

The complaint

Miss C, through a representative, says Bamboo Limited lent to her irresponsibly.

What happened

Miss C took out two guarantor loans from Bamboo. This means they were given on the basis Miss C had a guarantor who would be responsible for making the repayments if she failed to.

A summary of her borrowing follows. Loan 2 was used in part to repay loan 1.

loan	taken out	value, £	monthly repayment, £	total repayable, £
1	27/04/2016	2,500	106.69	5,120.95
2	06/02/2018	3,502.04	149.45	7,173.51

She says Bamboo did not carry out effective affordability checks, had it done so it would not have lent to her. It failed to provide appropriate money management advice and its final response letter was sent outside the regulator's time limit of eight weeks.

Our investigator said the complaint should be upheld as Bamboo had not made fair lending decisions based on the checks it completed.

Bamboo disagreed. It said, in summary, its checks showed Miss C was managing her finances well, the only adverse information - a County Court Judgment (CCJ) - was 11 months old. The large loan taken between loans 1 and 2 was a hire purchase agreement, it's not unusual for a consumer to borrow for a car and it had taken into account the £350 repayment. Miss C has a good payment history with Bamboo. And it was reasonable to use national statistics to estimate Miss C's living costs given her personal circumstances. It has seen no evidence that its lending caused financial detriment to Miss C.

Bamboo asked for an ombudsman to review the complaint so the case was passed to me.

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.

Our approach to unaffordable/irresponsible lending complaints is set out on our website and I've followed it here.

The rules and regulations when Bamboo lent to Miss C required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what she owed in a sustainable manner. This is sometimes referred to as an affordability assessment or an affordability check.

The checks also had to be borrower-focused. So Bamboo had to think about whether repaying the credit sustainably would cause any difficulties or adverse consequences for Miss C. In other words, it wasn't enough for Bamboo to simply think about the likelihood of it getting its money back, it had to consider the impact of the repayments on Miss C.

Checks also had to be proportionate to the specific circumstances of each loan application. In general, what makes up a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount, type and cost of credit they have applied for. 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 for (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).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether Bamboo did what it needed to before agreeing to lend to Miss C. So to reach my conclusion I have considered the following questions:

- did Bamboo complete reasonable and proportionate checks when assessing Miss C's loan applications to satisfy itself that she would be able to repay the loans 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?

I can see Bamboo asked for some information from Miss C before it approved the loans. It asked about her income, residential and employment status, and number of dependents. It asked how much she paid towards the joint mortgage she was party to. It also checked Miss C's credit file to understand her current credit commitments and credit history. It checked her declared income using both a third-party income verification tool and a copy of a payslip and screenshot of her benefit payment crediting her bank account. It made some assumptions about her living expenses based on national averages. It asked about the purpose of the loans, the first was for home improvements and the second was for car repairs. From these checks combined Bamboo concluded Miss C had enough monthly disposable income to afford to repay the loans.

I'm not wholly persuaded Bamboo's affordability checks were proportionate given it needed to know the loans would be sustainably affordable for Miss C over a four-year term and its initial checks showed some concerning information. For example, she would have very limited disposable income for loan 1 (just under £5 a month) and her indebtedness had increased from an already significant level by loan 2. However, I won't comment further on this as I think even from the information it gathered it ought to have realised there was a risk the loans would not be sustainably affordable for Miss C. I'll explain why. I have carefully considered the comments Bamboo sent in response to our investigator's assessment but for the reasons set out below they do not change my conclusion.

Loan 1

The checks Bamboo carried out showed that Miss C would have less than £5 disposable income each month. I do not find this to be sufficient. She was repaying the loan over four years and this left her with no way to cover any unplanned expenditure or seasonal expenses. In addition, I disagree with Bamboo's analysis that Miss C may have experienced financial difficulties in the past but was now managing her credit well. The CCJ was for a significant amount (£3,514) and was registered in the last 12 months - so not that long ago. And Bamboo could see from its credit check Miss C had just over £25,000 of unsecured debt across a number of accounts.

She was already having to spend around half her income to service this debt each month – and this didn't include her mortgage commitment. Miss C had made the minimum payment on her credit card debt 36 times in the previous 12 months, frequently an indicator of financial duress. So in the round, I think there were signs Miss C's finances remained under pressure and Bamboo ought to have realised it was unlikely loan 1 would be sustainably unaffordable for Miss C. And that she would most likely need to borrow to repay, or suffer other harmful financial consequences.

It follows I think Bamboo was wrong to give loan 1 to Miss C.

Loan 2

Miss C applied for a top-up loan 21 months into the term of loan 1. At this time the credit check Bamboo completed showed she had nearly £32,000 of unsecured debt and was spending £979 each month on repayments out of an income of £1,846, again excluding her mortgage commitment. Spending such a high percentage of income on repaying credit is often an indicator of financial instability. And this time Miss C had made the minimum repayment on her credit card debt 46 times in the previous 12 months. So again I think Bamboo ought to have realised it was likely loan 2 wouldn't be sustainably affordable for Miss C. It need to consider the sustainability, not just the monthly pounds and pence affordability, to meet its obligations.

It argues that Miss C's excellent payment history shows she could afford both loans, but it hasn't provided any evidence to show that she made her repayments without suffering any adverse financial consequences, so this does not change my conclusion. Overall, I think giving loan 2 to Miss C unfairly prolonged her reliance on high-cost credit.

It follows I think Bamboo was wrong to give loan 2 to Miss C.

I have not found evidence that Bamboo acted unfairly or unreasonably in any other way. Miss C says it did not offer her alternative money management advice, Bamboo says she never contacted it saying she was having financial difficulties. Miss C didn't provide much detail about this aspect of her complaint, and I note it is a point her representative often presents, so based on the available evidence I can't fairly conclude Bamboo was at fault in this regard. Finally, Bamboo replied to Miss C's complaint of 12 October 2020 on 30 November 2020 – so within the time limit for a final response as set out by the regulator. The Financial Conduct Authority's Dispute Resolution Rule DISP 1.6.2 stipulates that a final response to a complaint needs to be sent by the end of eight weeks after its receipt.

Putting things right

I think it's fair and reasonable for Miss C to repay the capital that she borrowed, because she had the benefit of that money. But she has paid interest and charges on loans that shouldn't have been provided to her. Bamboo must put this right.

It should:

- Add up the total amount of money Miss C received as a result of being given loans 1 and 2. Deduct all repayments Miss C made from this amount.
- If reworking Miss C's loan accounts results in her having effectively made payments above the original capital borrowed, then Bamboo should refund these overpayments with 8% simple interest calculated on the overpayments, from the date the overpayments would have arisen, to the date of settlement*.
- If reworking Miss C's loan accounts leaves a capital balance outstanding Bamboo should try to agree an affordable repayment plan with Miss C.
- Remove any adverse information recorded on Miss C's credit file in relation to the loans.

*HM Revenue & Customs requires Bamboo to deduct tax from this interest. Bamboo should give Miss C a certificate showing how much tax it's deducted, if she asks for one.

My final decision

I am upholding Miss C's complaint. Bamboo Loans Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 28 March 2022.

Rebecca Connelley
Ombudsman