DRN-4682198

The complaint

Miss M complains through a representative that Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") provided her with loans without carrying out proportionate checks.

What happened

A summary of Miss M's borrowing can be found in the table below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£400.00	01/11/2018	20/02/2019	4	£157.19
2	£200.00	21/03/2019	08/05/2019	2	£116.24
3	£200.00	09/05/2019	31/07/2019	2	£132.08

MoneyBoat considered the complaint about the sale of the loans and concluded it had made a reasonable decision to lend them. Unhappy with this response, Miss M's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who didn't uphold it because proportionate checks had been carried out which showed the loans to be affordable.

Miss M's representative didn't agree saying.

- The amount declared for rent was too low – without any further explanation of Miss M's living arrangements. The representative said Miss M's rent was around £563 per month.
- Mr M had recently defaulted on an account.
- In addition, at the time Miss M was over her credit limit on a credit card. By loan three she was above her limit and had three late payment markers.

The investigator explained why these points hadn't changed her mind. The complaint was then passed to me, and I issued a provisional decision explaining why I intended to uphold Miss M's complaint in part.

Both parties were asked for any further submissions as soon as possible but they needed to have been received by 13 March 2024.

Miss M's representative said it had nothing further to add. MoneyBoat didn't respond to the provisional decision.

A copy of the provisional findings follows this 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 Miss M could afford to pay back the amounts she'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 Miss M'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 Miss M. These factors include:

- *Miss M 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);*
- *Miss M 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);*
- *Miss M 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 Miss M. The investigator didn't consider this applied to Miss M's complaint and I would agree given only three loans were advanced.

MoneyBoat was required to establish whether Miss M could sustainably repay the loans – not just whether she technically had enough money to make her repayments. Having enough money to make the repayments could of course be an indicator that Miss M was able to repay her 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 Miss M's complaint.

Before these loans were approved, MoneyBoat asked Miss M for details of her income, which she declared as being £1,200 per month for loan one and £1,500 per month for loan two and £1,800 per month for loan three. MoneyBoat says the declared income figure was verified using a credit reference agency.

As part of the applications, Miss M was asked for details of her monthly expenditure, which included asking for how much she paid to rent, credit commitments, food, transport and other spending. Miss M declared monthly outgoings of £380 for loan one, £350 loan two and £340 for loan three.

MoneyBoat's also used information from Miss M's credit search results as well as considering averages in the "Common Financial Statement". Following these further checks MoneyBoat did adjust the information Miss M had provided. It added £420 per month to her outgoings for loan one, an extra £450 per month for loan two and £460 per month for loan three. Overall, this meant for each loan MoneyBoat believed that Miss M's total outgoings were around £800 per month.

Before these loans were approved MoneyBoat also carried out a credit search and it has provided a copy of the results it received from the credit reference agency for each loan. The credit file results for loan one, while showing some adverse payment information I don't think this would've been enough for MoneyBoat to have believed that the loan was either unaffordable or unsustainable and I've explained why below.

MoneyBoat was told that Miss M had at least 12 active accounts, owing around £3,400.

There also wasn't any Country Court Judgements recorded or other forms of insolvency. MoneyBoat was informed that Miss M had within the last six years defaulted on six accounts but the most recent one was recorded in August 2018. However, it looks like to me that this was the date that a debt collection agency took over the account and the account originally defaulted in July 2017. But even I am wrong about this, it doesn't change the outcome that I'm intending to reach.

The majority of the defaults were historic in nature and wouldn't have been too much of a concern to MoneyBoat. The most recent one may have been of a concern. However, this has to be weighted up against that this was the first loan where there hadn't been any new adverse payment information recorded since then, and so it would've been just about reasonable for MoneyBoat to have thought that Miss M wasn't currently experiencing financial difficulties.

At the time this loan was approved, Miss M had a number of active credit cards – but these were all within the credit limits with no adverse payment problems reported. She also had one active account that has been categorised as a payday loan and was costing her £157 per month. But the fact that Miss M had one active payday loan isn't going to be sufficient to uphold the complaint about loan one when the checks were proportionate and demonstrated that Miss M could potentially afford the loan repayment.

It was reasonable for MoneyBoat to have relied on the information Miss M provided about her income and expenditure which showed she had sufficient disposable income to afford the first loan repayments. There also wasn't anything else to suggest that Miss M was having either current financial difficulties or anything to suggest that these loan repayments would be unsustainable for her.

I've thought about what Miss M's representatives says about the rent figure being so low as not to be relied on. But I also have to factor in that MoneyBoat did add a further allowance to Miss M's monthly outgoings and taking account that this was a first loan I think that approach was reasonable.

Taking everything into account, I am intending to not uphold Miss M's complaint about loan one.

Credit check results for loans two and three

However, I think it's clear, from the credit check results for the remaining two loans that Miss M's finances were deteriorating and so MoneyBoat ought to have concluded that these loans were neither affordable nor sustainable. I've explained why below.

When loan two was granted MoneyBoat would've been aware that Miss M had problems repaying loan one and had recorded this with the credit reference agency. It was also told that a payday loan that Miss M had recently settled had also entered arrears in November 2018 – so around the same time that the adverse information was reported about Miss M's first loan.

In addition, Miss M had a total of four credit card accounts of which three had entered arrears within the last month and these arrears were being reporting. Miss M also had an active payday loan – the same one that was reported when loan one was advanced, except this time, the account was showing as being two months in arrears, and those arrears had been built in consecutive months, indicating that no payment had been made for that time.

I think it's perfectly reasonable to conclude that by loan two something had changed for Miss M. She now had three credit cards in arrears, two recently closed payday loans that had entered arrears as well as a current payday loan that was two months in arrears. Given the arrears are spread across a number of different accounts, I think it's more likely than not that this was a reflection of the fact Miss M couldn't afford her existing credit commitments rather than a one off where she may have forgotten to make a payment. In those circumstances I don't think MoneyBoat ought to have advanced loan two.

I'll also add that a similar picture is visible in the credit check results for loan three. One of the credit cards that was in arrears had been brought up to date, but the other two remained in arrears – indeed, one of the cards was further in arrears due to Miss M being over the credit limit. The payday loan that was two months in arrears was now three months in arrears which further indicated that Miss M wasn't making payments towards that loan – even though she was contracted to.

Give the obvious repayment problems that Miss M had making her payments to her other creditors which had been ongoing since the start of 2019, I struggle to understand why MoneyBoat thought that Miss M could take these loans on and then repay them in a sustainable manner.

I've outlined below what MoneyBoat needs to do in order to put things right for Miss M in relation to loans two and three only.

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 no new submissions have been made by either party, I see no reasons to depart from the findings I made in the provisional decision. I still don't think, given the results MoneyBoat received from the credit reference agency that it should have advanced loans 2 and 3.

I've therefore set out below what MoneyBoat needs to do in order to put things right for Miss M.

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 Miss M 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 Miss M 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 Miss M 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 Miss M 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 Miss M loans two and three.

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

*HM Revenue & Customs requires MoneyBoat to deduct tax from this interest. MoneyBoat should give Miss M a certificate showing how much tax it has deducted, if she asks for one.

My final decision

For the reasons I’ve explained above and in the provisional decision, I’m upholding Miss M’s complaint in part.

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

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss M to accept or reject my decision before 12 April 2024.

Robert Walker
Ombudsman