

The complaint

Ms S complains that Bamboo Limited provided her with a loan which she says was unaffordable.

What happened

Bamboo provided Ms S with a loan as follows:

Loan	Date taken	Number of monthly instalments	Loan amount	Monthly repayment*	Loan status
1	November 2018	24	£2,000	£123.46	Outstanding

Ms S mainly said that if Bamboo had checked properly before providing the loan it would've realised that it shouldn't have provided this loan.

Ms S told us the payments were too high and so she had needed to borrow money from her family to pay her debts.

Our investigator assessed the complaint and recommended that it be upheld and he set out the steps Bamboo should take to put things right.

Bamboo disagreed with our investigator's view. In brief summary, it said:

- Ms S's outstanding debt has reduced since it lent to her, so it queried the detriment to her
- she paid her loan monthly repayments as expected
- her credit card activity suggests she likely took advantage of 0% balance transfers
- she only opened one other credit account in the six months prior to the loan suggesting she wasn't reliant on credit
- a significant proportion of her debt was a car loan, which she was paying perfectly
- she had no active arrears on credit, defaults or county court judgements
- bank statements Bamboo has seen retrospectively would not have acted as a barrier to lending at the time as the account stayed within the overdraft limit, it did not show any returned payments or excessive charges and it also showed non-essential spending.

Bamboo didn't agree that the loan was unaffordable for her and asked for an ombudsman to review the case.

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.

I have also taken into account the law, any relevant regulatory rules and good industry practice at the time. I'd like to reassure Bamboo that I've looked at the complaint afresh – and I've independently reached the same conclusions as our investigator and I'm upholding this complaint. I'll explain why I say this.

There are some general principles I will keep in mind and questions I need to think about when deciding whether to uphold Ms S's complaint.

Before agreeing to lend, lenders must work out if a borrower can afford the loan repayments alongside other reasonable expenses the borrower also has to pay.

This should include more than just checking that the loan payments look affordable on a strict pounds and pence calculation. A lender must take reasonable steps to satisfy itself that the borrower can sustainably repay the loan – in other words, without needing to borrow elsewhere.

The rules don't say what a lender should look at before agreeing to lend. But reasonable and proportionate checks should be carried out. For example, when thinking about what a borrower has left to spend on a new loan after paying other expenses, as well as taking into account things like the loan amount, the cost of the repayments and how long the loan is for, a proportionate check might mean a lender should also find out the borrower's credit history and/or take further steps to verify the borrower's overall financial situation.

If reasonable and proportionate checks weren't carried out, I need to consider if a loan would've been approved if the checks had been done. If proportionate checks were done and a loan looked affordable, a lender still needed to think about whether there was any other reason why it would be irresponsible or unfair to lend.

For example, if the lender should've realised that the loan was likely to lead to more money problems for a borrower who is already struggling with debt that can't be repaid in a sustainable way.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income)
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income)
- the *longer* the period of time a borrower will be indebted (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

I've kept all of this in mind, in coming to a decision on Ms S's case.

Bamboo asked Ms S some questions about her income and expenditure.

Bamboo did its own checks, which included obtaining information about Ms S's credit history and taking into account statistical information about how much someone in Ms S's position typically spent each month on basic essentials. Also allowing for Ms S's spending on her other credit commitments, Bamboo worked out that, after making the monthly repayments

for this loan, Ms S would still have around £304 spare cash. So the loan looked comfortably affordable for her.

I've taken into account what Bamboo has said about how it calculated the affordability of this loan before it agreed to lend to Ms S. But, I don't think Bamboo made a fair lending decision when it lent to Ms S based on the information it had gathered.

I say this because Bamboo was able to see from its credit checks that Ms S had multiple credit card accounts and within the previous 6 months she had taken out additional credit cards. Within the previous 2 months or so she had also taken substantial cash advances on a credit card – which is a very expensive way to borrow money. Ms S was making only minimum monthly repayments which meant that she was incurring substantial interest on an ongoing basis and making no meaningful progress towards clearing that debt. Bamboo noted that Ms S's debt balances at the time of the application totalled £42,161.00 – and it was able to see that her credit card debt alone amounted to £11,700.

I don't think Bamboo thought carefully enough about what this credit history showed about Ms S's overall financial situation, especially bearing in mind it had calculated that she had disposable income of approximately £427 each month which, to my mind, would've seemed at odds with what it saw on the credit checks it had carried out. I think Bamboo should have considered carefully why someone with the amount of disposable income its checks suggested Ms S had would have needed to make use of expensive credit the way it could see Ms S was doing – and how much confidence it could have in the information it had gathered. I don't think, based on what Bamboo had in front of it, I can fairly say that Bamboo saw enough to reasonably be satisfied that Ms S was going to be able to make the repayments for this loan in a sustainable way.

Bamboo calculated that Ms S would spend £1,257 per month on servicing her outstanding debts. As our investigator pointed out, this was more than 50% of her net monthly income. The total amount of outstanding debt was more than Ms S earned in a year.

Like our investigator, I think that Bamboo ought to have realised that this was such a significant proportion of her spending money each month that, in reality, the repayment of £123.46 that Ms S had to make to pay this loan wasn't likely to be sustainably affordable for her. So Bamboo shouldn't have provided it to Ms S.

In coming to my decision I've thought carefully about everything Bamboo has said, including its comments made in response to our investigator's view letter. Bamboo said its checks were proportionate – our investigator didn't think they were. But I don't think I need say more about this particular point because, to my mind, even if Bamboo had done more in-depth checks, I don't think it would've seen any information that would've reassured it.

I've looked at the bank statements provided by Ms S which I think are a useful guide to understanding Ms S's overall financial situation at the time. I can see that, far from having the amount of disposable income left over each month that Bamboo had calculated, in reality Ms S was struggling financially. It's clear that she was operating at least one of her bank accounts substantially in overdraft both before and after taking out this loan – in the two months running up to her taking out this loan typically the account was never in credit and at the end of the month she was around (minimum) £1,300 overdrawn and paying bank charges for this.

Bamboo didn't ask for this information at the time and it has only recently seen it. But it supports my view that, when making its lending decision, given the amount of Ms S's monthly pay and knowing the extent of her existing credit debts, I think Bamboo should've

realised it was unlikely that she was going to be able to repay the £2,000 loan she had taken out in November 2018 in a sustainable way – in other words, without needing to borrow further.

And I've seen nothing on the more up-to-date credit report supplied by Bamboo to make me think differently. Although this shows a small improvement of approximately £5,300 in the amount of overall debt, this isn't significant having regard to extent of her total indebtedness, especially bearing in mind her salary. And the fact that she is now using 92% of available credit (up from 68%) supports my view that she is struggling to manage debt effectively and continuing to have money problems.

The fact alone that Ms S has avoided any significant negative credit markers and mostly kept up her repayments doesn't mean that she has necessarily been able to do this in a sustainable way. Ms S has said that she borrowed money from her family and I think that might explain how she has been able to maintain her credit record to this extent.

I accept that Ms S may have taken advantage of some balance transfer offers – and that's possibly why a couple of credit cards shown on her credit file had nil balances. But transferring the balance to a new card was only an effective debt management strategy if the new cards were then cleared within the 0% interest period. I can see nothing to make me think that Ms S was in a position to do that. The indications are that she has mostly been making no more than the bare minimum repayment, which means she has taken out additional borrowing (effectively incurring ongoing interest charges on interest already owed) but is making no overall progress towards clearing the debt within a reasonably foreseeable period.

In summary, Bamboo saw information that suggested it was unlikely this loan was going to be sustainably affordable for Ms S when she was already struggling to get through the month without needing to rely on credit, not making any real headway towards clearing her outstanding debts and her income was insufficient to support the level of debt she had to pay - particularly keeping in mind that she was signing up to pay a loan which could cost her around £2962.99 in total over the next two years.

So I don't think Bamboo should've provided this loan.

As Ms S has been further indebted with a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she has lost out as a result of what Bamboo did wrong. So, I think Bamboo needs to put things right.

I haven't seen enough to make me think that Bamboo acted unfairly or unreasonably towards Ms S some other way.

I think Bamboo showed appropriate forbearance when circumstances changed and Ms S needed more time to pay.

So I'm not proposing to award any additional redress over and above what I've set out below.

For all the reasons I have explained above, I think it is fair and reasonable for Bamboo to take the following steps to put things right.

Putting things right

In line with this Service's approach, Ms S shouldn't repay more than the capital amount she borrowed. But she has had to pay interest and charges on a loan that shouldn't have been provided to her – which isn't fair or reasonable. With this in mind, Bamboo should:

- add up the total amount of money Ms S received as a result of being given the loan. The payments Ms S made should be deducted from this amount
- if this results in Ms S having paid more than she received, then any overpayments should be refunded along with 8% simple interest* (calculated from the date the overpayments were made until the date of settlement)
- if any capital balance remains outstanding, then Bamboo should attempt to arrange an affordable/suitable payment plan with Ms S bearing in mind the need to treat her positively and sympathetically in those discussions
- remove any adverse information placed on Ms S's credit file regarding the loan

*HM Revenue & Customs requires Bamboo to take off tax from this interest. Bamboo must give Ms S a certificate showing how much tax it takes off if she asks for one.

My final decision

I uphold Ms S's complaint and direct Bamboo Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 6 September 2021.

Susan Webb
Ombudsman