

complaint

Ms B complains that Morses Club Limited was guilty of irresponsible lending. She wants a refund of all interest paid on loans and also statutory interest on the amount refunded. Ms B has brought her complaint through a third party but for ease of reading I'll mostly refer to Ms B - even where the third party has been the correspondent.

background

Ms B tells us she took out several loans from Morses Club and its predecessor. She says she was constantly struggling with repayments - and taking other loans to meet repayments. She says after the first couple of loans she wasn't asked to provide proof of income. Had this been done, she says it would've shown she had a poor credit record and other loans.

Morses Club told us that it had conducted affordability checks and that Ms B had signed to confirm the information she'd provided was accurate. It said it had provided several letters informing of arrears - as well as statements which informed her of the balance on accounts. Even though some loans had overrun, it hadn't added any charges or additional interest. And it had asked Ms B's representative, on receiving her complaint, if she wished to provide information which contradicted the declared income and expenditure. It said it had been informed she didn't wish to do so.

The investigator did not recommend this complaint should be upheld.

She found that Morses Club *had* conducted income and expenditure checks for each of the five loans she was looking at. And she set out in table form the details of each loan - which included details of disposable income and affordability of repayments. She found Ms B had provided this information and signed to confirm it was accurate. The investigator said she'd checked Ms B's statements and could see that repayments had been made on a regular basis and within the limits of what Ms B said she could afford to spend each week. Although she accepted some loan terms had overrun.

She thought - as Morses Club had shown it conducted the relevant checks on affordability before issuing a loan - it wouldn't be fair and reasonable to say it should be liable for irresponsible lending.

Ms B wasn't satisfied with this outcome and asked for an ombudsman to make the final decision.

Following the investigator's view Ms B's representative has made further submissions. And has advised that Ms B has now defaulted. In particular, it pointed to evidence that loan periods had overrun and some loans had been used in part payment of other loans. It also referred to Ms B's income being comprised entirely of different benefits which had to be spent on such things as childcare. And so it suggested her disposable income appeared greater than in fact was the case. It also commented on what it said were inconsistencies between her disposable income and the declared level of affordability.

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 should start by clarifying that I'm only dealing with five loans to which the investigator has referred in her view. Two other earlier loans which have been referred to during enquiries are subject of a separate complaint.

I understand that Ms B is concerned about her financial situation - it's always a stressful time if difficulties arise. And during the course of enquiries, I've received information that Ms B has defaulted. I'm sorry to hear that - and I'd expect a lender in these circumstances to respond positively and sympathetically towards Ms B - and try to agree payment arrangements to assist her. But this complaint is about irresponsible and/or unaffordable lending. And this is judged at the time the loan was taken out - not on the basis of later events.

Having looked at a large amount of documentation I can see there is some inconsistency in the information. Ms B appears at times to have significant disposable income - certainly well above her repayment requirements. Yet there is evidence of late payments. And the figure given for affordability of a loan does not always seem to vary in proportion to her disposable income. But the figures came from Ms B. And whilst it's been suggested she didn't always have time to check the application forms at the time of a loan - I can't really say this provides an adequate explanation. Over the course of several years - if Ms B had concerns about the accuracy of the information she'd supplied - there were many opportunities to raise this issue. The collecting agent was visiting almost every week. So from what I've seen there was no obvious sign that further and more extensive credit checks were required.

I've asked Ms B to provide details of other loans which have been referred to - and which might have affected the affordability of Morses Club loans. But I've been told she's uneasy about disclosing personal details to third parties and is already very anxious and prone to stress - and I understand this. But it does mean that I'm without what might be important information. We're an evidence based service - which means we look for information to support what a party tells us. Decisions are based on a combination of submissions, documentary evidence and the inferences we are able to draw from all these factors.

In this case, the investigator was correct to point out that the financial information on which the loans were made has come from Ms B herself - she signed the relevant forms and certified the information was correct. And as there have been several loans, it's not as if any inaccuracy in income or omission over expenditure could be put down to a one off oversight. And there's nothing in the loans themselves to immediately identify them as irresponsible or unaffordable. Each loan was for £500 or less. They were repayable over periods of up to a year and at a weekly rate of under £20. At no time did Ms B's declared level of affordability fall below £30 per week.

And I've not seen evidence of other loans during the period I'm looking at. I don't doubt what I've been told - I'm simply commenting I've not seen details. So I don't think it would be fair and reasonable of me to say that it should've been apparent to Morses Club or its agent that further checks were required. And I'm also not able to say what these checks might have revealed - even had they been carried out. So I've got no reasonable basis to say these loans were made irresponsibly or at a time when Ms B couldn't afford them.

So whilst I'm aware this will come as a disappointment to Ms B, I'm in agreement with the investigator - both for the reasons she gave and those I've set out above - that this complaint should not be upheld.

my final decision

For the reasons I've given above I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 2 November 2017.

Stephen D Ross
ombudsman