DRN-4644039

The complaint

Mr B 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 B's borrowing can be found below.

loan number	loan amount	agreement date	repayment date	number of monthly instalments	largest repayment per loan
1	£200.00	24/03/2021	30/07/2021	4	£81.81
2	£250.00	30/07/2021	31/12/2021	5	£86.54
3	£200.00	13/02/2022	24/04/2022	3	£88.24
4	£200.00	13/06/2022	02/07/2022	4	£73.03
5	£250.00	19/07/2022	30/12/2022	4	£106.06
6	£300.00	13/01/2023	31/03/2023	3	£133.88
7	£300.00	13/04/2023	14/07/2023	4	£109.21
8	£500.00	14/07/2023	outstanding	5	£158.77

MoneyBoat considered the complaint it received from Mr B about the sale of the loans and concluded it had made a reasonable decision to lend loans 1 – 6 because it had carried out proportionate checks which showed the loans to be afford.

However, MoneyBoat noted by loan 7 that Mr B had been borrowing for around two years and so before loans 7 and 8 were granted it ought to have asked further questions. It offered to refund the interest that Mr B had paid for loan 7, remove the unpaid interest from loan 8 and then use the refund from loan 7 to repay loan 8 and pay the surplus to Mr B.

Unhappy with this response and offer, Mr B's representative referred the complaint to the Financial Ombudsman.

The complaint was considered by an investigator, who didn't uphold it about loans 1 - 4. However, she did recommend loan 5 be upheld because it would've been proportionate for MoneyBoat to have conducted further checks and those further checks would've likely shown MoneyBoat the loan was unaffordable. She also thought loans 6 – 8 shouldn't have been granted as the lending was now harmful for Mr B.

MoneyBoat didn't agree with the investigator's assessment saying that there wasn't anything when loan 5 was granted to have prompted further checks. While it knew a credit card was over its limit – it was only £14 so it didn't consider this to be enough to have prompted further checks. It also considered there were no other triggers at loan 6 to say the lending decision wasn't reasonable.

Mr B's representative appears to have agreed with the outcome that had been reached by the investigator.

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 B 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 B'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 B. These factors include:

- Mr B 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 B 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 B 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 B. The investigator thought this had been reached in Mr B's complaint by loan 6.

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

Loans 1 – 4

The investigator didn't uphold Mr B's complaint about these loans. In response to the assessment Mr B's representative appears to have accepted what the investigator said, so this would include not upholding these loans. Therefore, as these loans appear to no longer be in dispute, I haven't considered them further.

Loan 5

The same sort of check was carried out before this loan was advanced as MoneyBoat had carried out for the previous loans.

Mr B declared a monthly income of £1,730 and he declared monthly outgoings of £565. MoneyBoat carried out an assessment of his expenditure using his credit check results and the common financial statement and it concluded the monthly outgoings figures needed to be increased by a further £285 per month. For the affordability assessment, MoneyBoat used a monthly outgoing figure of £850. But this still left £880 per month to afford the repayments.

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.

I've looked at the credit check results, and there weren't any recent defaults or any other forms of insolvencies. Mr B did have an active payday loan and a "*Finance House*" loan which cost him £220 per month to service. There was also a third loan which had a monthly repayment of £300 even though that wasn't the balance – so it's possible this was some sort of flexible credit facility- but it is clear that he already had three outstanding loans. He also had a phone contract costing £32 per month.

The credit card accounts were being paid apart from one that had recently gone into arrears due to non-payment and this meant Mr B was now over his credit limit. I understand that MoneyBoat says this was corrected the following month, but it does show, perhaps there was some underlaying issues with Mr B's finances.

In addition, including the other loans Mr B had with MoneyBoat in 2022, he had settled a total of 6 other loans in the year. Which to me, shows that he had a constant need for credit because as loans were repaid it seems that he then took on new borrowing.

The results of the credit search, along with the fact that Mr B by now had been borrowing from MoneyBoat for around 18 months and although he was borrowing similar capital amounts this loan did now produce the largest monthly repayment, leads me to think that by now, MoneyBoat needed to have carried out further checks in order to verify the information that Mr B had provided.

MoneyBoat could've gone about doing this a number of ways, it could've asked to see copy bills, bank statements, or any other documentation it felt it may have needed to have obtained in order to have a thorough understanding of Mr B's finances.

Mr B's representative has provided copy bank statements from around the time this loan was approved, and I've looked at these to see what MoneyBoat may have seen had it taken similar action. MoneyBoat would've likely concluded that Mr B was spending a significant portion of his income each month on gambling and other betting sites and so any lending wasn't affordable nor sustainable for him. Given this, I am therefore upholding Mr B's complaint about loan 5.

Loans 6 - 8

In addition to looking at the checks that MoneyBoat did before each loan which included asking Mr B for details of his income and expenditure and had proportionate checks continued to have been carried out than MoneyBoat would've likely concluded that Mr B was still spending a significant amount on gambling websites and so the loans continued to be unaffordable for him.

However, I've also looked at the overall pattern of MoneyBoat's lending history with Mr B, 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 so MoneyBoat ought to have realised that it shouldn't have provided any further loans.

Given the particular circumstances of Mr B's case, I think that this point was reached by loan 6. I say this because:

- At this point MoneyBoat ought to have realised Mr B was not managing to repay his loans sustainably. Mr B had taking out 6 loans in nearly 2 years. So MoneyBoat ought to have realised it was more likely than not Mr B was having to borrow further to cover a long-term short fall in his living costs.
- From the first loan, there had been no significant break in the borrowing relationship between Mr B and MoneyBoat. To me, the constant need for credit is a sign that Mr B was using these loans to fill a long-term gap in his income rather than as a short-term need.
- Mr B's first loan was for £200 and loan 8 was for more £500. At this point MoneyBoat ought to have known that Mr B was not likely borrowing to meet a temporary shortfall in his income but to meet an ongoing need.
- Mr B wasn't making any real inroads to the amount he owed MoneyBoat. Loan 8 was taken out over two years after Mr B's first loan and was to be repaid over a longer term – five months. The final loan was also the largest capital loan. Mr B had paid large amounts of interest to, in effect, service a debt to MoneyBoat over an extended period.

I think that Mr B lost out when MoneyBoat provided loans 6 - 8 because:

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

Overall, I'm upholding Mr B's complaint about loans 5 - 8 and I've outlined below what MoneyBoat needs to do in order to 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 B at loan 5, 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 B 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 B 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 B 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 B loans 5 to 8.

If MoneyBoat have sold the outstanding debt it should buy it back if MoneyBoat is able to do so and then take the following steps. If MoneyBoat can't 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 B towards interest, fees and charges on all upheld loans without an outstanding balance.
B. To this it should calculate 8% simple interest* on the individual payments made by Mr B which were considered as part of "A", calculated from the date Mr B originally made the payments, to the date the complaint is settled.
C. MoneyBoat should then remove all interest, fees and charges from the balance of loan 8, and treat any repayments made by Mr B as though they had been repayments of the principal. If this results in Mr B 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" can be used to repay any balance remaining on loan 8. If this results in a surplus, then the surplus should be paid to Mr B. However, if there is still an outstanding balance then MoneyBoat should try to agree an affordable repayment plan with Mr B.
E. MoneyBoat should remove any adverse information recorded on Mr B's credit file in relation to loan 5. The overall pattern of Mr B's borrowing for loans 6 to 8 means any information recorded about them is adverse, so MoneyBoat should remove these loans entirely from Mr B's credit file. It doesn't have to remove loan 8 from Mr B's credit file until it has been repaid, but MoneyBoat should still remove any adverse information recorded about it.

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

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

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

Robert Walker
Ombudsman