan 6. This loan had the effect of unfairly prolonging Mr J's indebtedness by allowing him to take expensive credit. The number of loans and length of time over which they were taken was more likely than not to have had negative implications on Mr J's 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 as well as loans 3 to 5 and Morses Club should put things right as set out below:

Putting things right

Morses Club shouldn't have given Mr J loans 3-6. In order to put things right for Mr J.

A. Morses Club should add together the total of the repayments made by Mr J towards interest, fees and charges on these loans

B. Morses Club should calculate 8% simple interest* on the individual payments made by Mr J which were considered as part of "A", calculated from the date Mr J originally made the payments, to the date the complaint is settled.

C. Morses Club should pay Mr J the total of "A" plus "B".

D. Morses Club should remove any adverse information it has recorded on Mr J's credit file in relation to loans 3-5. The overall pattern of Mr J's borrowing for loan 6 means any information recorded about it is adverse, so Morses Club should remove this loan entirely from Mr J's credit file.

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

My final decision

My final decision is that I partially uphold Mr J's complaint as I've explained above, and I require Morses Club PLC to put things right for Mr J as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 20 May 2020.

Kathryn Milne
ombudsman