DRN-3960714

The complaint

Mr K complains that Evergreen Finance Limited, trading as MoneyBoat.co.uk (MoneyBoat), lent to him when he could not afford it.

What happened

Mr K applied for a loan of £600 for a term of 164 days on 9 October 2021. It was repayable over six months with five instalments of around £167 each month from 22 October 2021 and the last being around £140 due 22 February 2022. The total to pay back was scheduled to be £1,006.03.

Mr K complained in early February 2022 using an on-line complaint handling website and I have been sent that correspondence. I note that MoneyBoat asked Mr K to send to it a copy of his bank statements and he did that. And I have read the detailed final response letter (FRL) sent to Mr K through that on-line management service on 10 February 2022.

In that FRL MoneyBoat detailed the information it had from Mr K, the checks it carried out and that with an annual salary of £47,000 MoneyBoat considered that Mr K was *'…in a better position to repay more creditors'*.

It pointed out that Mr K had applied to it 37 times between August 2021 and January 2022. That all had been declined except this loan which it says supported its affordability checks as being robust.

On 13 February 2022 Mr K replied to MoneyBoat as follows:

> *I agree with your analysis, however I want my credit file updated to have this removed from my profile in its entirety. Could you please reconsider this request? I do not believe this would require FOS intervention.*

Mr K chased MoneyBoat for a response a few days later. Despite this, and having had no reply from MoneyBoat, Mr K referred the complaint to the Financial Ombudsman Service in May 2022.

We have now received confirmation from MoneyBoat that one loan applied for in August 2021 – so before the 9 October 2021 - was declined. It had been for £400. MoneyBoat said to us:

> *'The application in August 2018 was declined for not meeting our internal lending criteria at that time…''*

This information was received recently and after our adjudicator had assessed the information MoneyBoat had sent to us.

The loans declined after the 9 October 2021 loan are irrelevant for the purposes of this complaint.

One of our adjudicators looked at the complaint and considered that MoneyBoat had enough information to realise that Mr K was not able to afford this loan. So, he upheld Mr K's complaint. He said:

> *'In these circumstances, there was a significant risk Mr K wouldn't have been able to meet his existing commitments without having to borrow again. And in saying this,*

from the information provided to me by Mr K, I note he'd borrowed from short term lenders on four occasions since the start of September 2021, so it seems he was already struggling with his commitments.'

MoneyBoat disagreed and gave some reasons why:

- Mr K took one loan and so the checks were proportionate
- The early stages of lending are automated and decisions are made on the basis that the consumer meets certain requirements
- It would be unrealistic for one of its underwriters to review every line of a credit file prior to lending, especially at the early stage of a lending relationship
- MoneyBoat disputed any suggestion that as it had the information it ought to have looked at it. And its reason for saying this as part of its defence to the complaint was that

  > '…*given the nature of the market we are in where people are often looking for short term loans as a matter of urgency and require a quick and efficient service it is…wholly impractical to …review every line of credit for every loan'*

- MoneyBoat continued by pointing out that there's nowhere *'…in FCA guidance that suggests we are obliged to undertake such an endeavour.'*
- Mr K had *'ample disposable income'*
- It made specific points about the assertion that Mr K may have consolidated other debts, which I have read and actioned.

Our adjudicator responded by reiterating his view.

The unresolved complaint was passed to me to decide.

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 K could afford to pay back the amount 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 considered several different things, such as how much was being lent, the size of the repayments, and Mr K'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 K. These factors include:

- Mr K 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 K 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 K 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 K. As he took one loan only than this does not apply.

MoneyBoat was required to establish whether Mr K 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 K 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, 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 K’s complaint.

As I have said earlier, the refused applications following the successful one in October 2021 are irrelevant for a complaint surrounding the loan approval of that date.

Ultimately the starting point was that MoneyBoat had to carry out proportionate checks. It obtained Mr K’s income, his expenses, confirmed his employment position and carried out a credit search.

I have seen from the application details and from the details given in the FRL from MoneyBoat that Mr K had said he earned £2,980 after tax each month plus he received child benefit of around £192 a month. He had a mortgage cost of £675 a month. He declared credit commitment costs of £508, and £150 for transport, £150 for food and £300 for utility costs. So MoneyBoat had calculated that when these were deducted, his disposable income was £1,197 a month. This figure did not include the £150 for food for some reason. It’s not unreasonable therefore that MoneyBoat’s conclusion was he could afford the £167 a month for six months.

MoneyBoat carried out proportionate checks usually attributed to a £600 loan from a new customer. And as it has told us, during the early stages they are automated. It did not need to obtain a credit search for Mr K before approving the loan but it did. Having got that, the contents would be relevant. And whilst I take MoneyBoat’s point that for a relatively modest first loan, from a new customer repayable over a relatively short term then it would not be expected to carry out extensive enquiries or carry out a full financial review, here this loan application closely followed a refusal in August 2021. I do not think it can ignore credit file information received by it. And so, the information in the credit search results may be the deciding element of this complaint.

Our adjudicator had asked Mr K about a loan taken in July 2021 (with a different lender) and Mr K had confirmed that this was used to consolidate other borrowing. And I can also see that on 20 April 2021 Mr K had taken a high-cost loan for over £10,000 and that appears to have been used to repay earlier borrowing (four accounts) as I can see that their balance clearances were all 20 April and 26 April 2021. Mr K had also taken another loan for almost £5,000 in June 2021 and a new credit card in July 2021.

I have received from MoneyBoat the credit search result dated 31 August 2021, and now I have been sent the one relevant to the application in October 2021 as well. Our adjudicator did not have that October one. MoneyBoat has apologised for sending us the incorrect one originally. Reviewing both, I've been able to piece together a more detailed picture.

Using the relevant October 2021 credit results, I have added up that Mr K was committed to repaying £2,096 each month and service a credit card that had a balance of around £680 on a £750 limit. With the MoneyBoat loan he would have been spending £2,264 which is a very high proportion of his income – declared at around £2,900 each month.

Even removing the mortgage from this figure (£674), still it would have led to a figure of £1,590 which would have translated into 53% of his declared income solely being spent on outstanding credit commitments – before any other living costs are considered.

So, I disagree with MoneyBoat when it describes Mr K as having '*ample*' disposable income as I think he might have had around £700 to spend on his normal household expenses which likely would have used up a great deal of that if not all of that.

Mr K declared £150 for transport and £300 for utilities and £150 for food when he'd applied to MoneyBoat, but as Mr K had also radically under-declared his credit commitment as being £508 a month, I would not have expected MoneyBoat to have relied on his declared figures for his regular expenditure having recognised that Mr K's credit commitments were four times higher than the figure he'd provided on his application.

And I looked at the application details MoneyBoat had from Mr K for the August 2021 loan (declined) and he'd declared different figures for all categories. In August 2021 and October 2021 the general expenditure other than credit expenditure had been £700 a month and £600 a month respectively.

For completeness I mention here that the August 2021 credit search results – used by our adjudicator as they were the only set of credit search results sent to us when he was reviewing the complaint – showed that Mr K's credit commitments were £1,932 a month (including his mortgage and including the MoneyBoat loan). My findings with the October 2021 credit search results show me that including Mr K's mortgage and his MoneyBoat loan he was committed to £2,264 each month before his household expenses. So, the figures are broadly similar and the rationale is broadly the same – that Mr K was overindebted.

Turning to some of the specific issues MoneyBoat has raised then I'll try to answer them here.

Where it has said that it would be unrealistic for one of its underwriters to review every line of a credit file prior to lending, especially at the early stage of a lending relationship, then that may be the case for most applications. But here, Mr K was returning to it within a few weeks of a refusal by MoneyBoat and for a higher loan application. And so, I do think that a more thorough look at the details in its own credit search results would have been justified.

MoneyBoat has described the nature of its lending business and has challenged the notion that a reviewer of its processes may say that as it had the information it ought to have looked at it. And its reason was that '*given the nature of the market we are in where people are often looking for short term loans as a matter of urgency and require a quick and efficient service it is…wholly impractical to …review every line of credit for every loan'.* But I disagree in these circumstances and for Mr K's situation.

And I have considered what else MoneyBoat could have done even if it had decided it needed to do more. I think that a 53% percentage use of Mr K's net income to pay all credit commitments (higher than that when the mortgage cost is included) may be sufficient grounds to decide not to lend.

One of the points MoneyBoat makes is that its refusals of loans demonstrate a robust creditworthiness approach. After a loan refusal I'd play that phrase back to MoneyBoat and suggest that to keep its robust approach - having once refused Mr K a loan - then even more caution may well have been a justified and proportionate response.

One way of doing additional checks could have been to drill into the detail it already had from the credit search results. MoneyBoat has mentioned in its submissions to us of having an automated system and so it's possible that some of that automation could be tuned to that element. And another way to look into Mr K's financial circumstances may have been to review bank statements. And its not the only way but its one method.

I have reviewed the September 2021 bank statements from Mr K and what they reveal over and above the payments shown in the credit search MoneyBoat already had was that he was taking high cost short term loans to make ends meet.

He had obtained two loans which credited his account in early September 2021, and he had a revolving credit facility from a well- known high cost lender where it approved Mr K for a certain limit and then Mr K would have been able to draw down on that facility up to the limit and pay back a certain amount each month.

Mr K had a lot of monthly cost just to stay ahead of his creditors.

I uphold Mr K'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 had not lent to Mr K, as I'm satisfied it ought not to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mr K may have simply left matters there, not attempting to obtain the funds from elsewhere. Although I have noticed that Mr K was so keen to secure a further loan that he applied to MoneyBoat lots of additional times after the October 2021 loan was approved.

If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they 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 they 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 impossible to reconstruct now accurately.

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 K in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mr K 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.

Mr K has told us that the loan was paid off in or around February 2022. Proceeding on the basis that is correct then MoneyBoat should do as follows:

- remove all interest, fees and charges applied to the loan.

- treat any payments made by Mr K as payments towards the capital amount of £600
- if Mr K has paid more than the capital, refund any overpayments to him with 8%* simple interest from the date they were paid to the date of settlement
- but if there's still an outstanding balance, MoneyBoat should come to a reasonable repayment plan with Mr K
- MoneyBoat should remove any adverse information recorded on Mr K's credit file in relation to the loan.

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

My final decision

My final decision is that I uphold Mr K's complaint and I direct that Evergreen Finance London Limited, trading as MoneyBoat.co.uk, does as I have outlined above in the 'putting things right' part of the decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 14 April 2023.

Rachael Williams
Ombudsman