

## The complaint

Mr C complained through a representative that Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") failed to take reasonable steps to ensure the loans it lent him were affordable.

## What happened

A summary of Mr C's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	highest repayment per loan
1	£200.00	07/07/2021	26/10/2021	4	£73.99
2	£400.00	29/10/2021	10/01/2022	6	£121.75
3	£500.00	06/02/2022	08/02/2022	6	£143.91
4	£750.00	19/04/2022	05/07/2022	6	£200.97

MoneyBoat considered the complaint and concluded it had made a reasonable decision to provide these loans because it had carried out proportionate checks which showed Mr C could afford them. Unhappy with this response, Mr C's representative referred his complaint to the Financial Ombudsman.

The complaint was considered by an investigator, and she didn't uphold it because she thought MoneyBoat had made a reasonable decision to provide these loans.

Mr C's representative didn't agree with her findings, saying when the first loan was approved, Mr C had a number of defaulted accounts as well as accounts in debt recovery. In addition, there was other missed payments and cash advances in the month before the loan was approved.

As no agreement could be reached the case was passed to me to and I proceeded to issue a provisional decision in which I explained why I thought Mr C's complaint should be upheld in full.

Both parties were asked for any further submissions, but these needed to have been received no later than 28 December 2023.

Neither Mr C nor his representative responded to or provided any further submissions.

MoneyBoat responded and said it had nothing further to add.

A copy 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 C 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 C'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 C. These factors include:*

- Mr C 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 C 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 C 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 C. The adjudicator didn't think this applied in Mr C's complaint, given the number and value of the loans and I agree.*

*MoneyBoat was required to establish whether Mr C 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 C was able to repay his loans sustainably. But it doesn't automatically follow that this is the case.*

*I've considered all the arguments, evidence and information provided in this context, and thought about what this means for Mr C's complaint.*

## **Loan 1**

*Before the loan was approved, MoneyBoat asked Mr C for details of his income, which he declared as being £2,050 per month. MoneyBoat says the income figure was checked through a third-party report for its accuracy.*

*Mr C also declared monthly outgoings of £950. My understanding is that MoneyBoat would likely have used information from its credit search results (which I'll come onto discuss below) and / or from the "Common Finance Statement" to potentially adjust the declared expenditure Mr C had provided. As a result, of this check, Mr C's monthly expenditure wasn't changed by MoneyBoat.*

*Just from the income and expenditure checks, MoneyBoat would've been confident that Mr C 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 check results do show that historically, Mr C had some significant financial difficulties. He had three County Court Judgements (CCJs) recorded against him between April 2019 and February 2020 – all of these remained active, and he hadn't settled any of*

*them when this loan was approved.*

*MoneyBoat was also told that Mr C had defaulted on nine accounts between 13 months and 3 years before this loan was advanced. With the most recent default having been recorded in February 2020. And these defaults were in various stages, one had been satisfied, four were being repaid through debt collection companies which was costing Mr C £41 per month. There were also other defaults where it appears he wasn't making any repayments at all.*

*So clearly, in the not-too-distant past Mr C had some significant financial difficulties to the extent that he defaulted on a number of accounts and number of these creditors then sought further recourse through a CCJ. In this case, I do think MoneyBoat needed to factor the payments in that Mr C was making to the debt collection companies but I don't think the defaults or the CCJs would've been of too much of a concern to MoneyBoat given how long ago they were advanced. These alone were not enough to uphold the complaint.*

*I also understand what MoneyBoat is saying that it doesn't just refuse credit to potential customers due to adverse credit file information – and in some situations I would agree especially if the adverse data was mostly historic and so wasn't likely an indicator of current financial difficulties.*

*However, if there is current adverse credit file data – that does pose questions because it is demonstrating that a customer is likely having current financial difficulties. Indeed, if arrears are increasing each month due to non-payment that is according to the regulations in the Consumer Credit Sourcebook (CONC 1.3) a sign of financial difficulties.*

*For loan 1, MoneyBoat was told Mr C was in delinquency with a home credit account. This has been in arrears for around a year and was currently the equivalent of 3 months' worth of missed payments in arrears. But, importantly, for this loan Mr C ought to have been paying £86 per month and he was currently only paying £40 per month towards the balance. Which to me demonstrates that Mr C wasn't in a position to make his full contractual repayments.*

*Mr C was also in delinquency with a credit card that had a balance of £1,287 and as recently as February 2021 Mr C had been over his credit limit of £1,320. He was currently paying the credit card at a rate of £10 per month. But as Mr C was over his credit limit the minimum payment ought to have been greater than this. So, I do think Mr C was also now in some sort of repayment plan.*

*Overall, Mr C had two credit accounts in delinquency – a home credit loan and a credit card to the extent that he wasn't able to make the contractual repayments on his existing credit commitments. So, I do wonder, how and why MoneyBoat thought he could afford to take on this loan when he was already demonstrating that he wasn't on top of his current credit commitments.*

*MoneyBoat was also on notice that as part of the application Mr C declared that he was paying £300 per month to service his debts – when based on the credit check results, he was actually paying nearly £700 per month.*

*I do think it's arguable, that this information alone ought to have been enough for MoneyBoat not to have advanced this loan to Mr C. But even if you were to argue that it wasn't sufficient for the application to be declined, I do think it was incumbent on MoneyBoat to have made further enquires with Mr C to establish what was actually going on with his finances and to find out why he wasn't able to meet his existing credit commitments.*

*So, I do think, MoneyBoat ought to have done further, more in-depth checks before it approved this loan – and all future loans. These further checks could've been done a number of ways, it could've asked for evidence of Mr C's income, or it could've asked to see copy bills or copy bank statements.*

*Mr C has provided copy bank statements covering the period of time this loan was approved*

*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 likely discovered that Mr C – in June 2021 he was spending significant sums each month on gambling transactions. Which has led me to conclude that had MoneyBoat conducted further checks, which is what I think it needed to have done, it would've likely discovered that the loan was neither affordable or sustainable for Mr C.*

*It therefore follows that I am upholding Mr C's complaint about this loan.*

## **Loans 2 – 4**

*MoneyBoat carried out the same sort of checks for these loans as it had done for loan 1, gathering information from Mr C about his income and expenditure, which did show MoneyBoat that the loan repayments were likely affordable. Details of the information Mr C declared can be found in MoneyBoat's final response letter.*

*Credit searches were also carried out and they showed much the same as they did for loan 1. It knew that Mr C was struggling to repay a home credit loan, and he didn't repay that loan until November 2021 – which does seem to have been later than planned given he wasn't making the contractual repayments.*

*He also demonstrated a continued need to obtain new credit on a regularly bases, so for example by loan 4, Mr C had opened 5 new credit accounts within the preceding 6 months and these seem to have been home credit loans and other high-cost credit and / or unsecured loans.*

*As before, I still think MoneyBoat needed to have carried out further checks, and I've again used the copy bank statements provided by Mr C but of course MoneyBoat could've used other information and documentation but as I have these to hand, its entirely reasonable to review them.*

*Any further checks into Mr C's finances, would've likely discovered, for each loan much the same as MoneyBoat ought to have seen for loan 1. It would've discovered that Mr C was spending significant sums each month on gambling transactions and those sums made the loans not just unaffordable, but also unsustainable.*

*I am therefore also intending to uphold Mr C's complaint about loans 2 – 4 as well and I've set out below what MoneyBoat needs to do in order to put things right for him.*

## **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 neither party has provided any new submissions, I see no reason to depart from the findings I reached in the provisional decision. I still don't think MoneyBoat ought to have approved any of the loans for Mr C given what the credit check results showed and what a review of his bank statements would also have potentially identified. Mr C couldn't afford these loans.*

*I've outlined below what MoneyBoat needs to do in order to put things right for Mr C.*

## **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 C, 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 C 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 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 C 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 C 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 lent to Mr C.

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

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

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 1 February 2024.

Robert Walker  
**Ombudsman**