

## **The complaint**

Miss S complains that the loan she had from Bamboo Limited was unaffordable to her.

## **What happened**

Miss S took out a guarantor loan with Bamboo on 16 March 2017. She borrowed £2,000 and needed to repay £97.39 monthly for 36 months. The loan was repaid on time in March 2020.

Miss S says that Bamboo failed to carry out effective affordability checks as, had it done so, it would have been clear she could not afford further lending. She says she's been left with long-term debt, a low credit score and is in financial hardship.

Bamboo says its checks showed Miss S had a largely good credit profile and was managing her finances well. It says it was aware of some adverse information on her credit file and took this into account, as well as her guarantor's support. Bamboo says it considered Miss S to be creditworthy based on affordability checks and her total debt. It adds that Miss S kept her loan account up to date and her guarantor only made one payment whilst she waited for a new bank card. However, Bamboo offered Miss S £350 as a gesture of goodwill.

Miss S did not accept this offer.

Our investigator recommended the complaint should be upheld. She said that she was satisfied Bamboo had carried out proportionate checks but considered her credit file showed the lending was unsustainable. Our investigator recommended that Bamboo should refund any payments Miss S made above the principal (plus 8% statutory interest). It should also ensure that any associated negative information is removed from Miss S's credit file.

Bamboo responded to say, in summary, that it agreed that its checks were proportionate considering the low repayment. It added that:

- A later credit report showed Miss S's credit situation improved while she was a Bamboo customer and she was no longer using short-term loans;
- Miss S had maintained the repayments on the Bamboo loan well and no negative payment information had been reported to the credit reference agencies;
- The default was four years before the Bamboo loan;
- Only one account was in arrears at the time of the lending;

## **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 need to take into account the relevant rules, guidance and good industry practice.

The Financial Conduct Authority (FCA) was the regulator when Bamboo lent to Miss S. Its rules and guidance obliged it to lend responsibly. As set out in the regulator's Consumer Credit Sourcebook (CONC), this meant that Bamboo needed to take reasonable and proportionate steps to assess whether or not a borrower could afford to meet its loan repayments in a sustainable manner over the lifetime of the agreement.

CONC 5.3.1G states that:

1. *In making the creditworthiness assessment or the assessment required ... a firm should take into account more than assessing the customer's ability to repay the credit.*
2. *The creditworthiness assessment and the assessment required ... should include the firm taking reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.*

Repaying debt in a sustainable manner was defined as being able to meet repayments out of normal income while meeting other reasonable commitments; without having to borrow further to meet these repayments; without having to realise security or assets (CONC 5.3.1G - 6) or without incurring or increasing problem indebtedness (ILG 4.3).

(The Office of Fair Trading was the previous regulator and it produced a document entitled 'Irresponsible Lending Guidance' which the FCA referenced in its consumer handbook. CONC 5.3.1G – 6 specifically referenced ILG 4.3.)

In general, I'd expect a lender to require more assurance the greater the potential risk to the borrower of not being able to repay the credit in a sustainable way. So, for example, I'd expect a lender to seek more assurance, potentially by carrying out more detailed checks

- the *lower* a person's 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 *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);
- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the borrower is required to make payments for an extended period).

In addition, as per CONC 5.3.1G – 4b: it is not generally sufficient for a firm to rely solely for its assessment of the customer's income and expenditure, on a statement of those matters made by the customer.

Bearing all of this in mind, in coming to a decision on Miss S's case, I have considered the following questions:

- Did Bamboo complete reasonable and proportionate checks when assessing Miss S's loan application to satisfy itself that she would be able to repay the loan in a sustainable way?

- If not, what would reasonable and proportionate checks have shown?
- Did Bamboo make a fair lending decision?
- Did Bamboo act unfairly or unreasonably in some other way?

With regard to the first question, I can see Bamboo asked Miss S about her income and housing costs and also completed a detailed credit check. Bamboo used an income verification tool to confirm Miss S's income and her credit file to calculate the monthly credit commitments. Bamboo says that these checks, combined with a third-party data source for Miss S's other expenditure showed the loan was affordable.

I'm satisfied that Bamboo carried out sufficient checks to enable it to make a lending decision, but I don't find it acted responsibly by approving the loan. I say that because Bamboo's credit check showed:

- Miss S had defaulted on three accounts in the last three years
  - One was less than a year earlier;
  - Another was with a debt collection agency and had a balance of £228;
- A mail order account which was two payments in arrears, with a balance of £79;
- Miss S had a history of using short-term loans and had taken one out less than a month earlier which was still outstanding;
- Cash advances totalling £580 in the previous 12 months, of which £470 had been in January 2017.

Bamboo had calculated Miss S's monthly disposable income to be almost £600, but I think it ought reasonably to have realised this wasn't the case given what it saw on her credit file. I find it likely that Miss S would not have small outstanding balances, active short-term loans and recent cash advances if her disposable income was at the level calculated by Bamboo.

Indeed, I consider Miss S's credit file indicated she was already struggling to manage her money and that further lending was likely to be unsustainable.

I acknowledge that Bamboo says Miss S's credit situation improved during the loan, but I've seen a credit report from March 2020 which shows increased debt. I accept she was no longer using short-term credit, but the balance on credit cards had increased by around £1,000 and her overdraft remained close to its £2,000 limit. In addition, the mail order account had defaulted in June 2017, shortly after the new loan was approved.

In summary, taking all the available evidence into account, I'm not satisfied Bamboo made a fair lending decision, although I can't conclude it acted unfairly or unreasonably in any other way. So I find further lending was irresponsible and Bamboo should not have agreed to lend to her.

### **My final decision**

My decision is that I uphold this complaint. Bamboo Limited should:

- Add up the total amount of money Miss S received as a result of having been given the loan. The repayments Miss S made should be deducted from this capital amount;
  - If this results in Miss 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 Miss S;
- Remove any negative information recorded on Miss S's credit file regarding the loan, up to this point.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 8 April 2022.

Amanda Williams  
**Ombudsman**