

The complaint

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

What happened

Mr C took seven loans between September 2020 and August 2021. They ranged from £200 at the beginning to £1,500 for loans 5 and 7. MoneyBoat has told us that five of the six were repaid earlier than the scheduled loan end date. Documents sent to us by MoneyBoat show that from December 2023 Mr C was in a repayment plan for loan 7 and from it remained outstanding in April 2024.

After Mr C had complained through his representative, MoneyBoat sent its final response letter (FRL) dated 19 April 2024 in which it explained why it was not upholding his complaint.

After being referred to the Financial Ombudsman Service, one of our investigators wrote his view. He considered that he needed more information about Mr C's finances for loan 5. He wrote to Mr C's representative to ask for it but received nothing. And so, he did not uphold the complaint about loans 1 to 5. Our investigator did think that MoneyBoat should put things right for Mr C for loans 6 and 7.

MoneyBoat disagreed. Mr C and his representative have not responded.

The unresolved complaint was passed to me to decide.

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.

We've set out our general approach to complaints about unaffordable/irresponsible 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've considered several different things, such as how much was being lent, the size of the repayments, and C'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 C.

These factors include:

- The consumer 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);

- The consumer 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);
- The consumer 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 the consumer. Our investigator thought that this applied to Mr C's circumstances for loans 6 and 7.

MoneyBoat was required to establish whether Mr C could *sustainably* repay the loans – not just whether he technically had enough money to make her 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.

Mr C did not respond to our investigator's view and neither did his representative, and so from that I take it to mean he has no issue with the investigator's outcome. I don't think that Mr C disagrees with the outcome being a non-uphold for loans 1 to 5. So, I've not gone into detail about those loans but they are relevant when considering the lending decisions for loans 6 and 7 which are the loans in dispute.

In addition to looking at the checks that MoneyBoat did before each loan I've also looked at the overall pattern of the lending history with Mr C, with a view to seeing if there was a point at which MoneyBoat should reasonably have seen that further lending was unsustainable, or otherwise harmful, and it should have realised that it shouldn't have provided any further loans. Given the circumstances of Mr C's case, I think that this point was reached by loan 6. Borrowing consecutively for many months highlights the fact that Mr C was likely to be having trouble making ends meet. I have considered the points made by MoneyBoat, but they do not persuade me otherwise.

Generally, Mr C was provided with a new loan shortly after the previous loan had been repaid. To me, at times, the quick up take in borrowing is a sign that Mr C was using these loans to fill a long-term gap in his income rather than as a short-term need. His first loan was for £200 and loan 7 was for £1,500. Between early May 2021 and late August 2021 Mr C had applied for £3,200 worth of credit. And so I think that by loan 6 MoneyBoat ought to have known that Consumer was not likely borrowing to meet a temporary shortfall in his income but to meet an ongoing need.

I think that by loan 6 MoneyBoat ought to have realised that Mr C was filling a hole left by the repayments for the earlier loans. And the repetitive nature of the lending was otherwise unsustainable. I say this because he had been indebted to MoneyBoat for around nine months. And after lending Mr C £1,500 in May 2021, Mr C was returning for a further loan. It was for a small amount but reviewing the credit file it had for June 2021, it's clear Mr C was taking loans every month and I think MoneyBoat ought to have been aware that there may have been an underlying problem.

Nine months was a reasonably long time to be using high cost credit, and at loan 7, Mr C was making a commitment for a further £1,500 over a further six months at around £452 a month in repayments.

I think that Mr C lost out because MoneyBoat provided loans 6 and 7:

- these loans had the effect of unfairly prolonging his indebtedness by allowing him to take expensive credit over an extended period.
- The number of loans and the length of time over which Mr C borrowed was likely to have had negative implications on his ability to access mainstream credit and so kept him in the market for these high-cost loans.

So, I'm upholding the complaint about loan 6 onwards and MoneyBoat should 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 stopped lending to Mr C at loan 6 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 – particularly as a relationship existed between him and MoneyBoat which he may not have had with others. If this wasn't a viable option, he may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, he may have decided to approach a third-party business with the same application, or indeed a different application (i.e. for more or less borrowing). But even if he had done that, the information that would have been available to such a business and how it 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 MoneyBoat would have been able to lend to Mr C 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 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.

MoneyBoat shouldn't have given Mr C loans 6 and 7.

If MoneyBoat has sold the outstanding debt on loan 7, MoneyBoat should buy it back if it is able to do so and then take the following steps. If MoneyBoat is not able to buy the debt back then MoneyBoat should liaise with the new debt owner to achieve the results outlined below.

- A) MoneyBoat should add together the total of the repayments made by Mr C towards interest, fees and charges on loan 6, not including anything it has already refunded.
- 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 remove all interest, fees and charges from the balance on any upheld outstanding loans (Loan 7), and treat any repayments made by Mr C as though they had been repayments of the principal on loan 7. If this results in Mr C 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 loan 7. If this results in a surplus then the surplus should be paid to Mr C. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Mr C.
- E) The overall pattern of Mr C’s borrowing for loans 6 and 7 means any information recorded about them is adverse, so it should remove loan 6 entirely from Mr C’s credit file. MoneyBoat does not have to remove loan 7 from Mr C’s credit file until it has been repaid, but MoneyBoat should still remove any adverse information recorded about this loan now.

I’ve considered whether the relationship between Mr C and MoneyBoat might have been unfair under s.140A of the Consumer Credit Act 1974.

However, I’m satisfied the redress I have directed should be carried out for Mr C results in fair compensation for him in the circumstances of his complaint. I’m satisfied, based on what I’ve seen, that no additional award would be appropriate in this case.

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

My final decision

My final decision is that I uphold Mr C’s complaint in part and I direct that Evergreen Finance London Limited, trading as MoneyBoat.co.uk does as I have outlined above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 10 September 2024.

Rachael Williams
Ombudsman