DRN-4048659

The complaint

Ms B complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) gave her loans she couldn't afford to repay.

What happened

Ms B 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 instalments	highest repayment
1	£400.00	19/11/2019	12/02/2020	4	£140.35
2	£600.00	10/03/2020	24/07/2020	5	£194.10
3	£600.00	07/09/2020	24/08/2022	6	£191.31

Ms B had some problems repaying her final loan and she says that she was told that she would receive a County Court Judgment if she didn't agree to pay £210 per month towards it. Ms B says the final loan balance has now been fully repaid and she has provided emails from MoneyBoat to show this.

Following Ms B's complaint MoneyBoat wrote to her explaining why it wasn't going to uphold her complaint. Ms B didn't agree, and she referred the complaint to the Financial Ombudsman.

The complaint was reviewed by an adjudicator, and he didn't uphold Ms B's complaint about loan 1. But he thought loans 2 and 3 shouldn't have been granted. For both loans, the adjudicator reviewed the credit search results MoneyBoat had received and concluded that Ms B was left with very little money each month after the repayment of these loans.

Ms B responded to confirm the final loan had been repaid and she provided us with an extract of a spreadsheet showing loan repayments up to August 2022.

MoneyBoat didn't agree with the proposed outcome because it said the adjudicator included payments to a loan which had been defaulted and the repayments towards this loan were set "*periodically (not monthly)*". And in MoneyBoat's view this loan ought to not be recorded as part of Ms B's monthly repayment assessment.

As no agreement could be reached the case has been passed to me *and* I issued a provisional decision explaining the reasons why I was intending to uphold Ms B's complaint about loan 3 only. A copy of the provisional findings follows this in smaller text and forms part of this final decision.

Both Ms B and MoneyBoat were asked to provide anything further for consideration as soon as possible, but in any event, no later than 24 March 2023.

MoneyBoat didn't respond to the provisional decision.

Ms B responded to the provisional decision by providing copies of emails between her and MoneyBoat about the repayment plan she was on. The email from MoneyBoat dated 24 August 2022 confirms Ms B made her final repayment and the loan would be closed.

What I said in my provisional decision:

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 Ms B 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 Ms B'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 Ms B. These factors include:

- *Ms B 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);*
- *Ms B 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);*
- *Ms B 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 Ms B. The adjudicator didn't think this applied to Ms B complaint.

MoneyBoat was required to establish whether Ms B 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 Ms B 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 Ms B's complaint.

Ms B appears to have accepted the outcome the adjudicator proposed for loan 1 and MoneyBoat only queried the figures the adjudicator used for loans 2 and 3. So to me, it seems there is no longer a dispute about loan 1 and so I say no more about it.

Loan 2

Although Ms B repaid loan 1 earlier than planned, it does seem she had some problems repaying, as her December 2019 and January 2020 payments were made late.

For this loan, Ms B declared her income was £2,270 per month. In the final response letter MoneyBoat says this income would've been checked with one of the credit reference agencies – it also says a copy payslip was taken – but it hasn't provided a copy of it.

Ms B declared outgoings of £1,350 covering her rent / mortgage, credit, food and 'other' costs. In addition, MoneyBoat explained:

> *"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."*

Following these additional checks, MoneyBoat increased Ms B's expenditure by an extra £4. This left Ms B with £915 a month disposable income, which was enough to make her commitments of around £194 per month.

Before this loan was approved, MoneyBoat also carried out a credit search and it's provided a copy of the results that it received. It's worth saying here that MoneyBoat wasn't required to carry out a credit search and even thought it did do one, there isn't anything that says it has to be done to a particular standard or ask for specific information. But what MoneyBoat couldn't do is carry out a credit search and not react to the results – if necessary.

Having reviewed the credit check results provided by MoneyBoat it knew she had debts of just over £8,100 and was utilising 96% of her available budget / revolving credit.

MoneyBoat was also aware of one unsatisfied County Court Judgement for £4,241 – this was recorded in July 2017, and I think it was long enough before this loan not to have caused MoneyBoat concern that Ms B was having immediate financial problems. Albeit it is evidence that Ms B would need to repay this.

It also knew that Ms B had defaulted on a credit account in February 2019 – so around a year before this loan was approved, but Ms B had been able to satisfy the debt. In addition, there were two other defaults recorded on Ms B's credit file. One from December 2015 and another from June 2016. Neither of which appeared to have been satisfied and so had balances. But given how many years it had been since the defaults were recorded; I don't think MoneyBoat needed to 'set aside' some of Ms B's money to cover the cost of servicing them.

From the credit report I can see that in February 2020 Ms B opened two new accounts. A mail order account which had a zero balance and a "Finance House" loan where she was committed to paying £115 per month towards. The Finance House loan was opened on the day that loan 1 was repaid, so it's possible, as the adjudicator explained that this loan was used to settle loan 1.

Ms B also had a couple of credit cards that she was servicing – both of these cards were very close to their credit limits; these were costing her around £200 in total. In addition, she also had a mobile phone contract of £17 per month and an existing home credit loan costing £250 per month.

Ms B, as part of her application to MoneyBoat, declared her existing credit commitments were £200 per month and MoneyBoat ought to have been aware that this figure was wrong from the credit check results it had. At a minimum I think her costs per month for existing commitments were at least £582 per month.

By substituting the above figure for the one Ms B declared as part of her application this meant her total living costs came to around £1,737 (an increase on the £1,350 she declared). This left £538 each month to repay the MoneyBoat loan of around £194. So even if MoneyBoat had used what I consider to be the correct credit commitment figure it would've still believed the loan was affordable.

There also wasn't anything else in the credit search results that would've indicated Ms B was having current difficulties. For example, there wasn't any indication that Ms B was regularly opening new high cost credit accounts or was behind with any other payments.

I am therefore proposing to not uphold Ms B's complaint about loan 2 as the loan appeared affordable.

Loan 3

Ms B's second loan was repaid on time and without any obvious difficulties. For this loan, Ms B's declared income had dropped to £1,811 per month – which is a decrease of around £350. Again, MoneyBoat may have checked the validity of this income with a credit reference agency, but it hasn't supplied the results of that check. But MoneyBoat had no reason to believe this income figure was incorrect.

Ms B's declared monthly outgoings came to £1,550 and as before MoneyBoat checked this and felt that it needed to increase Ms B's expenditure by a further £21 per month. After doing this, it left Ms B with £239 per month in which to make her loan repayments of £191.

Just on its own checks, MoneyBoat was on notice that it was only leaving Ms B £48 after all her costs in which to cover unexpected expenditure. This is quite a small amount considering that Ms B was committed to repaying MoneyBoat for six months.

Credit check results have also been provided and I've considered those in the same manner as I did for loan 2. Ms B's overall indebtedness had increased slightly from loan 2, it was now up at around £8,600. But MoneyBoat was told she was using 106% of her available credit – indicating that Ms B was over her agreed credit limits on one or more accounts.

The remainder of the credit search results show, in my view, a deterioration in Ms B's finances and knowing this MoneyBoat ought to not have approved the loan.

Ms B was above her agreed credit limits on her mail order account and her two credit cards. All these accounts were in arrears – which were showing on the credit report, and it seems that Ms B hadn't made her May, June or July 2020 payments. So, Ms B was now demonstrating that she was struggling to repay the existing credit commitments which she already had. This alone, is probably enough to uphold the complaint, but I've explained below, why the loan was also unaffordable for Ms B.

On top of this I can see outstanding "Finance House" loan of £115 per month, a home credit loan of £166 plus, two telecommunications account costs £37 per month. These accounts appeared to have been maintained but even then, these credit commitments came to £318. And Ms B still needed to service her two credit cards and her mail order account which were over their limits and therefore likely incurring further interest, fees and charges.

Looking at what Ms B declared, if I substitute the £318 monthly credit commitment figure into the rest of her declared outgoings, she declared to MoneyBoat then she'd have been left with disposable monthly income of £193 – after the loan repayment this would've left her with around £1.70 per month to cover any other costs. I've not included the repayments that Ms B ought to have been making to her two credit cards and one mail order account. So clearly, this loan was unaffordable for Ms B.

I am therefore intending to uphold Ms B's complaint about this loan.

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.

As neither Ms B nor MoneyBoat provided any new comments or evidence about the outcome that was intending to be reached, I see no reason to depart from the findings that were made in the provisional decision.

I still think MoneyBoat made a reasonable decision to provide loans 1 and 2. However, the results of the credit check MoneyBoat carried out for loan 3, as well as the information Ms B provided as part of her application ought to have made it realise the loan wasn't affordable for her.

I've set out below what MoneyBoat needs to do in order to put things right for Ms B.

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 loan 3 to Ms B 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 Ms B 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 Ms B 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 Ms B 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 Ms B loan 3.

A. MoneyBoat should add together the total of the repayments made by Ms B towards interest, fees and charges on loan 3, including payments made to a third party where applicable.
B. MoneyBoat should calculate 8% simple interest* on the individual payments made by Ms B which were considered as part of "A", calculated from the date Ms B originally made the payments, to the date the complaint is settled.
C. MoneyBoat should pay Ms B the total of "A" plus "B".
D. MoneyBoat should remove any adverse information recorded on Ms B's credit file in relation to loan 3.

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

My final decision

For the reasons I've explained above and in the provisional decision, I'm upholding Ms B's complaint about loan 3 only.

Evergreen Finance London Limited trading as MoneyBoat.co.uk should put things right for Ms B as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 1 May 2023.

Robert Walker
Ombudsman