

The complaint

Miss M (through a representative) complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) didn't carry out proportionate affordability checks before it granted her loans. Had it done so, Miss M says it would've realised she had poor credit history.

What happened

Miss M was advanced three instalment loans by MoneyBoat, and a summary of her borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment
1	£200.00	07/09/2017	28/02/2018	6	£59.31
gap in lending					
2	£250.00	24/10/2018	23/09/2019	6	£66.94
3	£250.00	01/04/2019	outstanding	6	£76.98

Based on the statement of account provided by MoneyBoat, Miss M has had some problems repaying her final loan because only one payment of £76.98 was made towards it on 30 April 2019.

Following Miss M's complaint MoneyBoat wrote to her representative on 30 March 2022, outlining the checks it had carried out before these loans were approved and it considered the checks to be proportionate. The checks also showed these loans were affordable for Miss M and so it didn't uphold her complaint. Miss M's representative then referred the complaint to the Financial Ombudsman.

An adjudicator considered the complaint and thought it should be partly upheld. After pointing out that in his view, there was two chains of lending, he concluded that MoneyBoat had made a reasonable decision to provide loans 1 and 2.

However, he thought loan 3 should be upheld. because the adjudicator could see in the credit check results MoneyBoat received that Miss M had defaulted on four credit accounts in the year before this loan was granted and two of these defaults were recorded within the four months before the loan was advanced.

Neither Miss M nor her representative responded to the adjudicator's assessment.

As MoneyBoat hasn't responded to the adjudicator's assessment and in order to bring this matter to a close, 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 Miss M 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 M'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 M. These factors include:

- Miss M 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 M 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 M 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 M.

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

It seems neither Miss M (or her representative) or MoneyBoat appear to disagree with the findings the adjudicator reached about loans 1 and 2. So I don't believe these loans are in dispute and therefore I won't be making a finding about them.

Instead, this decision will focus on loan 3, because this is the loan the adjudicator recommended be upheld, and as MoneyBoat hasn't said whether it agrees, I have considered the loan to bring this complaint to a close.

Loan 3

Similar sorts of checks were carried out for this loan as they had been for Miss M's previous loans. MoneyBoat asked Miss M about her income which she declared was £1,320 per month.

She also declared monthly outgoings of £510. As part of the application process MoneyBoat says it did the following.

On your loan applications we increased the monthly expenditure that you input, on the basis that your credit report highlighted different expenditure than you had disclosed, and/or to bring you in line with the average expenditure listed on the Common Financial Statement. Having taken this extra measure to ensure the loan was affordable for you, you still displayed enough disposable monthly income to meet the monthly repayments in full.

As a result, it increased Miss M's monthly expenditure by a further £290. Therefore, for its affordability assessment MoneyBoat used a monthly expenditure figure of £800. Which left disposable income of £520 for Miss M to make her monthly repayments of £76.98.

MoneyBoat has also carried out a credit search and it has provided the Financial Ombudsman with the results it received. It is worth saying here that although MoneyBoat carried out a credit search there isn't a regulatory requirement to do one, let alone one to a specific standard. But what MoneyBoat can't do is carry out a credit search and then not react to the to the information it received.

When this loan was approved, MoneyBoat was aware that Miss M owed other creditors £5,538 spread across 21 active accounts. The number of active accounts is in my view quite high. However, MoneyBoat knew that only three new accounts had been opened within the last six months. So, this wouldn't suggest Miss M was reliant on or a regular user of high-cost loans.

In addition, MoneyBoat was aware, Miss M had defaulted on a total of seven accounts. However, four of these accounts were defaulted within the year before the third loan was approved. But, looking into these defaults more closely, which MoneyBoat could've done because it had the data available to it. It showed it, that Miss M had defaulted on a payday loan in December 2018 and then an unsecured loan in January 2019. Both defaults occurring around three months before this loan was advanced.

This to me, does suggest that Miss M was likely having immediate and current financial difficulties due to how recent the defaults were in relation to when this loan was approved. So, like the adjudicator, I do think, this showed Miss M was already having problems maintaining her commitments and so any further borrowing was likely to be unsustainable.

However, in addition, to the defaults, there were further signs, which reinforces Miss M was likely having problems managing her existing debts when the loan was approved.

Looking into the information MoneyBoat was provided it would've seen that Miss M had an unsecured loan which was being recorded as being one month in arrears and then on top of this she had two loans marked as being provided by a "Finance House".

One of these was three months in arrears – indicating that three months of missed payments had been missed – and the account had been in arrears for a total of five months. Although, in the month before the loan was approved, Miss M's arrears situation had improved, as the account had moved from being four months in arrears to three, indicating Miss M must have made up some payments. But nonetheless the repayments hadn't been made on time and in line with the credit agreement.

The other Finance House loan was also three months in arrears, with the status of the loan account deteriorating each month – so increasing the arrears indicating that Miss M wasn't likely meeting her existing credit commitments towards this loan.

Given the recent defaults, and the building up of arrears on three other accounts I do think this is a clear indication that Miss M was likely having current financial difficulties when MoneyBoat approved the third loan. The fact she was apparently, struggling to keep her existing credit commitments up to date, means MoneyBoat ought to have realised Miss M was unlikely to be able to meet her repayments for this loan in a sustainable manner.

I'm therefore upholding Miss M's complaint about loan three only, and I've outlined below what MoneyBoat needs to do in order to put things right for her.

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 provided loan three to Miss M, 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 M 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 M 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 M 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 M 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 M 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 M which were considered as part of "A", calculated from the date Miss M originally made the payments, to the date the complaint is settled.
- C. MoneyBoat should remove all interest, fees and charges from the balance of loan three and treat any repayments made by Miss M as though they had been repayments of the principal towards the loan. If this results in Miss M 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 M. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Miss M.
- E. MoneyBoat should remove any adverse information recorded on Miss M’s credit file in relation to the loan.

*HM Revenue & Customs requires MoneyBoat to deduct tax from this interest. MoneyBoat should give Miss M 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 M’s complaint in part.

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

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 21 February 2023.

Robert Walker
Ombudsman