

The complaint

Miss C says Bamboo Limited, trading as Bamboo Loans, irresponsibly lent to her.

What happened

This complaint is about a 36-month instalment loan for £3,000 that Bamboo provided to Miss C on 31 May 2019. The monthly repayments were £170.18 and the total repayable was £6,126.34.

Miss C says Bamboo didn't complete proper checks, she was in a debt spiral and had to borrow to repay this loan. She says she complained to Bamboo on 6 October 2020, but it didn't respond.

Our investigator upheld Miss C's complaint and thought Bamboo was wrong to have given the loan. Bamboo disagreed, it reiterated the checks it carried out and why the results supported its lending decision. It said that Miss C's use of credit wasn't steadily increasing, and it wasn't overly concerned that her default balance wasn't decreasing as they were small amounts with telecoms companies and most likely in dispute, not unaffordable. So they were not a fair reason not to lend. It asked for an ombudsman's review, so the complaint 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.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including all of the relevant rules, guidance and good industry practice - on our website.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Miss C's complaint. These two questions are:

1. Did Bamboo complete reasonable and proportionate checks to satisfy itself that Miss C would be able to repay the loan without experiencing significant adverse consequences?
 - If so, did it make a fair lending decision?
 - If not, would those checks have shown that Miss C would've been able to do so?
2. Did Bamboo act unfairly or unreasonably in some other way?

The rules and regulations in place required Bamboo to carry out a reasonable and proportionate assessment of Miss C's ability to make the repayments under this agreement. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so Bamboo had to think about whether repaying the loan would cause significant adverse consequences *for Miss C*. In practice this meant

that the business had to ensure that making the payments to the loan wouldn't cause Miss C undue difficulty or significant adverse consequences.

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 loan repayments on Miss C. Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes 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/cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

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

- the *lower* a consumer'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 *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

I've carefully considered all of the arguments, evidence and information provided in this context and what this all means for Miss C's complaint.

Bamboo has provided evidence to show that before lending it asked for some information from Miss C. It asked for details of her monthly income and her housing costs. It used national statistics to estimate her living costs and used an independent income verification tool to check her declared income. It carried out a credit check to understand her credit history and her existing credit commitments. I can't see it asked about the purpose of the loan. Based on these checks Bamboo concluded Miss C would have around £500 disposable income each month after taking on this loan and so thought it was fair to lend.

I am not wholly persuaded these checks were proportionate given Bamboo needed to be sure Miss C could sustainably repay the loan over a 36-month term. I think given the results from the credit check it carried out it ought to have completed a fuller financial review. But I won't comment further on this as even based on the information it gathered I think Bamboo ought to have realised there was a risk the loan would not be sustainably affordable for Miss C. I'll explain why.

Bamboo says its checks showed Miss C would have around £500 disposable income each month after repaying all her credit commitments. But by giving this loan it was increasing the amount of her income she would need to spend on servicing her debt to nearly 40%. At this level I think it ought to have been concerned she would likely struggle to sustainably repay the loan over three years. It could see from her credit check that even before increasing her indebtedness she had made the minimum repayment on her credit card debt 12 times in the prior 12 months; she had recently increased her overdraft four-fold and had used half of the new limit in the first month and she'd fallen delinquent on one of her accounts the previous 12 months. So I think they were already early indicators of some financial strain and in this context I don't think it was fair to extend Miss C's credit commitments such that they were almost 40% of her income. It seems Bamboo focused heavily on the pounds and pence affordability

of the loan, but to meet its regulatory obligations it was also required to check that Miss C would be able to repay the loan without suffering adverse financial consequences, or borrowing to repay. I am not satisfied it did this.

Bamboo argues that Miss C paid her loan reasonably well, only struggling a little recently due to COVID. But as it does not know how she funded her loan repayments this point does not change my conclusion.

It follows I think Bamboo was wrong to lend to Miss C.

I have not seen any evidence that Bamboo acted unfairly or unreasonable towards Miss C in some other way. She said it did not respond to her complaint of 6 October 2020. It has evidenced that it emailed her a final response letter to the email address it held, and that she has used to correspond with us, on 25 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:

- Refund all interest and charges, so add up the total amount Miss C repaid and deduct this sum from the capital amount of the loan.
- If reworking Miss C's loan account 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 account 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 loan.

*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 Limited, trading as Bamboo Loans, 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 27 June 2022.

Rebecca Connelley
Ombudsman