The complaint

Mr E complains through a representative that Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") provided him with loans when he was already experiencing financial difficulties.

What happened

Mr E was granted two loans and a summary of his borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£350.00	02/03/2017	30/06/2017	4	£135.96
break in lending					
2	£400.00	10/09/2018	24/08/2020	4	£146.75

MoneyBoat considered the complaint and concluded it had made a reasonable decision to lend because it had carried out proportionate checks which demonstrated Mr E could afford his repayments. Unhappy with this response, Mr E's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who didn't uphold it about either of the loans because the lending relationship spanned two periods and MoneyBoat had carried out proportionate checks.

Mr E's representative didn't agree with the investigator's findings saying.

- The bank statements showed Mr E was dependent on payday and short-term loans.
- MoneyBoat ought to have known about this other lender and conducted further checks into Mr E's circumstances – perhaps by looking at bank statements. Had it done so it would've seen he couldn't afford the repayments. number of monthly instalments 4 largest repayment per loan £135.96.
- Mr E was utilising 74% and 93% of the available credit limits – for each loan which is *"…very high…"*.
- The credit report showed a high number of searches within the three months preceding the credit.
- The credit report shows that Mr E's credit commitments were greater than what MoneyBoat had calculated.

These comments didn't change the investigator's mind and as no agreement could be reached the complaint was passed to me. I then issued a provisional decision explaining why I was upholding the complaint about loan one only.

Both parties were asked to provide any further comments as soon as possible, but in any event, no later than 31 October 2024.

Mr E, through his representative said he wasn't going to provide any further evidence.

MoneyBoat didn't provide any further comments about the merits outcome, but it did query whether the first loan could be considered because it had been granted more than six years before the complaint was made.

A copy of the provisional findings follows in smaller font and forms part of this final decision.

What I 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.

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 E 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 E'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 E. These factors include:

- *Mr E 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 E 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 E 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 E. The investigator considered this didn't apply to Mr E's complaint and I would agree, given only two loans were granted and there was a break between the loans.

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

Loan 1

Firstly, Mr E was asked to declare his monthly income which he said was £2,160 per month. MoneyBoat says Mr E's income was cross referenced using a tool provided by a credit reference agency. For a first loan this check into Mr E's income was reasonable.

MoneyBoat also made enquires with Mr E about his housing costs as well as his other living costs and Mr E declared these totalled £1,130 per month.

MoneyBoat then went about checking these figures firstly from information gathered from

Mr E's credit report. And it is also my understanding that MoneyBoat likely compared Mr E's declared living costs against averages found in the "Common Financial Statement". Having carried out these checks, it increased Mr E's monthly outgoings by £190 per month.

MoneyBoat calculated at a minimum that Mr E had £840 in disposable income each month to afford his loan repayment. The loan looked affordable.

MoneyBoat also carried out a credit search and it has provided the results it received from the credit reference agency and so I've considered these to see whether there was any indication that it either needed to decline Mr E's application or to have prompted it to carry out further checks.

Superficially, the credit checks didn't show anything for MoneyBoat to be overly concerned about – it knew that Mr E didn't have any defaults, County Court Judgements or any other type of insolvency recorded.

However, at the point loan one was granted, it knew that Mr E had a total of 12 loans outstanding – of which two of them had been noted as being advances against income – another name for payday loans. But of the remaining 10, given the monthly repayments that had been reported, they were most likely to be either payday loans or possibly home credit loans. The total monthly cost to repay these loans was around £950 per month.

Which of course significantly more than the £300 Mr E declared as part of his application, at the very least, MoneyBoat ought to have substituted the figure I've found about in the affordability assessment. I accept that made the loan still appear affordable, but I don't think MoneyBoat could just ignore that Mr E already had a significant amount of outstanding loans which was costing him more than 40% of his declared income – before any other living costs were considered.

It was also told that within the last six months Mr E had opened 17 new credit facilities – which is an average of nearly three per month. I do think that amount of new credit being granted along with Mr E already having a significant amount of outstanding loans ought to have led MoneyBoat to conclude that Mr E was likely borrowing from lenders in order to meet his existing credit commitments.

However, even if MoneyBoat hadn't concluded this, there are enough indicators that Mr E may have been having some form of difficulties meaning further checks ought to have been carried out to get to the bottom of Mr E's loan use.

Given the factors I've mentioned above, I do think it arguable that checks it conducted needed to go further. MoneyBoat could've verified the information in a number of ways. It could've asked to see bank statements, or have asked him questions as to why he appeared to have a need to constantly open new credit accounts.

Mr E has provided copy bank statements from the months before the loan was granted which is one way to check on a person's financial situation. I've looked at these to see what MoneyBoat may have seen had it taken similar action. It would've seen that Mr E's income was broadly in line with what he had declared.

Had MoneyBoat reviewed Mr E's bank statements it would've seen that Mr E had a total of 13 loans but 10 of them were payday loans – and it was costing to Mr E around £1,600 per month to repay these loans. This left a little over £500 to cover all the other costs that Mr E had which MoneyBoat accepted were £780 per month.

Therefore, a proportionate check would've shown MoneyBoat that Mr E couldn't afford his repayments to this loan. I am therefore intending to uphold Mr E's complaint about MoneyBoat's decision to lend.

Loan 2

There was then around a 14-month gap between Mr E repaying loan one and when he returned for loan two. This was significant enough for MoneyBoat to have in effect treated Mr E as if he was a new customer. So, while this was the second loan, it in effect becomes the first loan in a new chain of borrowing.

MoneyBoat carried out the same checks as it had done so for the previous loan. This time, Mr E declared he earned £2,205 per month. Mr E also declared his outgoings came to £1,2660 per month. MoneyBoat then went about reviewing what he had declared and this time it increased Mr E's outgoings by £135. MoneyBoat therefore concluded, based on the income and expenditure checks that Mr E could afford his repayments.

The check carried out before this loan was advanced, didn't show any signs of financial difficulties – there were no County Court Judgements, insolvencies or defaults. There was a recent missed payment on a credit card, but given the market place that MoneyBoat operates in, one missed payment wouldn't have prompted further checks especially because Mr E appears to have brought the account up to date the following month.

This time there was only one active payday loan and four credit cards. There were no signs that Mr E was regularly taking out new credit or was seeking and being declined credit. And so, it does seem that by this loan, his circumstances had changed.

As with loan one, MoneyBoat ought to have realised that the monthly credit commitments were greater than what Mr E had declared to it as part of his application. But even if MoneyBoat had substituted the amount from the credit file into the rest of the details provided by Mr E it would've likely concluded that the loan was just about affordable for him. Overall, there wasn't anything within the results to have either led MoneyBoat to decline the application or to have prompted it to conduct further checks into Mr E's circumstances, that means for the circumstances of this loan it would've been disproportionate for it to have reviewed his bank statements.

While I've considered what Mr E's representative has said about the credit utilising, I don't think that on its own would've been enough to have said that the loan was unaffordable or that Mr E was having wider money management problem.

I've also considered that this was the first loan of a new lending chain and the information given to MoneyBoat and what it found out from its own checks suggested Mr E wasn't having financial difficulties and could afford his repayments. I do not uphold Mr E's complaint about this loan.

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.

There were some concerns raised about whether the first loan was within the Financial Ombudsman Service's jurisdiction. However, MoneyBoat consented to that loan being looked at and so there are no other jurisdiction concerns that need to be addressed or remain outstanding.
As no new information was submitted by either party about the merits of the complaint, I see no reason to depart from the findings that I previously made.

I still think based on the results of the credit check MoneyBoat carried out for loan one that it should've done more before lending to Mr E. Had it done so, such as reviewing his bank statements it would've discovered the loan payments weren't affordable for him. So, I am upholding Mr E's complaint about loan one only.

I've also considered whether the relationship might have been unfair under s.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr E 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.

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 loan one to Mr E, 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 E 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 E 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 E 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 E loan one.

A. MoneyBoat should add together the total of the repayments made by Mr E towards interest, fees and charges on the loan, including payments made to a third party where applicable, but not including anything MoneyBoat have already refunded.
B. MoneyBoat should calculate 8% simple interest* on the individual payments made by Mr E which were considered as part of "A", calculated from the date Mr E originally made the payments, to the date the complaint is settled.
C. MoneyBoat should pay Mr Ethe total of "A" plus "B".
D. MoneyBoat should remove any adverse information MoneyBoat has recorded on Mr E's credit file about the loan.

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

My final decision

For the reasons given above and in the provisional decision I am partly upholding Mr E's complaint.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 11 December 2024.

Robert Walker
Ombudsman