DRN-5474801

The complaint

Mr H complains through a representative that Evergreen Finance London Limited trading as MoneyBoat.co.uk ("MoneyBoat") provided him with loans without carrying out sufficient affordability checks.

What happened

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

loan number	loan amount	agreement date	repaid date	number of monthly instalments	highest repayment per loan
1	£200.00	14/03/2018	04/04/2018	2	£121.63
2	£200.00	09/04/2018	12/04/2018	3	£91.59
break in lending					
3	£350.00	04/02/2019	28/02/2019	3	£162.84
4	£250.00	01/04/2019	01/05/2019	3	£119.88
5	£300.00	03/06/2019	29/08/2019	3	£141.93
6	£200.00	24/10/2019	20/12/2019	2	£137.81
7	£250.00	30/12/2019	23/03/2020	3	£121.46
8	£250.00	02/06/2020	31/07/2020	2	£164.13
break in lending					
9	£300.00	30/09/2021	01/01/2022	4	118.72
10	£400.00	02/01/2022	11/02/2022	4	156.25
11	£200.00	22/02/2022	28/02/2022	4	68.04
12	£400.00	08/03/2022	29/04/2022	4	151.19
13	£400.00	06/05/2022	06/07/2022	6	120.15
14	£400.00	30/08/2022	30/12/2022	4	158.98
15	£300.00	15/03/2023	28/04/2023	3	£132.05
16	£400.00	07/08/2023	21/09/2023	3	£185.36
17	£300.00	02/11/2023	26/01/2024	4	£115.46
18	£300.00	20/02/2024	07/04/2024	4	£102.64
19	£300.00	15/04/2024	28/05/2024	4	£105.96
20	£400.00	05/06/2024	26/07/2024	4	£153.01
21	£300.00	29/07/2024	22/08/2024	4	£120.08

MoneyBoat considered Mr H's complaint and it didn't uphold it. Mr H's representative then referred the complaint to the Financial Ombudsman.

The complaint was considered by an Investigator, who didn't uphold the complaint about loans 1 and 2. And despite the breaks in the lending chain they upheld all other loans. The investigator said due to the adverse credit file information MoneyBoat received further checks were needed before each loan. Had MoneyBoat made better checks, it would've seen Mr H was spending more than his income each month and was spending, at times significant sums gambling.

Mr H's representative accepted the outcome, but MoneyBoat didn't saying in summary across a number of emails;

- Loans 1 and 2 are 'time barred' because Mr H complained too late about them.
- The credit check results at loan 3, wouldn't have facilitated any further checks due to the break in lending.
- At loan 3, even though there were delinquent marks the accounts were being 'managed' – although MoneyBoat conceded that perhaps more checks were needed later on in the second loan chain.
- For loan 9 – MoneyBoat knew about the payment arrangement but as it had ended seven months before loan 9 it wouldn't have led to further checks.

These points didn't change the investigator's mind and as no agreement could be reached the case has been passed for a decision.

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 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 H 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 considered a number of different things, such as how much was being lent, the size of the repayments, and Mr H'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 H. These factors include:

- Mr H 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 H 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 H 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 H.

MoneyBoat was required to establish whether Mr H 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 H 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 H's complaint. Although the deadline for responses hasn't yet passed, both parties have confirmed they have nothing further to add.

Loans 1 and 2

MoneyBoat says these loans are time-barred – which in effect means Mr H complained to late about them and so can't be considered under the rules that we must follow. However, the investigator didn't review the time barring and instead said the loans weren't upheld.

The loans may well be out of jurisdiction – further investigator and review would be needed. But given, these loans also weren't upheld and Mr H accepted the investigators findings. So even if I were to agree with MoneyBoat that these loans can't be considered any further, the outcome isn't any different.

Loans 1 and 2 aren't being looked at any further and so I say no more about them.

Loans 3 - 8

Firstly, MoneyBoat is quite correct to say loan 3 was the start of a new lending chain – after all Mr H hadn't borrowed from it within the last 10 months. That does mean, as a starting point, MoneyBoat could treat Mr H's applications afresh and as if he was a new customer.

For these loans MoneyBoat asked for details of Mr H's income, outgoings and it also carried out a credit search for each application.

In terms of income, Mr H declared his income was a low as £1,552 at loan 8 and as high as £2,200 for loans 4 and 5. MoneyBoat says Mr H's income was cross referenced with a tool provided by a credit reference agency. MoneyBoat seems confident that the amount Mr H declared was likely to be accurate.

For each application MoneyBoat also asked for details of Mr H's living costs which he declared to be as low as £700 for loans 4 and 5 and as high as £840 for loan 7. It then checked this information using the results of Mr H's credit search (which I come on to below) as well as considering her living costs against averages found in the "*Common Financial Statement*".

MoneyBoat then increased Mr H's monthly outgoings by as much as £340 per month for loan 5. But even with the increased outgoings, MoneyBoat believed Mr H had sufficient disposable income and so these loans would've appeared affordable.

MoneyBoat also carried out a credit search before each of these loans and I've considered the results it received from the credit reference agency. To be clear, while Mr H's representative has supplied a copy of his credit report, I've only considered the results MoneyBoat received because this was what it saw and what it made its decisions.

I've reviewed the credit search results for loan 3, there is in my view enough to have made MoneyBoat realise it ought to not have lent. There is a significant amount of adverse payment information albeit there were no defaults or CCJs.

Mr H had a credit card being managed by a debt collector, a loan that was four months in arrears albeit he was paying £50 per month towards the balance – when he ought to have been paying £154 per month. Finally, there is a home credit loan that was three months in arrears albeit again Mr H was making some payments towards this.

On top of this there were two closed accounts within the last year that had been subject to extended payment arrangements and another four other accounts including loans, credit cards and mail orders that had within the last year had periods of time in delinquency.

There was also evidence that Mr H had been a regular user of high-cost short term credit within the last couple of years. Indeed, 7 accounts had been settled within the six months preceding loan 3, some were marked as 'AAI – Advance against Income' – or another name for a payday lender whereas others were marked as 'Finance House'. But given the monthly repayments due for these loans its likely they were all either payday loans or payday instalment loans.

Given what MoneyBoat received in the credit check results, I do think its arguable, Mr H had shown over the last year he had struggled to maintain all of his commitments he was due to pay. The results also showed he was a long term, regular use of payday loans which ought to have led MoneyBoat to the conclusions that Mr H couldn't sustainably make his repayments for loan 3 or any other loan in this chain.

But even, if I'm wrong about this, then the credit checks at the very least it ought to have led to further enquires with Mr H to establish what it was that was leading to his difficulties and what he was spending his money on. I say this because it isn't plausible that MoneyBoat calculated he had £891 in disposable income (for loan 3) with the amount of recent adverse payment information Mr H had. One of the ways it could've done that would've been to review his bank statements.

To be clear, this wasn't the only way MoneyBoat could've gone around making further enquires with Mr H, it could've asked him more detailed questions or asked for copy bills. But the bank statements are the easiest way to find out what was happening with Mr H's finances, so I don't think it's unreasonable for me to consider them.

The bank statements, had they been viewed at loan 3, would've reinforced what the credit checks showed – that the loans ought to not have been granted. Firstly, the income amount MoneyBoat used for its assessment was accurate.

Mr H, in the month before the loan being approved, had £80 a month of overdraft charges and the account fee – and the account was overdrawn even after Mr H's income was received. He was gambling at this point – around £250 per month. But this isn't what made the loan unaffordable.

In January 2019, Mr H had received new payday and high-cost instalment loans totalling £1,350 and had already repaid £1,410 to existing high cost or payday loan creditors. On top of this were his payments to his credit card and mobile phone. In my view, a closer look at Mr H's finances from loan 3 would've shown that this and any further loans weren't affordable for him and so shouldn't have been granted.

And even if MoneyBoat would've carried on looking at Mr H's bank statements show a similar picture at loan 8 – apart from by now Mr H was gambling an even greater percentage of his income – which alone would've made the loan unaffordable. So had MoneyBoat carried on checking his bank statements – it would've again showed there was no change in his financial situation.

I've therefore concluded, for this lending chain that MoneyBoat made better checks before it advanced loan 3 it would've seen that Mr H couldn't sustainable make his repayments to this loan or any other loan in the lending chain.

I uphold Mr H's complaint about this chain of lending – loans 3 to 8.

Loans 9 to 21

There was then another break in borrowing between loan 8 being repaid and when Mr H returned for loan 9. So as was the case at loan 3, MoneyBoat was entitled to treat Mr H has a new customer – and so loan 9 became the first loan in a new lending chain.

As with the previous chain of borrowing MoneyBoat carried out the same sort of checks before lending. It asked for details of Mr H's income and then is used a tool to cross reference what was declared for its accuracy. This time Mr H's income was a low as £2,200 at loan 9 and as high as £3,083 at loan 15.

It then went about checking the expenditure information Mr H had declared with the common financial statements as well as the results of his credit check results. It made adjustments to the figures given to it by Mr H for each loan – adding as much as £649 to what was declared for loan 16. But after carrying out these checks, MoneyBoat calculated that Mr H had enough disposable – the loans appeared affordable.

MoneyBoat has provided a copy of its credit check results, and I've reviewed loan 9 to begin with – not just because it's the first loan of the chain but also because MoneyBoat has argued that while it was aware of some adverse information it doesn't feel it is sufficient to suggest that either Mr H was having financial difficulties or it needed to carry out further checks. In saying that, in my view, there were still signs that he was having difficulties.

Within the preceding 14 months Mr H had settled four accounts – all loans – that he'd had difficulty repaying. Indeed, the most recent of which had been settled in February 2021 – where he had been paying 50% of the contracted payment and had been subject to a payment plan for two years.

While, I've considered that the most recent payment arrangement account closed seven months before the loan – there was still sufficient information within the credit check results to have prompted further checks.

This time, Mr H had 13 active accounts and he had opened six within the preceding six months. And MoneyBoat was on notice that he had one active payday loan account when it approved this loan – but equally he had closed at least eight such accounts within the preceding 8 months.

So, to me, there was at least, from the payday loan / instalment loan account data a suggestion that Mr H had continued to seek out and be approved for new credit and there was a real risk that this pattern had carried on within the lending gap MoneyBoat was aware off.

So, like the pervious chain, I do think the credit check results ought to have prompted MoneyBoat to have looked at Mr H's finances in more detail – especially because of the recent impaired credit history along with the suggestion he was carrying on using payday loans.

As with the second loan chain, the same sort of caveats apply to how further checks could've been carried out. But I have copy bank statements, so I think it's entirely fair and reasonable to consider what this shows.

At loan 9, the bank statements show, the income used by MoneyBoat was accurate. But Mr H had carried on using payday loans, high-cost credit / resolving credit facilities. So, although, his income was now greater – in the month before the loan was approved, he had spent around £1,640 servicing these loans / facilities.

In addition, he had also borrowed a further £1,070 from payday loans and a high-cost revolving credit facility. It is clear from the bank statements, that Mr H was still stuck in the cycle of borrowing from lenders in order to make his repayments.

In addition, Mr H was still spending funds on gambling / betting transactions. With the ones I've been able to identify, Mr H had spent, nearly £1,200 on such transactions which was more than 50% of his income. Clearly, with the payments he had already made to other lenders he couldn't afford to take on any further lending.

And in September 2021 – so the month the loan was granted Mr H had borrowed another £2,500 from various lenders / revolving credit facilities. Which was more than he earned, so clearly, Mr H's situation was still difficult – and MoneyBoat would've realised that had it carried out proportionate checks.

And even if MoneyBoat had continued to look at his bank statements – Mr H's financial position is broadly similar when he received loan 21. Although he wasn't borrowing from other lenders, he was still gambling which made the loan unsustainable.

So, I think proportionate checks would've shown MoneyBoat that Mr H couldn't take on loan 9 or any of the other loans in the lending chain because the checks would've shown the loans to be unaffordable. It therefore follows that Mr H's complaint about all of the loans in this chain are upheld.

Finally, I've considered whether MoneyBoat acted unfairly or unreasonably in any other way including 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 H 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 stopped lending to Mr H from 3, 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 H 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 Mr H 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 H 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 H loans 3 to 21.

A. MoneyBoat should add together the total of the repayments made by Mr H towards interest, fees and charges on these loans, including payments made to a third party where applicable, but not including anything already refunded.
B. It should calculate 8% simple interest* on the individual payments made by Mr H which were considered as part of "A", calculated from the date Mr H originally made the payments, to the date the complaint is settled.
C. MoneyBoat should pay Mr H the total of "A" plus "B".
D. MoneyBoat should remove any adverse payment information it may have recorded about loans 3 – 21 from Mr H's credit file.

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

My final decision

For the reasons I've explained above, I'm upholding Mr H's complaint in part.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 14 May 2025.

Robert Walker
Ombudsman