

The complaint

Mr B complains Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") provided him with loans he couldn't afford to repay. Mr B says that in order to repay the loans he had to borrow money from other loan providers.

What happened

Mr B was granted five loans by MoneyBoat, 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	£500.00	06/06/2018	28/01/2019	6	£147.42
2	£1,000.00	07/02/2019	28/06/2019	5	£321.69
3	£500.00	02/07/2019	01/10/2019	4	£192.40
4	£400.00	02/10/2019	28/11/2019	6	£121.09
5	£1,000.00	02/12/2019	30/07/2020	6	£296.17

MoneyBoat considered the complaint and concluded it had made a reasonable decision to provide these loans because it had carried out proportionate checks. Unhappy with this response, Mr B referred his complaint to the Financial Ombudsman.

The complaint was considered by an adjudicator, who partly upheld it. She didn't think MoneyBoat had done anything wrong when loan one was granted. But she upheld the rest of the loans.

She could see that Mr B had encountered some problems repaying loan one and so when he returned for loan two – which was for twice the amount than further checks ought to have been carried out. Had these additional checks been made, MoneyBoat would've likely discovered Mr B had other outstanding payday loans and betting transactions.

Finally, by the time of loan five she thought the lending was now harmful for Mr B and so the lending was unsustainable for him at this point in time.

MoneyBoat didn't fully agree with the outcome. It explained that loan one was repaid late but this was due to an issue with Mr B's card rather than signs he was having difficulties, and then the loans decreased in value. So MoneyBoat didn't think it should put things right for loans two, three and four. But it did accept loan five may not have been sustainable for Mr B.

The adjudicator made some further enquires with MoneyBoat about the missed payment for loan one. But even then, her view about the complaint didn't change.

As no agreement could be reached the case was passed to me and I issued a provisional decision explaining the reasons why I was intending to uphold Mr B's complaint in part as the adjudicator recommended but I provided some further reasoning.

Both parties were asked to provide any further submissions as soon as possible, but in any event, no later than 18 October 2023.

Mr B confirmed he had received the provisional decision, agreed with the proposed outcome and he had nothing further to submit.

MoneyBoat also confirmed it had received the provisional decision and didn't have anything further to add.

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 B 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 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 thought it had reached this point in the lending relationship by loan five.

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

Mr B appears to have accepted the adjudicator's findings that she made, which included not upholding loan one and MoneyBoat has now accepted that loan five ought to not have been granted either. In my view these loans are no longer in dispute, so I won't be making a finding about them. But I have included, what MoneyBoat needs to do in order to put things right for Mr B for loan five at the end of the decision.

Loans 2 – 4

The adjudicator upheld this loan due to problems repaying loan one – Mr B was in effect a month late with settling the loan. And in some situations that could be solely a sign that the loan wasn't actually affordable. MoneyBoat, in response to the adjudicator provided copy of contact notes between itself and Mr B.

These notes show that it was the payment due in July 2018 – the second one that Mr B was due to make for loan one where there was an issue. An email was sent to Mr B from MoneyBoat after it was alerted the bank details weren't correct and it wanted Mr B to contact it to update them.

MoneyBoat then says it made at least 10 attempts to speak to Mr B, however it wasn't until 28 August 2018 that a payment was received – but Mr B paid only around half what he should've done. However, after this August 2018 payment Mr B then made his payments as expected.

I've thought about this, and the missed payment is I think something MoneyBoat needed to consider. I accept it was early on in the lending relationship, but when Mr B did then make contact he didn't fully make up his repayment – which considering his declared income and expenditure ought to have alerted MoneyBoat that maybe there was something else going on.

Before the loan was approved, MoneyBoat asked Mr B for details of his income, which he declared as being the same as when loan one was advanced - £3,700 per month.

MoneyBoat says the income figure was checked through a third-party report but a copy of this report hasn't been provided.

Mr B also declared monthly outgoings of £1,200. As part of the application, MoneyBoat used information from its credit search (which I'll come onto discuss below) and from the "Common Finance Statement" to adjust the declared expenditure Mr B had provided. As a result, of this check, Mr B's monthly expenditure was increased by £760.

Just from the income and expenditure checks, MoneyBoat would've been confident that Mr B would've likely been able to afford his loan.

Before the 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.

The credit results showed that there were 10 defaults on Mr B's credit file but the majority of them had been recorded in 2016 into the start of 2017. Mr B must have had financial difficulties at this time due to the number of defaults which were recorded. At least two of the defaults were still being repaid through some sort of repayment plan, while the remaining defaults had been settled / satisfied.

So, while, Mr B had a number of defaults, these were historic in nature, and I don't think MoneyBoat would've been too concerned considering their status by the time of the loan

applications. Although it's worth saying that, on one of the bank accounts Mr B had some adverse credit file data being reported around 10 months before this loan was approved – which needed considering.

In terms of open accounts when loan two was advanced, Mr B had two current accounts, one with an overdraft but Mr B was within its limit. There was also one credit card, again Mr B was within his limit and there hadn't been any adverse payment information. Finally, there was one outstanding loan, that Mr B had taken in October 2018, and he was contracted to pay £153 per month. These payments had been made without any apparent difficulty.

However, there is one account that was being marked as being in delinquency – and was updating each month as being “6” months in arrears – although the account hadn't yet defaulted. Mr B ought to have been paying £186 per month towards this loan but the payment history suggests that wasn't happening. But the account had been in delinquency for some time. Again, this ought to have prompted some further concern by MoneyBoat given the other credit file data, the issues with repaying loan one and then he quick returned for significantly more borrowing.

So, I do think, like the adjudicator that MoneyBoat ought to have done further, more in-depth checks before it approved loan two – and all future loans. Given firstly with what happened with the repayment for loan one but secondly, due to the other information MoneyBoat had to hand.

These further checks could've been done a number of ways, it could've asked for evidence of Mr B's income or it could've asked to see copy bills or copy bank statements.

I've been able to locate copy bank statements that were provide to the Financial Ombudsman on another complaint, and so I think it's entirely reasonable to consider these statements in order to see what MoneyBoat may have discovered had it made better checks.

Had better checks been made, MoneyBoat would've discovered that Mr B was making full use of a revolving credit facility – which was costing him around £1,300 per month. On top of this, the statements showed a significant amount of gambling transactions – which in the last week of January 20219 alone was more than Mr B received in income. So further checks on loan two would've showed MoneyBoat that Mr B couldn't afford his repayments.

A similar position would've been discovered had MoneyBoat carried out proportionate checks for the other loans – which would've been similar to the ones carried out at the time of loan two. It would've discovered Mr B was still spending more than his income each month on gambling transactions and therefore it would've concluded that loans three and four were also not affordable.

It therefore follows that I am intending to uphold Mr B's complaint about loans these loans.

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 both Mr B and MoneyBoat have agreed with the provisional decision, I see no reason to depart from those findings here. And I still don't think MoneyBoat ought to have advanced loans two, three, four and five to Mr B for the same reasons that I gave in the provisional decision. I am upholding Mr B's complaint in part.

I've outlined below what MoneyBoat needs to do in order to put things right for Mr 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 stopped lending to Mr B from loan two, 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 B 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 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.

I am satisfied that MoneyBoat shouldn't have granted loans two, three, four or five to Mr B and if it hasn't already done so, it needs to do the following to put things right.

- A. MoneyBoat should add together the total of the repayments made by Mr B towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything that has already refunded.
- 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 loans two, three and four. The overall pattern of Mr B's borrowing for loan five means any information recorded about it is adverse, so MoneyBoat should remove this loan entirely from Mr B's credit file.

*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 and in the provisional decision, I'm upholding Mr B's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 November 2023.

Robert Walker
Ombudsman