DRN-4365090

## The complaint

Mr S complains Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") provided him with loans he couldn't afford to repay.

## What happened

Mr S was granted three loans and I've outlined his borrowing history in the table below.

| loan number | loan amount | agreement date | repayment date | number of monthly instalments | highest repayment per loan |
|---|---|---|---|---|---|
| 1 | £400.00 | 10/02/2022 | 25/03/2022 | 2 | £240.73 |
| 2 | £600.00 | 28/03/2022 | 24/06/2022 | 3 | £285.96 |
| 3 | £400.00 | 04/07/2022 | outstanding | 2 | £251.85 |

MoneyBoat considered the complaint and concluded it had made a reasonable decision to provide these loans. Unhappy with this response, Mr S referred his complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, who didn't uphold it. She said MoneyBoat had reasonable grounds to believe Mr S could afford the loans and that it had carried out proportionate checks. And there wasn't anything in the information MoneyBoat gathered to suggest that Mr S was gambling.

Mr S didn't agree saying he had been sent emails (and a copy of one was provided) by MoneyBoat asking to view bank statements before it would release any further funds. Bank statements weren't provided by him yet a loan was still issued – loan three. Mr S reiterated that had bank statements been seen by MoneyBoat it wouldn't have lent to him due to his gambling.

The adjudicator made some further enquires with MoneyBoat about its request for bank statements. After a response was received, the adjudicator wrote to Mr S to explain the request for bank statements was due to him asking for a loan of £1,100. However, Mr S had also made an application for £400 (loan three) and MoneyBoat had contacted him to find out which loan he wanted to continue with. As loan three was requested MoneyBoat didn't believe it need to see his bank statements.

As no agreement could be reached the case was passed for a decision. I then proceeded to issue a provisional decision explaining the reasons why I was intending to uphold Mr S's complaint in part.

Both parties were asked to provide any further submissions as soon as possible, but in any event, no later than 20 September 2023.

MoneyBoat acknowledged the provisional decision and it explained it accepted the findings and Mr S hasn't responded.

A copy of the provisional findings follows this in smaller font and forms part of this final decision.

**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 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 have 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 consider it reached the point in the lending relationship where this applied and as there were three loans granted in a little over five months I also agree with the adjudicator.*

*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, 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.*

*Before each loan was approved, MoneyBoat asked Mr S for details of his income, which he declared as marginally increasing with each loan – from £1,800 for loan one to £2,045 by loan three. MoneyBoat says the income figures were checked through a third-party report but a copy of this report hasn't been provided.*

*Mr S also declared monthly outgoings of £750 for loan one and then £550 for loans two and three. As part of the application, MoneyBoat used information from its credit searches (which I'll come onto discuss below) and from the "Common Finance Statement" to adjust the declared expenditure Mr S had provided. As a result, of this check, Mr S's monthly* *expenditure was increased by £100 per month for loan one and £300 per month for loans two and three.*

*Mr S didn't declare any rent or mortgage costs, which may have alerted MoneyBoat that Mr S may have had undeclared expenditure. However, MoneyBoat says that Mr S – as part of his applications explained he lived at home with parents. Which would explain why the minimum housing costs. It was also reasonable for MoneyBoat to have relied on what Mr S had declared.*

*For Mr S's complaint this means that for each loan, MoneyBoat considered Mr S's outgoings, amounted to £850 per month and it was this figure which was used for the affordability assessment and after carrying out these checks, MoneyBoat was satisfied Mr S could afford the loans.*

*Before each loan was approved MoneyBoat also carried out a credit search and it has provided the results it received from the credit reference agency. It is worth saying here that although MoneyBoat carried out credit searches, 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 information it received – if necessary.*

*I've reviewed the credit check results, and when loans one and two were approved the results are much the same. MoneyBoat knew that Mr S had five current accounts and at least four credit cards but these were within the credit limits and there was no sign that Mr S had recently had repayment problems.*

*Having thought about loans one and two, taking into account what MoneyBoat was told by Mr S and what it discovered in the credit checks, I am intending to not uphold Mr S's complaint about them as a proportionate check was carried out which showed MoneyBoat that these loans were affordable.*

***Loan 3 credit checks***

*But the credit check results for loan three were significantly different. In addition to the credit cards and the current accounts there were now a number of active loans (in addition to the MoneyBoat loans that had been recorded on the credit report).*

*Mr S had one active home credit loan and four other loans termed as "Finance House". On balance those Finance House loans were likely to be either payday loans or instalment loans given the term and monthly repayment amount. The total cost to service these loans was £909 – which isn't far short of 50% of Mr S's declared income. And of course, on top of this Mr S also had credit cards that needed repaying, so his commitments would've been higher still – and he still had the declared living costs.*

*MoneyBoat also knew that as part of his application Mr S declared that his outgoings- for credit commitments was zero. This clearly couldn't have been accurate and MoneyBoat was given information to suggest these costs were significantly more.*

*Knowing this, as well as the rapid increase in borrowing (both from MoneyBoat and other lenders) which the credit check showed, than I do think MoneyBoat ought to not have lent given the number of outstanding high-cost credit loans as well as the amount Mr S was already committed to spending on such loans meant that any further borrowing wasn't likely to be sustainable for him.*

*Indeed, although MoneyBoat wouldn't have known this at the time, Mr S has gone on to have problems repaying the loan. In response to this provisional decision, MoneyBoat should provide an updated statement of account.*

*Overall, I'm intending to not uphold Mr S's complaint about loans one and two. However, I am intending to uphold Mr S's complaint about loan three and I've outlined below what MoneyBoat needs to do in order to put things right for him.*

***Other considerations***

*Mr S, in response to the adjudicator explained that he had been asked by MoneyBoat to provide copy bank statements before it would release the funds. This is because, at the time he had an outstanding loan application for £1,100 – however this loan application didn't proceed and wasn't funded.*

*I'm not intending to review this element of the complaint, because I've already concluded the credit checks result MoneyBoat received for loan three ought to have led it to conclude that Mr S couldn't afford to repay the final loan in a sustainable manner.*

## 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.

Neither party had anything further for my consideration and MoneyBoat was clear that it accepted the findings in the provisional decision. I therefore see no reason to depart from the findings which I reached in the provisional decision, and I still think MoneyBoat shouldn't have granted loan three.

I'm therefore upholding Mr S's complaint in part and I've outlined below what MoneyBoat needs to do in order to put things right.

## 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 three to Mr S, 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 Mr S may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this particular lender which they may not have had with others. 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 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 granted loan three.

If MoneyBoat has sold the outstanding debt MoneyBoat should buy it back if it is able to do so and then take the following steps. If MoneyBoat can't buy the debt back, then MoneyBoat should liaise with the new debt owner to achieve the results outlined below.

A. MoneyBoat should remove all interest, fees and charges from the balance of loan three, and treat any repayments made by Mr S as though they had been repayments of the principal. If this results in Mr S having made overpayments then MoneyBoat should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled.
B. However, if there remains an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Mr S and I would remind MoneyBoat of its obligation to treat Mr S fairly and with forbearance.
C. MoneyBoat should remove any adverse information recorded on Mr S's credit file in relation to loan three.

*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 and in the provisional decision, 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 directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 November 2023.

Robert Walker
**Ombudsman**