

The complaint

Mr Z says Bamboo Limited lent to him irresponsibly and didn't treat him fairly when he was having financial difficulties.

What happened

Mr Z took out a loan over 60 months from Bamboo on 31 January 2017. It was for £3000 and the monthly repayments were £118.25. The total repayable was £7095.22. I understand the loan remains outstanding.

Mr Z said Bamboo didn't complete good enough affordability checks, it never asked about his outgoings and the figures it quotes for his income are not right. His outgoings were high, and he had a negative bank balance after being paid.

Our investigator found that Bamboo did not lend irresponsibly to Mr Z. He found the lender's checks were not proportionate, but he had not seen any evidence that better checks ought to have led to a different lending decision. He did not think Bamboo had acted unreasonably or irresponsibly towards Mr Z in any other way.

Mr Z rejected this conclusion. He said Bamboo offering the loan caused him to go into financial distress as he had to borrow more from other lenders.

As agreement couldn't be reached the complaint was passed to me to make a decision. I reached a different conclusion to the investigator so I issued a provisional decision (an extract follows and forms part of this final decision).

Extract from my provisional decision

I can see Bamboo asked for some information from Mr Z before it approved the loan. It asked about his income and checked this using an income verification tool. It also checked Mr Z's credit file to understand his current credit commitments and credit history. It made some assumptions about his living expenses based on national averages. It asked about the purpose of the loan, which was debt consolidation. From these checks combined Bamboo concluded Mr Z had monthly disposable income of £1036.85 and so could afford to take on the loan repayments of £118.25.

However, I don't think Bamboo's checks were proportionate. I'll explain why. Mr Z confirmed by email that he was self-employed, and in a follow up call said he was also in receipt of benefits too. Given self-employed income typically varies on a monthly basis in a way a salary doesn't, I don't think it was enough for Bamboo to rely on the checks it did – I think it needed to verify Mr Z's actual income to understand any variability. Similarly with his expenditure, I don't think using national averages was reasonable in this case. Mr Z was applying to borrow over a 60-month term and Bamboo needed to be sure he could sustainably repay the loan for that extended period of time. As I've said, Bamboo estimated that Mr Z would have £1036.85 disposable income each month so it also seems odd (or at the very least worthy of further checks) that he would want, or need, to take out such expensive credit with that amount of disposable income available to him each month.

I have looked at Mr Z's bank statements from the four months prior to his loan application. I am not saying Bamboo had to do this, just that it's one way to see what a fuller financial review would most likely have shown. And there are a number of things that I think would most likely have concerned Bamboo that suggested Mr Z was having problems managing his money.

He was clearly reliant on his overdraft of around £2000, not just using it to help with temporary cash flow at the end of the month. His self-employed income varied and was consistently significantly less (around half) than the level he declared. Mr Z was also making cash withdrawals of on average £950 per month prior to his loan application. I don't know what type of expenditure this was, but I think in the circumstances of this case it was something Bamboo needed to understand. And Mr Z had a monthly payment to one of the debt advisory services suggesting he previously had problems repaying debts. Mr Z has evidenced he had a debt management plan for £34,000 at this time.

I've thought carefully about whether or not proportionate checks would have revealed that Mr Z was struggling to manage his money and had such a significant level of historic debt. I think Bamboo would, on balance, have become aware of such issues and realised there was high risk Mr Z would be unable to repay his loan sustainably. I certainly can't see that better checks would have provided the assurance a responsible lender needed to conclude Mr Z wasn't having problems managing his money. Indeed, there were some indicators he was struggling financially on the credit report it had – Mr Z had made 16 payments of only the minimum repayment in the last year and was also using credit cards to withdraw cash.

It follows I currently don't think Bamboo should have lent to Mr Z and he has lost out as a result of what it did wrong. I don't think Bamboo acted unreasonably or irresponsibly towards Mr Z in any other way.

I then set out what Bamboo would need to do to put things right if I upheld the complaint. I asked the parties to send in any additional comments before 16 June 2021. As they both responded prior to the deadline I have been able to progress this decision.

Bamboo disagreed with my conclusion saying, in summary:

- Mr Z had an excellent credit record and his debt was in control, as it still is now.
- It's not reasonable for it to know about the debt management plan if Mr Z didn't disclose it and it wasn't showing on his credit report.
- Self-employed applicants often have high disposable income to cover for income fluctuations, similarly they use available credit such as overdrafts to manage their cashflow.
- There's no evidence to confirm that had it seen bank statements it would have made a different lending decision.
- It's not reasonable to classify the lending as irresponsible when there has clearly been no detriment caused to Mr Z.

Mr Z was happy with the provisional outcome but asked for the following points to be noted:

- The amount repayable was £7095.22 and has now increased to £7277.29.
- Bamboo seem to have looked at bank statements for other customers- it should have for him.
- His income is variable and his outgoings are high as he is a carer – the cash withdrawals are due to his debts.

- His brother is currently making his loan repayments for him to protect his credit file but he will have to repay him.

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.

I have considered Bamboo's comments carefully but they do not change my conclusion. I'll explain why.

I'm not persuaded Mr Z's credit record could be categorised as excellent – Bamboo could see Mr Z had £9,571 of unsecured debt across 11 accounts. He was frequently only managing to make minimum payments and his balance to limit ratio was 96%. There had been no reduction to the near-limit balances on his credit cards in the previous six months. I think combined these facts indicated his finances may be under pressure and so I remain of the view that given the term of the loan and the fact it knew Mr Z was self-employed further checks should have been carried out.

Bamboo says that self-employed applicants often have high disposable income to cover for income fluctuations and use available credit such as overdrafts to manage their cashflow. I accept this may be the case for some applicants, but I haven't seen any evidence that Bamboo knew if this was the reality here. It hasn't shared any borrower-focused checks it completed to understand if this was the case for Mr Z.

As I said in my provisional decision, I understand Bamboo's frustration the debt management plan wasn't on the credit report. But had it carried out a fuller financial review as I have concluded it should have for the reasons set out above and in my provisional decision, it's likely it would have seen he was making a payment to one of the debt advisory services. This also addresses the lender's point that there's no evidence to confirm that had it seen bank statements it would have made a different lending decision. As a responsible lender I would assume that it most likely would have made a different decision had it become aware of the £34,000 debt management plan Mr Z had at the time. Also, in response to my provisional decision Mr Z told us the large cash transactions were because he was repaying other debts. So had Bamboo looked into such transactions through better checks it would have had further evidence that Mr Z was having problems managing his money.

And whilst Bamboo argues there has clearly been no detriment and says it has checked Mr Z's credit file recently, he's said that his brother is repaying this loan (and he will have to repay that informal debt) so I don't think it can safely reach that conclusion.

It follows I'm still not persuaded Bamboo should have lent to Mr Z and I think he has lost out as a result of what it did wrong.

Putting things right

I think it's fair and reasonable for Mr Z to repay the capital that he borrowed, because he had the benefit of that money. But he has paid interest and charges on a loan that shouldn't have been provided to him.

It seems Bamboo hasn't sold the outstanding debt. But if it has it should buy it back if it is able to do so and then take the following steps. If Bamboo is not able to buy the debt

back, then it should liaise with the new debt owner to achieve the results outlined below.

It should:

- Remove all interest, fees and charges from the loan and treat all the payments Mr Z made as payments towards the capital. I understand he's paid a little over the original amount.
- If reworking Mr Z's loan account results in him 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*.
- Remove any adverse information recorded on Mr Z's credit file in relation to the loan.

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

My final decision

I am upholding Mr Z's complaint and Bamboo Limited must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 7 July 2021.

Rebecca Connelley
Ombudsman