

## The complaint

Mr S complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) gave him loans that weren't affordable.

## What happened

Mr S was advanced 12 instalment loans by MoneyBoat, and a summary of his borrowing follows in the table below.

loan number	loan amount	agreement date	repayment date	number of instalments	highest repayment
1	£500.00	23/05/2020	29/05/2020	4	£206.40
2	£1,000.00	01/06/2020	02/09/2020	6	£307.90
3	£900.00	14/09/2020	15/09/2020	6	£253.60
4	£900.00	25/09/2020	26/09/2020	6	£284.35
5	£1,000.00	05/10/2020	07/10/2020	6	£298.08
6	£900.00	16/01/2021	26/03/2021	6	£250.02
gap in lending					
7	£500.00	21/10/2021	22/10/2021	5	£150.81
8	£650.00	05/11/2021	23/11/2021	6	£193.65
9	£400.00	26/11/2021	27/11/2021	6	£125.56
10	£500.00	29/11/2021	30/11/2021	6	£154.27
11	£500.00	10/12/2021	23/12/2021	6	£144.46
12	£700.00	06/01/2022	29/01/2022	6	£206.26

Following Mr S's complaint MoneyBoat wrote to him explaining why it wasn't going to uphold it. But it did, as a gesture of goodwill offer to pay him £249.90 which represented the interest, he paid on his final six loans. Mr S didn't accept this offer, and he instead referred the complaint to the Financial Ombudsman.

The complaint was initially reviewed by an adjudicator who didn't uphold it, instead, she recommended that Mr S accept the gesture of goodwill offer as outlined in the final response letter.

Mr S accepted this assessment. But after the case was closed, MoneyBoat let us know that the offer – as made in the final response letter had been withdrawn and was no longer available.

The complaint was then reopened, and considered by the adjudicator again, this time with some fresh information from Mr S about transactions in his bank statements that turned out to be gambling.

The adjudicator then issued her second assessment, outlining why in her view MoneyBoat had, reasonably provided loans 1 to 4 and loans 7 to 9. She didn't uphold the complaint about these loans.

In her view, when loans 5 and 6 and then when loans 10 to 12 were granted MoneyBoat ought to have carried out further checks into Mr S's financial situation. Had it done so, perhaps by reviewing his bank statements, it would've realised that Mr S was gambling to the extent that his priority bills weren't being paid. This led the adjudicator to uphold the complaint about these loans.

Mr S initially responded to say why he thought, loans 1 and 2 should also be upheld, given the gambling visible in his bank statements and the fact that he had borrowed money in order to repay outstanding payday loans.

The adjudicator went back to Mr S to explain, that as it was early on in the lending relationship, she didn't think MoneyBoat needed to review his bank statements. Mr S then appeared to be happy to accept the outcome the adjudicator had reached in her view.

MoneyBoat didn't respond to or acknowledge the adjudicator's latest assessment. As no agreement has been received the case has been passed to me 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 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. The adjudicator didn't think this applied to Mr S complaint.

MoneyBoat was required to establish whether Mr S could *sustainably* repay the loans – 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 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 Mr S's complaint.

Mr S now appears to accept the outcome the adjudicator reached in her second assessment – which as I've outlined above was a conclusion that loans 5, 6, 10, 11 and 12 ought not to have been provided. The adjudicator didn't uphold the other loans Mr S was granted (1, 2, 3, 4, 7, 8 and 9). Mr S has accepted this.

It's worth pointing out here that MoneyBoat hasn't responded to the adjudicator's second assessment, so I don't know what, if anything it thinks she may have missed or why it disagrees with the loans she has recommended should be upheld.

As Mr S has accepted the outcome that was reached by the adjudicator, I don't intend to revisit the loans that the adjudicator didn't uphold as these are no longer in dispute. Instead, this decision will focus on whether MoneyBoat ought to have advanced loans 5, 6, 10, 11 and 12.

### **Loans 5, 6, 10, 11 and 12**

Before I consider what happened when these loans were approved, like the adjudicator I do agree that Mr S took these loans in two chains. Loans 1 – 6 and then loans 7 – 12. I say this because there was around a seven-month period where Mr S didn't borrow.

So, when he returned for loan 7, it was in my view, entirely reasonable of MoneyBoat to have treated his application afresh and if he was a new customer. This does have a bearing on the type and level of checks MoneyBoat ought to have carried out. And I've kept that in mind when thinking about these loans.

But, in saying that, having reviewed everything I've been provided with, I am of the opinion that these loans ought not to have been advanced and I've explained why below.

For these loans, MoneyBoat carried out the same sort of checks. It started by asking Mr S to declare his income, and this ranged from £2,100 at loan 5 to £3,000 per month by the time loans 10 to 12 were granted. MoneyBoat says this figure was checked with a credit reference agency for its accuracy.

Mr S declared his expenditure to be around £425 at loan 5 to say up to around £795 per month by the time loan 12 was advanced. However, as part of the affordability check MoneyBoat said 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.*

As a result of these additional checks, MoneyBoat increased Mr S's monthly expenditure by as much as £42 per month. After completing these checks, MoneyBoat would've been reasonably confident Mr S could afford his largest repayment due for this loans which was around £250 when loan 6 was approved.

MoneyBoat says credit checks were carried out before these loans were granted, and a copy of the results have been provided to us. However, I don't feel that I need to review each credit report in detail, because even taking account of the checks that MoneyBoat did do, I still don't think, given what I've seen that for these loans its checks were proportionate or went far enough and I've explained why below.

Thinking about the amounts Mr S was borrowing, his monthly commitments, how quickly some of these loans were being repaid and the relationship between when loans were repaid and when he returned for further borrowing. This ought to have led MoneyBoat to conclude that needed to gain a full understanding of Mr S's financial situation in order to ensure these loans were affordable for him.

MoneyBoat could've carried out these additional checks, in a number of ways, it could've asked for evidence of his outgoings such as copy bills. It could've asked to see copies of Mr S's bank statements or any other documentation it felt it needed to obtain in order to satisfy itself that it had carried out more robust checks.

This would've helped verify information provided by Mr S and could've revealed whether there was any other information MoneyBoat might've needed to consider about Mr S's financial position.

However, that isn't the end of the matter. For me to be able to uphold these loans, I have to be satisfied that had MoneyBoat carried out what I consider to be a proportionate check it would've likely discovered that Mr S couldn't afford the repayments or discovered it was likely unsustainable for him for some other reason.

Mr S has supplied copy bank statements from around the time these loans were approved. So, it's entirely reasonable for me to consider what these statements show about his financial position. But as I've said above, obtaining copy bank statements was just one of the ways MoneyBoat could've gone about verifying his information.

Having reviewed the bank statements, it shows a similar picture to that described in the adjudicator's assessment. There are significant amount of cash withdrawals and payments made towards a betting shop. For example, in the days before loan 5 was advanced Mr S spent nearly £1,000 on these transaction – before any other living costs were considered. Due to these transactions several direct debits payments for things such as road tax were returned unpaid.

But a similar pattern is visible throughout the time I think MoneyBoat needed to do further checks – Mr S continued for example having returned direct debits. So, clearly, these loans weren't sustainable or affordable for Mr S.

In addition, throughout this time, Mr S had continued to take payday and high-cost credit loans from a number of different lenders. Which further supports that Mr S was having longer term financial difficulties.

So had MoneyBoat carried out what I consider to be proportionate checks, it would've likely concluded that Mr S couldn't afford these loans. I am therefore upholding Mr S's complaint about loans 5, 6, 10, 11 and 12 and I've outlined below what MoneyBoat needs to do in order to put things right for him.

## **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 loans 5, 6, 10, 11 and 12 to Mr S, 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 S 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 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 loans 5 and 6 and loans 10, 11 and 12.

- A. MoneyBoat should add together the total of the repayments made by Mr S towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything you have already refunded.
- B. MoneyBoat should calculate 8% simple interest\* on the individual payments made by Mr S which were considered as part of "A", calculated from the date Mr S originally made the payments, to the date the complaint is settled.
- C. MoneyBoat should pay Mr S the total of "A" plus "B".
- D. MoneyBoat should remove any adverse information recorded on Mr S's credit file in relation to loans 5, 6, 10, 11 and 12.

\*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 in part.

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 26 May 2023.

Robert Walker  
**Ombudsman**