

## The complaint

Miss H complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) didn't carry out proportionate affordability checks before it granted her loans.

Miss H also says she reached out for assistance from MoneyBoat to freeze the interest and charges, but it didn't do so.

## What happened

Miss H was advanced three instalment loans by MoneyBoat and a summary of her borrowing follows.

loan number	loan amount	agreement date	repayment date	number of instalments	instalment amount
1	£500.00	19/09/2021	26/11/2021	3	£211.46
2	£600.00	01/12/2021	01/12/2021	3	£282.80
3	£1,000.00	01/12/2021	outstanding	6	£301.92

It seems that loan 2 was taken and then cancelled on the same day before Miss H went onto apply for her third loan of £1,000.

Miss H has provided copies of emails between herself and MoneyBoat which shows that from the start of June 2022 its possible Miss H's final loan has been defaulted and a record of this has been reported to the credit reference agencies.

Following Miss H's complaint MoneyBoat wrote to her on 9 March 2022 outlining the checks it had carried out before these loans were approved and it considered these checks to be proportionate. The checks also showed these loans were likely to be affordable for Miss H and so it didn't uphold her complaint.

Miss H didn't accept the outcome and referred the complaint to the Financial Ombudsman.

An adjudicator initially reviewed the complaint and based on the information she had she concluded MoneyBoat needed to have carried out further checks before these loans were approved, but she couldn't say what MoneyBoat may have seen as she didn't have Miss H's bank statements.

Miss H didn't agree with the proposed outcome and in response to the assessment she provided the adjudicator with copies of her bank statements.

The adjudicator, then reconsidered the complaint and issued an uphold assessment. She concluded, this time that the credit checks MoneyBoat carried out before these loans were approved ought to have prompted it to have carried out further checks.

Had it carried out further checks, it would've likely discovered that Miss H was having financial difficulties because she wasn't able to service the debts that she already had because there were a number of returned direct debits visible in her bank statements. By

loan 3, Miss H had nine other loans outstanding, so the adjudicator didn't think that loan was affordable for her either.

Miss H appears to have accepted the most recent assessment.

MoneyBoat didn't respond to or acknowledge the adjudicator's most assessment.

As MoneyBoat hasn't responded to the adjudicator's second assessment, the adjudicator arranged to refer the complaint to an ombudsman for a final decision.

### **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 Miss H 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. 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 Miss H'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 Miss H. These factors include:

- Miss H 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);
- Miss H 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);
- Miss H 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 Miss H.

MoneyBoat was required to establish whether Miss H 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 Miss H 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 Miss H's complaint.

## Loan 1

For this loan, Miss H declared she had a monthly income of £4,420. MoneyBoat says this figure was checked with a credit reference agency.

Miss H's declared her expenditure to be around £3,070 per month. Overall, MoneyBoat calculated that Miss H had about £1,350 each month of disposable income in order to make loan repayments of around £211 per month. Based solely, on the income and expenditure information MoneyBoat had, it could reasonably concluded Miss H would be able to afford her loan repayments.

However, I would say, that based on the information Miss H provided, MoneyBoat was on notice that around 45% of her declared income was already committed to be spent on other credit commitments. This is a significant percentage of income, regardless of the monthly salary that has been declared.

MoneyBoat says a credit check was carried out before this loan was granted, and a copy of the results have been provided to the Financial Ombudsman. I've reviewed the results and like the adjudicator, I am concerned by the information MoneyBoat was provided. In summary it saw:

- Total debt excluding a mortgage of just over £47,000.
- 26 active credit accounts.
- In August 2021, so a month before this loan was approved, Miss H had defaulted on another loan of nearly £4,000.
- Three other defaults recorded in 2016 and 2017.

While this on its own may not be enough to uphold, I do think MoneyBoat was put on notice that Miss H may have been having financial difficulties and so it ought to have carried out further checks, such as verification of Miss H's financial position before approving this loan.

So, taking into account the above, I do agree with the adjudicator that given the adverse credit file data MoneyBoat ought to have carried out further in-depth checks. It could've done this a number of ways, it could've asked for copies of her payslip and/or copies of bills in order to gain a complete understanding of Miss H's financial position. Or, it could've asked to review her bank statements.

Miss H has provided the Financial Ombudsman Service with copies of her bank statements and I don't think it's unreasonable to consider these because MoneyBoat in my view didn't do a proportionate check.

Having looked at the bank statements, I'm satisfied that had MoneyBoat undertaken further checks it wouldn't have lent to Miss H. Miss H's declared income looks broadly accurate.

But there were signs of financial difficulties. I say this because her bank statements show she already had a significant number of high cost loans – including payday outstanding, at least eight at the time this loan was approved. In addition, I can see a number of returned direct debits payments, which as the Consumer Credit Sourcebook (CONC) (the relevant guidance for MoneyBoat) says in section 1.3 is likely a sign that someone is having financial difficulties.

Taking into account above, I don't think this loan ought to be been granted given how over indebted Miss H and the fact that there were returned direct debits. This information suggested that the loan wasn't sustainable.

I'm therefore upholding Miss H's complaint about this loan.

## **Loan 2**

As I've said, it's likely there was no interest charged for loan 2, because it seems to have been either taken out and repaid on the same day or the application was cancelled. Whether the loan was repaid or cancelled won't impact the outcome because no interest was charged. So, although this loan ought to not have been granted, there is no financial compensation due to Miss H.

## **Loan 3**

Similar sorts of checks were carried out for this loan as loan 1. MoneyBoat asked Miss H about her income which she declared had slightly increased to £4,400 per month. In addition, her disposable income had increased to £1,520. So, again, solely looking at these figures MoneyBoat may have believed her repayments were affordable.

But I still think MoneyBoat ought to have carried out the same sort of checks as ought to have been carried out for loan 1. The credit check results it was provided still ought to have given MoneyBoat cause for concern given the amount of outstanding debt and how recently a default had been recorded. So, I didn't think the checks for this loan went far enough.

I've once again considered Miss H's bank statements and having done so, this loan ought to also not have been granted. I can see a similar pattern for this loan as I can see for loan 1. Miss H had a number of outstanding payday and high cost credit loans as well as continuing to have returned direct debits. Finally, in November 2021, Miss H received around half her regular income, which would've put further strain on her finances given her already significant credit commitments.

MoneyBoat would've likely discovered this by carrying out a proportionate check and having done so it wouldn't have lent this loan because Miss H wasn't able to afford her loan repayments given her credit commitments and her other living costs.

Therefore, MoneyBoat shouldn't have provided any of the loans to Miss H and I've outlined below what it needs to do in order to put things right.

I've thought about what Miss H says about MoneyBoat freezing the interest fees or charges. This is one option available to it once it found out about her financial difficulties. However, as I've concluded these loans ought to not have been provided, the redress below will in effect make these loans interest free. So, I don't think any further compensation needs to be paid.

## **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 Miss H at all, 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 Miss H 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 Miss H 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 Miss H 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 Miss H any of her loans.

If MoneyBoat has sold the outstanding debts it should buy it back if it 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 add together the total of the repayments made by Miss H towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything already refunded.
- B. MoneyBoat should calculate 8% simple interest\* on the individual payments made by Miss H which were considered as part of "A", calculated from the date Miss H originally made the payments, to the date the complaint is settled.
- C. It should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Miss H as though they had been repayments of the principal on the outstanding loan. If this results in Miss H having made overpayments then it 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. MoneyBoat should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus, then the surplus should be paid to Miss H. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Miss H.
- E. MoneyBoat should remove any adverse information recorded on Miss H's credit file in relation to all of these loans.

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

### **My final decision**

For the reasons I've explained above, I'm upholding Miss H's complaint in full.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 5 October 2022.

Robert Walker

**Ombudsman**