DRN-3586908

The complaint

Mr S complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) didn't carry out proportionate affordability checks before it granted him a loan.

What happened

Mr S was advanced one instalment loan on 30 May 2017 for £200. Mr S was contracted to make six monthly repayments of £62.47. Mr S has had some problems repaying his loan and MoneyBoat, in the final response letter, says an outstanding balance remains.

Following Mr S's complaint MoneyBoat wrote to him on 26 July 2021 outlining the checks it had carried out before this loan was approved and it considered these checks to be proportionate. The checks also showed it that the loan was likely to be affordable for him.

MoneyBoat also offered, in the final response letter to write off as a gesture of goodwill the outstanding interest on his outstanding balance.

Mr S didn't accept the outcome and referred the complaint to the Financial Ombudsman.

Following the complaint being referred here, the Financial Ombudsman contacted MoneyBoat on several occasions to request a copy of its file. Which would show the checks it carried out and the results of those checks.

However, despite a number of requests, no response was received. So, an adjudicator reviewed the complaint based on the limited information that he had, which amounted to the final response letter which contained details of the checks MoneyBoat says it carried out.

He explained that Mr S would've been left with very little disposable income each month after the loan repayments and all of his other declared living costs. He also concluded that the repayment for this loan represented a significant portion of Mr S's income.
MoneyBoat didn't respond to the adjudicator's assessment.

Mr S also didn't respond to the view or provide any further comments.

As MoneyBoat hasn't responded to the adjudicator's view, the adjudicator arranged to refer the complaint to an ombudsman for a final decision. As part of that process both Mr S and MoneyBoat were provided with a further chance to provide any further comments or information for consideration. However, no response was received from either party.
As no agreement could be reached, the case has been passed to me to resolve.

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 this type of lending - including all the relevant rules, guidance and good industry practice - on our website.

MoneyBoat had to assess the lending to check if Mr S could afford to pay back the amounts he'd borrowed without undue difficulty. It needed to do this in a way which was proportionate to the circumstances. MoneyBoat's checks could've taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr S'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 MoneyBoat should have done more to establish that any lending was sustainable for Mr S. These factors include:

- Mr S 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);
- Mr S 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);
- Mr S 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 Mr S.

MoneyBoat was required to establish whether Mr S could *sustainably* repay the loan – not just whether he technically had enough money to make his repayments. Having enough money to make the repayments could of course be an indicator that Mr S was able to repay his loan 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 Mr S's complaint.

For his loan all the information that I have gathered about the checks MoneyBoat carried out have come from the final response letter it gave Mr S.

Based on the final response letter, Mr S declared he had a monthly income of £1,234 which MoneyBoat says was checked with the information it received from the credit reference agencies as well as a copy of a payslip. But no evidence of these additional checks has been provided.

Mr S's declared his expenditure to be £690 per month. However, following some sort of credit check MoneyBoat increased Mr S's expenditure figure by an additional £392. Bringing his monthly outgoings to around £1,082. This left disposable income of £151 in order to make loan repayments of £62.47.

MoneyBoat says a credit check was carried out, however, the results of this check haven't been provided, so I don't know what it was provided with and what it showed about Mr S's financial circumstances**.**

After repaying this loan Mr S was left with very little money each month and he would've been in this position for at least six months. So, he had very little flex in his finances to cover any unexpected bills and / or expenditure. This has led me to conclude the loan repayments weren't likely to be sustainable for Mr S and there was a real risk that he would have difficulties making his repayments. Which turned out to be the case.

I accept, that the final response letter says that Mr S was living at home and so didn't have to pay rent / mortgage but his outgoings are still high considering this. So, given the limited information that I have, and what I can see in the income and expenditure information I'm upholding Mr S's complaint.

Putting things right

In deciding what redress MoneyBoat should fairly pay in this case I've thought about what might have happened had it not lent to Mr S, 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 S may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between him and this particular lender which he may not have had with others. 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 he 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 Mr S 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 S would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce MoneyBoat's liability in this case for what I'm satisfied it has done wrong and should put right.

MoneyBoat shouldn't have given Mr S his loan. If MoneyBoat has sold the outstanding debts it should buy this back if is able to do so and then take the following steps. If MoneyBoat is not able to buy the debt back, then it should liaise with the new debt owner to achieve the results outlined below.

A. MoneyBoat should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr S as though they had been repayments of the principal. If this results in Mr S having made overpayments then MoneyBoat should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
B. If there is still an outstanding balance then the amounts calculated in "A" should be used to repay any balance remaining on outstanding loan. If this results in a surplus then the surplus should be paid to Mr S. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Mr S.

But I would remind it of its regulatory obligation to treat Mr S fairly and with forbearance.

C. MoneyBoat should remove any adverse information recorded on Mr S's credit file in relation to this loan.

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

My final decision

For the reasons I've explained above, I'm upholding Mr S's complaint.

Evergreen Finance London Limited trading as MoneyBoat.co.uk should put things right for Mr S as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 August 2022.

Robert Walker
Ombudsman