

## The complaint

Mr S, through his representative, complains that Evergreen Finance London Limited, trading as MoneyBoat.co.uk ("MoneyBoat"), lent to him irresponsibly.

## What happened

Using information from MoneyBoat here is a brief loan table.

loan number	loan amount	agreement date	repayment date	number of weekly instalments	highest repayment per loan
1	£200.00	16/03/2020	14/04/2020	4	£56.65
2	£200.00	17/04/2020	19/05/2020	4	£57.77
3	£500.00	22/05/2020	27/04/2021	6	£100.81

After Mr S' representative had complained to MoneyBoat on his behalf, it sent the final response letter (FRL). That FRL outlined the reasons MoneyBoat gave as to why it considered sufficient and proportionate checks had been done and it did not uphold Mr S' complaint. That FRL included the facts which were that:

- it increased Mr S' declared expenditure sums in line with its own research;
- still Mr S had between £460 and £550 left over each month with which to afford the MoneyBoat loans;
- between September 2019 and August 2022 Mr S had applied for credit ten times;
- it had declined loans for Mr S in the past;
- when it had approved a loan, it was for less than the sum Mr S had applied for;
- before approving loan 3 it had asked Mr S to confirm several things to assure MoneyBoat as to his situation. Mr S did that.
- it was aware of Mr S' historic County Court Judgments (CCJs).

Mr S' representative referred the complaint to the Financial Ombudsman Service in December 2022. One of our adjudicators considered it and he thought that the four CCJs registered in the searches MoneyBoat carried out showed he was not managing his money. And it was not just the presence of the CCJs but also the fact that Mr S had failed to repay the judgment debts which came to over £5,400. So, our adjudicator thought that MoneyBoat should not have lent to Mr S at all.

MoneyBoat disagreed and the unresolved complaint was passed to an ombudsman to decide.

Having reviewed the complaint, the ombudsman asked Mr S for additional information about his finances. These queries included more information about why he had not repaid the judgment debts which dated from September 2016 to March 2018. The ombudsman also asked about his existing residential mortgage which had been in a state of '*delinquency*' since November 2019. Finally, she asked what it was that had changed after Mr S had repaid five of the six instalments for loan 3.

MoneyBoat provided details about the declined loans including the dates and reasons for them being refused. Those details were:

*'There were two applications 10/6/20 and 11/6/20 - these were not progressed as the previous loan taken was still running.*

*As well:*

*11/9/2019: Failed lending assessment.*

*11/12/2019: Failed lending assessment*

*There were as well three after our loans, 18/9/2021 and two on 10/8/2022 which also failed our assessment process.'*

Mr S' responded in part to the requests for more details and told us *'I lost my job in 2015. And I was in and out of employment.'* Mr S also sent us bank account statements from December 2019 to end of June 2020.

My colleague issued a provisional decision setting out her thoughts of the complaint in September 2023 and a copy of her provisional decision can be found below, in smaller font and it forms part of this final decision.

Both parties have been given an opportunity to raise any new points they wanted to make before a final decision is made.

Mr S's representative acknowledged the provisional decision but didn't have anything further to add.

MoneyBoat said it had nothing further to add but it did confirm that loan three had been repaid in April 2021.

### **What was said in the provisional decision:**

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*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've considered a number of different things, such as how much was being lent, the size of the repayments, and Mr S' income and expenditure.*

*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 (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.*

*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' complaint.*

*The amended loan table combined with the information from MoneyBoat about the refused and 'non-progressed' loans looks like this:*

<i>loan</i>	<i>date applied</i>	<i>outcome of application</i>	<i>repaid date</i>
	<i>11 September 2019</i>	<i>Failed lending assessment</i>	
	<i>11 December 2019</i>	<i>Failed lending assessment</i>	
<i>1</i>	<i>16 March 2020</i>	<i>£200 funded</i>	<i>16 April 2020</i>
<i>2</i>	<i>17 April 2020</i>	<i>£200 funded</i>	<i>19 May 2020</i>
<i>3</i>	<i>22 May 2020</i>	<i>£500 funded</i>	<i>Defaulted - closed 27 April 2021</i>
	<i>10 June 2020</i>	<i>Not progressed as loan 3 still in place</i>	
	<i>11 June 2020</i>	<i>Not progressed as loan 3 still in place</i>	
	<i>18 September 2021</i>	<i>Failed lending assessment</i>	
	<i>10 August 2022</i>	<i>Failed lending assessment</i>	

*There were two failed loan applications within a relatively short period before loan 1, plus MoneyBoat likely had the CCJ records. The most recent one was from March 2018 so not that long before Mr S had first applied to it in September 2019.*

*The CCJs on their own do not necessarily lead me to think that the loan applications ought to have been refused, but together with the declined loan applications in September and December 2019 then I think that MoneyBoat ought to have got to the bottom of Mr S' financial situation before approving any loans for him. So, I think that additional checks ought to have been carried out by MoneyBoat.*

*One way to have done this would have been to have asked for details of Mr S' income using payslips and other documents to show his expenditure. Another more convenient method to see what Mr S' income and expenditure was, would have been to have reviewed bank statements. I appreciate they do not present all the details or facts but I consider it reasonable to review those provided by Mr S.*

*I've reviewed those bank statements sent to me from late December 2019 onwards. Mr S' wages looked to be about £280 a week – sometimes up to £310 a week. That translates to have been around £1,200 to £1,300 each month after tax. I do not consider that to have been a high wage.*

*Mr S was paying £25 a week to a debt collector for two accounts. From 22 January 2020 he was paying a further £12 to a second debt collector for a third account. This changed in February 2020 to the repayment of just one for £12 a week. In March 2020 this changed again to be the payment of a total of just under £43 a week to three different debt collectors.*

*Mr S was using the services of a high-cost lender linked to his bank account which provided funds to be drawn down and then these were repaid with his wages automatically. Mr S was drawing down money every week and repaying regular as these repayments often are taken automatically and often were the same amount as his wages.*

*In relation to his outgoings – the only ones I can see which were regular were to a media company around £100 a month plus to a credit card around £20 which looked to have been a minimum repayment. Mr S appeared to repay a company I'll call 'KR' which offered savings and mortgages and as I know Mr S was in delinquency status with his mortgage I think those occasional repayments were to that mortgage account rather than savings. I cross-referenced these details from the statements with the credit file searches MoneyBoat had done and have sent to us and it seems that these repayments dovetailed with the reduction of the overall balance on the mortgage debt.*

*Loan 1 was approved just as the Covid 19 national pandemic and lockdown commenced. I note that Mr S' salary reduced and he started to claim Universal Credit from 6 April 2020. These alterations may have been linked with the lockdown arrangements.*

*As I have already indicated, I had reviewed the credit search results MoneyBoat had sent to us before asking Mr S for additional information. From those I have seen that Mr S had poor repayment status, was taking cash advances on his credit card(s), had active CCJs amounting to over £5,400, and his mortgage account was in 'delinquent' status. The scheduled repayments were meant to be £331 a month and as I have already indicated the bank statements appear to show that Mr S was repaying to it as and when he could and often much lower sums than £331. So, it was unlikely Mr S was going to be able to catch-up on these arrears.*

*I've reviewed the credit search results for when Mr S applied for loans 2 and 3 and the situation had not much improved.*

*Overall, I consider that MoneyBoat ought not to have lent to Mr S. I am planning to uphold Mr S' complaint.*

*I do not know the up-to-date position on loan 3 as the MoneyBoat account notes for that loan end in December 2022.*

### **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.

Both Mr S's representative and MoneyBoat had nothing further to add in response to my colleague's provisional decision. Having reconsidered everything, I am in agreement with the outcome that my colleague reached, and I see no reason to depart from those findings.

MoneyBoat has confirmed that the final loan has been repaid, and in order to avoid a further provisional decision I've kept the redress calculation the same because it will still lead to Mr S receiving a refund of any interest, fees and charges.

Therefore, MoneyBoat shouldn't have granted any of the loans to Mr S and I've outlined below what it 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 to Mr S at all 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 S may have simply left matters there, not attempting to obtain the funds from elsewhere. 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 reconstruct now accurately.

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 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 given Mr S any of the loans.

- A. MoneyBoat should add together the total of the repayments made by Mr S towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything it has already refunded.
- B. MoneyBoat should calculate 8% simple interest\* on the individual payments made by Mr S which were considered as part of "A", calculated from the date Mr S originally made the payments, to the date the complaint is settled.
- C. MoneyBoat should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mr S as though they had been repayments of the principal on all outstanding loans. 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. MoneyBoat should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance remaining on outstanding loans. If this results in a surplus then the surplus should be paid to Mr S. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Mr S.
- E. MoneyBoat should remove any adverse information recorded on Mr S's credit file in relation to the loans.

\*HM Revenue & Customs requires MoneyBoat to deduct tax from this interest. MoneyBoat should give Mr S a certificate showing how much tax it has deducted if he asks for one.

### **My final decision**

For the reasons explained above and in the provisional decision, I'm upholding Mr S's complaint.

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 11 December 2023.

Robert Walker  
**Ombudsman**