

The complaint

Mr T complains that Evergreen Finance London Limited trading as MoneyBoat.co.uk (MoneyBoat) provided him with loans without carrying out the proper checks. Had it done so, MoneyBoat would've realised these loans weren't affordable for him.

What happened

Mr T was advanced two loans, a summary of his borrowing can be found below.

loan number	loan amount	agreement date	repayment date	instalments	instalment amount
1	£500.00	07/05/2021	28/07/2021	3	£229.33
2	£800.00	28/07/2021	outstanding	6	£248.33

Mr T has had some problems repaying his final loan and MoneyBoat has said an outstanding balance remains due.

Following Mr T's complaint, MoneyBoat wrote to him to explain it had carried out affordability checks which showed Mr T could afford the loan repayments. Unhappy, Mr T then referred the complaint to the Financial Ombudsman.

An adjudicator reviewed the complaint and he thought MoneyBoat shouldn't have provided either loan. He said the credit check for loan 1 showed a number of outstanding payday loans as well as defaults and delinquent accounts, which ought to have prompted further checks by MoneyBoat. Had further checks been carried out MoneyBoat wouldn't have approved either of these loans because Mr T was spending significant sums on gambling.

MoneyBoat didn't agree with the adjudicator's assessment. MoneyBoat accepted that at loan 1 there was some adverse information but there had been no adverse entries recorded on Mr T's credit file within the last year – the most recent being March 2020. MoneyBoat also couldn't see the payday loans in the credit report which the adjudicator had mentioned.

Finally, MoneyBoat believed it wouldn't have known about Mr T's gambling as it doesn't think additional checks were needed.

As no agreement could be reached, the case was passed to me to decide. I then issued my provisional decision explaining the reasons why I was intending to not uphold Mr T's complaint. A copy of the provisional findings follows this in smaller font and forms part of this final decision.

Both parties were asked to provide anything further for consideration as soon as possible, but no later than 10 May 2023.

MoneyBoat didn't respond to or acknowledge the provisional decision.

Mr T responded and I've summarised his email below:

- The loans were irresponsibly provided.
- Had MoneyBoat looked at his bank statements it would've seen the gambling transactions and therefore it wouldn't have provided the loans.
- Mr T said he's seen examples of similar complaints to his on our website which have been upheld (and he provided a screen shot on one that he found).

Mr T provided a copy of his bank statements covering the period of January 2021 to July 2021 – the period of time when his loans were approved.

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 T 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 T'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 T. These factors include:

- Mr T 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 T 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 T 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 T.

MoneyBoat was required to establish whether Mr T 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 T 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 T's complaint.

What I said in the provisional decision

Loan 1

MoneyBoat has shown that as part of the affordability assessment it asked Mr T for details of his income and expenditure. Mr T's income has been recorded as being £3,000 per month.

Mr T also declared his monthly outgoings were £1,750 – which covered costs such as rent, food, credit commitments, transport and 'other'. However, following further checks (including a credit search which I comment on below) MoneyBoat didn't feel there was a need to adjust Mr T's declared expenditure.

This left Mr T with disposable monthly income of £1,250. This was more than sufficient for MoneyBoat to believe Mr T could afford the largest monthly repayment of around £230. The loan, therefore, looked affordable.

Before this loan was approved MoneyBoat also carried out a credit search and it has provided the Financial Ombudsman Service with a copy of the results it received from the credit reference agency. I want to add 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 couldn't do, is carry out a credit search and then not react to the to the information it received – if necessary.

MoneyBoat was also entitled to rely on the information it was given. So, I've taken a look at the results to see whether there was anything contained within it that would've either prompted MoneyBoat to have carried out further checks or to have declined Mr T's application.

Having reviewed these results, I can see that Mr T was at the time repaying two credit cards, that were near the credit limits of £200 each – but the payments were up to date with no adverse information recorded against them. The credit check also suggested Mr T was up to date with his two outstanding loan accounts as well. But these weren't payday loans and I say this because both loans were opened in the middle of 2019. These loans were costing him £569 per month.

I accept there was some adverse information reported, for example a County Court Judgement in December 2017 and a number of historic defaults. However, I do think, these were all too far removed from Mr T's loan start date that MoneyBoat could reasonably not be concerned by them. And there was, at various points, a history of Mr T taking out and repaying payday loans. However, at the time the loan was approved, his accounts were up to date and he didn't, as far as I can see have any outstanding payday loans outstanding.

The summary page of the credit check also suggested that Mr T hadn't been a recent user of payday loans because in the six months before this loan was advanced, he hadn't been granted any new credit. Which is further evidence that Mr T wasn't stuck in a cycle of borrowing and / or was a regular current user of payday loans.

Given this was the first loan and the start of the lending relationship, I disagree with the adjudicator that the credit search results showed a number of outstanding payday loans. As a result, this means that I don't think it would've been proportionate for MoneyBoat to have reviewed Mr T's bank statements.

Overall, for loan 1, the checks MoneyBoat carried out were proportionate and showed it that Mr T would be able to afford his loan repayments. I am therefore intending to not uphold Mr T's complaint about this loan.

Loan 2

This loan was taken out on the same day that loan 1 was repaid and Mr T borrowed slightly

more to be repaid over a longer term – 6 months. I've kept this in mind when thinking about the checks MoneyBoat carried out. But loan 1 had been repaid in a satisfactory manner and that wouldn't have given MoneyBoat any cause for concern.

MoneyBoat carried out the same type of checks for this loan as it had done so for the previous one. So, it asked Mr T for his income, and he declared it to be £2,900 per month. It also asked about his expenditure, which was declared as being £1,950 per month. As before, following further checks, MoneyBoat didn't feel the need to make any adjustments to Mr T's declared expenditure. Therefore, he was left with £950 per month in disposable income in which to be able to afford his loan repayments.

A credit search was also again carried out and a copy of the results have been provided. This time, MoneyBoat was told that two new accounts had been opened in the previous six months. But I think it's reasonable to say that one of those account would've been Mr T's first loan.

The extra credit account Mr T had opened was a personal loan termed as "Finance House". However, given the value and the apparent term, this doesn't appear to have been a payday loan, but it may well have been a high-cost credit loan. Even with this monthly repayment accounted for, loan 2 still looked affordable.

The credit file shows much as the same (apart from the above new account) as was visible when loan 1 was approved. Which means while there was historic adverse data such as defaults and a history of taking out payday loans. But at this time, given what MoneyBoat already knew I wouldn't say the checks needed to go further than they did. Which means it was entitled to rely on the information Mr T had provided which showed the loan was affordable for him.

Having taken account of everything that MoneyBoat was told and provided with, I still think, even with the increase in borrowing that it was still just about reasonable for MoneyBoat to rely on the information Mr T had provided. It therefore follows that I'm going to conclude the checks were proportionate and it didn't need to do anymore.

I have looked at Mr T's bank statements, and I can see the gambling that he refers too. However, that wasn't reflected in the information MoneyBoat collected and as I've explained above, I don't think it had yet reached the stage where it needed to verify the information that was being provided by him.

I appreciate that Mr T will be disappointed with the outcome that I am intending to reach. He will still likely have an outstanding balance that needs to be repaid and I would remind MoneyBoat of its regulatory obligation to treat Mr T fairly and with forbearance when working with him.

Further considerations

I have considered the additional comments provided by Mr T and having done so, in this instance, it hasn't changed my mind about the outcome that I was intending to reach, and I've explained why below.

I have thought about the complaint example Mr T has provided from our website. But I do need to say that it is just an example, of what we may do in a case, depending on the individual circumstances which may include but not be limited to the information declared by the consumer, the level and types of checks the lender conducted (and what those checks showed).

Based on the individual circumstances of Mr T's complaint – and considering the approach that we take to what a proportionate check may show, I am not satisfied that the information MoneyBoat gathered either from Mr T or from the credit check it carried out would've or should've prompted it to have carried out further checks.

I accept there was some adverse information present, but in my view, it was too long before the loans were approved for MoneyBoat to think that Mr T had current financial difficulties and or / was already struggling to repay his existing debts. And therefore, I don't think I can fairly say that it would've prompted MoneyBoat to have carried out further checks, such as looking at his bank statements.

And I do agree, in as much as if MoneyBoat *would've* been prompted to verify or check Mr T's financial position, then looking at the bank statements he has provided than its clear the loans wouldn't have been granted. But for the reasons previously explained, I don't think it reached the point where bank statements needed to be reviewed, and as such, MoneyBoat wouldn't have been aware of Mr T's gambling transactions.

Having reviewed Mr T's comments and evidence I have reached the same outcome as I did in the provisional decision. MoneyBoat carried out proportionate checks which showed it that the loans were affordable.

I do not uphold Mr T's complaint, but an outstanding balance remains due and I would remind MoneyBoat of its obligation to treat Mr T fairly and with forbearance – if necessary.

My final decision

For the reasons I've explained above and in the provisional decision, I'm not upholding Mr T's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 9 June 2023.

Robert Walker
Ombudsman