

The complaint

Mrs M complains Bamboo Limited irresponsibly lent to her as she says it didn't complete reasonable and proportionate checks when approving her for a loan.

What happened

In November 2016 Bamboo approved Mrs M for a guarantor loan. The loan was for £2,000 over a term of 36 months with a monthly repayment of around £97 and a total repayable value of around £3,500.

Mrs M complained to Bamboo in October 2020. She said it had irresponsibly provided her with the loan; as had it completed reasonable and proportionate checks Mrs M says it would have known the loan was unaffordable for her.

Bamboo didn't uphold Mrs M's complaint but did make an offer of £250 as a gesture of goodwill with no admission of liability. Mrs M appears to have rejected this offer and brought her complaint to our service for review.

Our investigator upheld Mrs M's complaint. He said Bamboo hadn't completed reasonable and proportionate checks before approving the loan. He went on to say that had it completed further checks it ought to have identified the loan wasn't sustainably affordable for Mrs M, and that therefore it didn't make a fair lending decision when approving the loan.

Mrs M accepted our investigator's outcome. Bamboo disagreed. In summary, it said:

- Mrs M maintained her loan payments well and the loan was repaid on time;
- It was entitled to rely on Office for National Statistics (ONS) figures when assessing Mrs M's expenditure;
- The credit file check it completed showed no adverse information including no defaults or county court judgements that would have raised concerns; and
- Mrs M's guarantor was her husband and it took account of the full household income.

Bamboo maintains its argument that it made a fair lending decision when approving the loan for Mrs M and asked for an ombudsman's review. So, the complaint has been passed to me to decide.

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 approach to complaints about irresponsible and unaffordable lending as well as the key rules, regulations and what we consider to be good industry practice on our website. I've used this approach to help me decide Mrs M's complaint.

Bearing in mind the complaint before me, I think that there are a number of overarching questions I need to consider in order to fairly and reasonably determine Mrs M's complaint. These are:

1. Did Bamboo complete reasonable and proportionate checks on Mrs M to satisfy itself she was in a position to afford to repay the loan sustainably?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown Mrs M would have been able to do so?
2. Did Bamboo act unfairly or unreasonably in some other way?

I've gone on to answer these questions in turn.

Did Bamboo complete reasonable and proportionate checks on Mrs M to satisfy itself she was in a position to afford to repay the loan sustainably?

Bamboo needed to take reasonable steps to ensure it responsibly lent to Mrs M. The relevant rules, regulations and guidance at the time Bamboo lent required it to carry out reasonable and proportionate checks. These checks needed to assess Mrs M's ability to afford the loan and repay it sustainably over its term without causing her financial difficulties.

There isn't a set list of checks a lender needs to carry out, but they should be proportionate, taking into account things like the type, amount, duration and total cost of the credit, as well as the borrower's individual circumstances.

And it isn't sufficient for Bamboo to just complete proportionate checks – it must also consider the information it obtained from these checks to make a fair lending decision.

Bamboo has said it obtained Mrs M's declaration of her income and verified this against an income verification tool. It has said it used ONS figures to calculate Mrs M's monthly expenses and also completed a credit file check. It has said it completed reasonable and proportionate checks and based on the information it obtained it made a fair lending decision.

I've carefully considered Bamboo's argument; but I'm not persuaded it did complete reasonable and proportionate checks before approving the loan. I say this because there were a number of indicators which ought to have led to it completing further checks.

Mrs M told Bamboo her income was solely made up of benefits and tax credits. So, Bamboo was aware Mrs M's income was unlikely to significantly increase over the term of the loan. And I don't consider using ONS figures to obtain the average person's expenses was sufficient in Mrs M's circumstances – because I don't consider Mrs M's circumstances were representative of the average person.

The credit file check Bamboo completed shows Mrs M had two credit cards and two mail order accounts, all of which were being utilised to their limits – and had been in the four months leading up to this loan. One of the mail order account limits had been increased twice over the previous eight-month period and Mrs M had quite quickly utilised this additional credit. And the other mail order account had a limit increase followed by a limit decrease within the previous eight months, which I consider places doubt with the initial increase in credit that had been provided.

It also appears Mrs M had been approved with an overdraft limit of £400 the month before this loan. So, it's clear Mrs M's total available credit had been increasing across a relatively

short period before this loan was approved – and the credit check Bamboo completed showed she was largely utilising all of the credit available to her.

I can see from Mrs M's recent credit file that this loan wasn't used to consolidate any existing credit. So, I think it's more likely Bamboo knew this loan was further increasing Mrs M's indebtedness.

I consider Mrs M's circumstances together with the recent increases in her available credit and the high utilisation ought reasonably to have led to Bamboo completing further checks; by verifying Mrs M's income and her actual expenses to ensure this loan would be sustainably affordable for her. And that by relying on ONS figures in this instance was not proportionate considering the information stated above.

Would further checks have shown Mrs M would have been able to meet any repayments towards loan two sustainably?

As I consider Bamboo needed to complete further checks to fully understand Mrs M's financial circumstances at the time of the lending, I've gone on to consider what it ought reasonably to have identified.

Mrs M has provided our service with her bank statements covering the months leading up to this loan. I've reviewed these statements to get an understanding of what Bamboo would likely have seen had it completed reasonable and proportionate checks.

Mrs M's bank statements show Mrs M was not managing her money well. Her income appears to be solely from benefits as Mrs M had declared during the application process. This averages out at around £1,500 across the three months leading up to this loan. And her balance fluctuates across the months as she receives benefits; with her balance nearing zero on multiple occasions. The credit file check Bamboo completed shows Mrs M had a £400 overdraft facility on a current account approved in October 2016. And her statements show she had started to use this facility throughout the month of October 2016. Bamboo has made reference in its response to our investigator's assessment that Mrs M hadn't used the overdraft facility in the eight months leading up to this loan. But from its own credit check it would have been aware the overdraft facility had only been agreed the month before this loan so there was no history to report. Taking this into account, as well as the increases to her existing credit limits and utilisation, I consider it suggests Mrs M was becoming increasingly reliant on credit to meet her monthly commitments and expenditure.

Most significantly Mrs M's statements show numerous transactions each month to an online gambling site. While in isolation the amounts of around £240, £250 and £350 across August, September and October 2016 may not seem overly excessive, I think it's important to note Mrs M wasn't making these transactions a couple of times across each month – but was making small payments on an almost daily basis.

Across October 2016 Mrs M made 28 separate transactions to a gambling site with a number of these payments being made multiple times a day. Across the three months there are as many as five transactions in one day; and numerous days where other multiple transactions were made. I consider this pattern of gambling ought to have been concerning to Bamboo.

Bamboo had calculated Mrs M would be left with around £260 per month before taking into account the payment towards this loan. I accept that Mrs M's verified income is higher than that which Bamboo appears to have used as part of its affordability checks; but taking into account the highest level of gambling across the previous three months Mrs M was still not left with what I would consider to be a reasonable level of disposable income each month,

especially taking into account that Bamboo knew she was a homeowner and had two dependents so would likely incur unexpected additional costs at times.

Bamboo as made reference to taking into account the full household income and expenditure as part of its checks – because Mrs M's husband was her guarantor. While I acknowledge this approach, the evidence I've seen from Bamboo appears to solely detail Mrs M's income and expenditure. And Bamboo had an obligation to ensure the loan was sustainably affordable to Mrs M as the borrower, rather than relying on the guarantor to meet the payments. So, I don't accept Bamboo's argument here.

Taking all the above into account, I consider reasonable and proportionate checks would have led to Bamboo identifying this loan wouldn't have been sustainably affordable to Mrs M and it ought to have concluded she wasn't a suitable candidate to lend to.

As such, I don't consider Bamboo made a fair lending decision when approving this loan.

Did Bamboo act unfairly or unreasonably in some other way?

I've not seen anything to suggest Bamboo has acted unfairly or unreasonably in any other way in its dealings with Mrs M.

Putting things right

I think it's fair and reasonable for Mrs M to repay the principal amount she borrowed because she's had the benefit of that lending. But Mrs M has paid interest on a loan that shouldn't have been provided to her. So, Bamboo Limited should:

- Refund all interest, fees and charges from the loan with 8% per annum simple interest from the date they arose to the date of settlement. †
- Remove any adverse information recorded on Mrs M's credit file in relation to the loan.

† HM Revenue & Customs requires Bamboo Limited to take off tax from this interest. Bamboo Limited must give Mrs M a certificate showing how much tax it's taken off if she asks for one.

My final decision

For the reasons set out above I'm upholding Mrs M's complaint about Bamboo Limited and direct it to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 20 May 2022.

Richard Turner
Ombudsman