DRN-4078779

The complaint

Mr B complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) gave him a loan without carrying out proportionate checks.

What happened

Mr B was advanced one instalment loan by MoneyBoat. He borrowed £800 on 3 September 2019. He was due to make five monthly instalments of £222.85 and one final instalment of £222.79. Mr B repaid the loan on 1 May 2020.

Following Mr B's complaint MoneyBoat wrote to him explaining why it wasn't going to uphold it. Unhappy, with this outcome, Mr B referred the complaint to the Financial Ombudsman.

The complaint was reviewed by an adjudicator who upheld it. He said the credit check results provided to MoneyBoat showed that Mr B was having immediate problems managing his money and so the loan ought not to have been granted.

MoneyBoat didn't agree saying that of the three delinquent accounts one had been like that for almost a year and on the other two, Mr B was making repayments towards the balances. There wasn't anything to suggest the loan was unaffordable.

As no agreement could be reached, the case was passed 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 Mr B 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 taken into account a number of different things, such as how much was being lent, the size of the repayments, and Mr 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 Mr B. These factors include:

- Mr 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);
- Mr 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);
- Mr 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 Mr B. The adjudicator didn't think this applied to Mr B's complaint.

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

Mr B declared his income to be £2,200 per month. MoneyBoat says following a check with a credit reference agency that this amount was accurate.

Mr B declared his expenditure to be £900 per month. MoneyBoat didn't make any adjustments to Mr B's declared expenditure when it carried out its further checks, such as a credit search. So, it reasonably concluded that Mr B had around £1,300 per month in disposable income to be able to afford his loan repayment.

MoneyBoat says credit checks were carried out before the loan was granted, and a copy of the results have been provided. There was no requirement to carry out a credit search let alone one to a required standard.

MoneyBoat accepts in the final response letter that there was some adverse information recorded but it didn't consider this information to be sufficiently adverse to either carry out further checks or to have declined Mr B's application. Whereas the adjudicator said the results showed Mr B was having difficulties and so the loan ought not to have been granted.

I've considered what both MoneyBoat and the adjudicator has said, but I've taken on board the information MoneyBoat has provided, and I've summarised it below:

- A "Finance House" account opened in January 20219 was showing by August 2019 as having arrears of "6". This indicates the contractual repayment hadn't been made for at least six months. It's worth saying here that the arrears appear to have increased in each of the last six months indicating persistent repayment problems. By this time, the lender could've decided to have started the process of defaulting Mr B's account.
- Another Finance House loan that had been "6" in arrears for at least the last 14 months. While payments were being made by Mr B these clearly weren't enough to clear any arrears that had built up on the account.
- Mr B had an overdraft where arrears had started to build since March 2019 and by July 2019 the bank was reporting the account as being "4" months in arrears.

- Finally, a credit card account that had entered arrears in May 2019 and by June 2019 was showing as “2” – meaning there had been at least two missed payments. Although, it appears by July 2019, Mr B had brought the account up to date.

Having considered this information, which MoneyBoat has acknowledged, I do think this shows that Mr B was having immediate and current financial difficulties to the extent that he was in arrears with three active accounts – of which two of the three had seen a worsening repayment status in the months leading up to the loan being advanced. And Mr B had also recently had a credit card in arrears.

MoneyBoat knew this and so while its checks did show the loan to be affordable it also had to consider whether the loan would also be sustainable. The fact that it knew that Mr B was in arrears with other loan accounts and these arrears were recent ought to have led it conclude that further lending wasn’t sustainable. And therefore, it ought to not have granted the loan because Mr B was already showing signs of having trouble repaying his current commitments.

I am therefore upholding Mr B’s complaint about this loan.

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 Mr B, 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 B 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 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 Mr 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 Mr B his loan.

A. MoneyBoat should add together the total of the repayments made by Mr B towards interest, fees and charges on the loan.
B. MoneyBoat should calculate 8% simple interest* on the individual payments made by Mr B which were considered as part of “A”, calculated from the date Mr B originally made the payments, to the date the complaint is settled.
C. MoneyBoat should pay Mr B the total of “A” plus “B”.
D. MoneyBoat should remove any adverse information recorded on Mr B’s credit file in relation to the loan.

*HM Revenue & Customs requires MoneyBoat to deduct tax from this interest. MoneyBoat should give Mr B 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 B's complaint.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 August 2023.

Robert Walker
Ombudsman