

The complaint

Mr F complained that Evergreen Finance London Limited trading as MoneyBoat.co.uk irresponsibly gave him a loan which was unaffordable for him.

What happened

This complaint is about a loan MoneyBoat provided to Mr F as follows:

Date loan taken	Date repaid	Weekly instalments	Loan amount	Typical instalment amount
9.01.20	29.05.20	6	£200	£39.54

Our adjudicator didn't think it was unfair for MoneyBoat to have provided this loan to Mr F and so he didn't uphold this complaint.

Mr F disagreed with our adjudicator. He mainly said that MoneyBoat should have been aware from its credit checks that he had a large number of high interest short-term loans already reported on his credit file and so realised that it would be irresponsible to provide this loan.

Mr F asked an ombudsman to review his complaint so it came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

"MoneyBoat 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 F 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 MoneyBoat 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.

MoneyBoat was required to establish whether Mr F could sustainably repay this loan – 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 relevant regulations define 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. So it follows that a lender should realise, or it ought fairly and reasonably to realise, that a borrower won't be able to make repayments sustainably if they're unlikely to be able to do so without borrowing further.

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Mr F's complaint.

Before lending to Mr F, MoneyBoat asked him for details of his income and normal expenditure. And MoneyBoat carried out checks on Mr F's credit file.

So I think that MoneyBoat should reasonably have seen from its affordability calculations and looking at the information revealed on the credit report it acquired that this loan was unlikely to be sustainable and it shouldn't have provided it.

I say this because MoneyBoat's records show it relied on information showing that Mr F's income was £2,200. It worked out that after paying for his housing costs, food and transport, plus other outgoings and allowing for Mr F needing to spend around £300 on his existing credit commitments, he should still have £1,100 spare cash left. So it felt that the monthly repayments for this loan should be comfortably affordable for him.

But the monthly repayments needed to repay existing debts shown on the credit report MoneyBoat acquired when Mr F applied for this loan amounted to significantly more than £1,100 per month. So MoneyBoat should've realised that he would need to spend more than the amount of disposable income it had calculated he had available to spend when working out its affordability assessment – which was unlikely to be sustainable.

And I think there are further reasons why MoneyBoat shouldn't have provided this loan to Mr F. MoneyBoat should also have realised that the credit history it saw on its credit checks suggested that Mr F was stuck in a cycle of debt – repeatedly borrowing to repay other loans.

Although this wasn't a large loan and the repayments didn't appear to be substantial, MoneyBoat could see that Mr F had taken a £50 loan just two months earlier and he hadn't yet repaid it – to my mind, a clear warning sign to MoneyBoat that making the loan repayments for this loan would likely be problematic for Mr F. Especially bearing in mind extent of his borrowing and the fact that he also had credit cards at or over limit and they looked like they had been stuck at that level for many months.

None of this information reflected what MoneyBoat understood Mr F's financial situation to be according to its affordability calculations but instead indicated hallmarks of someone struggling to manage serious financial difficulty.

To sum up, this all makes me think that MoneyBoat, as a responsible lender, should have been aware that Mr F was unlikely to be able to make the monthly repayments in a way that would be sustainably affordable and so MoneyBoat shouldn't have provided this loan to Mr F.

In the event, Mr F ran into payment problems by the time his fifth repayment was due and he ultimately incurred extra interest and charges before he was able to repay the loan, later than the scheduled repayment date. I think that was a reasonably foreseeable outcome given the information MoneyBoat had gathered. And the fact alone that Mr F managed to repay the loan doesn't mean that he was able to do so in a sustainable manner. For these reasons, I'm planning on upholding Mr F's complaint about this loan and telling MoneyBoat to take the following steps."

What the parties said in response to my provisional decision

Mr F told me he had nothing further to add.

I have heard nothing further from MoneyBoat and the deadline for responses has now passed so I think it's reasonable for me to proceed with my review of this complaint.

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 of the relevant rules, guidance and good industry practice - on our website. I've taken this into account in deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and Mr F for responding to my provisional decision. Given that I've not received any further evidence or comment that changes my mind about this complaint, I confirm the conclusions I reached in my provisional decision.

Putting things right

In deciding what redress MoneyBoat should fairly pay in this case I've thought about what might have happened if it hadn't provided lending to Mr F, 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 F may have simply left matters there, not attempting to obtain the funds from elsewhere.

If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible. Or, he 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 he 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 now impossible to reconstruct accurately. From what I've seen in this case, I 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 F 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 F would more likely than not have taken up any one of these options. So it wouldn't be fair now to reduce MoneyBoat's liability in this case for what I'm satisfied it has done wrong and should put right.

I think it is fair and reasonable for Mr F to repay the principal amount that he borrowed because he had the benefit of that lending. But he has had to pay interest and charges on a loan that shouldn't have been provided to him.

If MoneyBoat sold any outstanding debt it should buy this back if able to do so and then take the following steps. Otherwise, MoneyBoat should liaise with the new debt owner to achieve the results outlined below and do the following:

- A add together the total of the repayments made by Mr F towards interest, fees and charges on this loan, not including anything already refunded
- B calculate 8% simple interest* on the individual payments made by Mr F which were considered as part of "A", calculated from the date Mr F originally made the payments, to the date the complaint is settled
- C refund the amounts calculated in "A" and "B" to Mr F
- D whilst it's fair that Mr F's credit file is an accurate reflection of his financial history, it's unfair that he should be disadvantaged by any adverse information recorded about a loan that was unfairly provided. So MoneyBoat should remove any negative information recorded on Mr F's credit file regarding the loan.

*HM Revenue & Customs requires MoneyBoat to take off tax from this interest. MoneyBoat must give Mr F a certificate showing how much tax it's taken off if he asks for one.

My final decision

I uphold Mr F's complaint and direct Evergreen Finance London Limited trading as MoneyBoat.co.uk to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 18 March 2022.

Susan Webb
Ombudsman