

## **The complaint**

Mr K complains about two loans provided to him by Bamboo Limited trading as “Bamboo”, which he says were unaffordable.

## **What happened**

Bamboo provided Mr K with loan 1 in October 2018. The loan was for £2400 and was scheduled to be repaid over 12 months at a monthly repayment of £263.44. The loan was repaid in May 2019. This is because Mr K applied for loan 2 with Bamboo at this time for £2626.36. He used part of the proceeds to repay the first loan. He was due to repay £184.47 over 2 years.

Mr K says Bamboo has irresponsibly lent the money to him on both occasions.

Our investigator assessed the complaint and recommended that it be upheld. He thought Bamboo didn't carry out proportionate checks for either of the loans and if it had it would've seen that Mr K could not afford to repay them. He said this is because Mr K was repaying a number of short-term loans and if Bamboo had carried out further checks it would have seen this for loans 1 and 2.

Bamboo disagreed with our investigator's view. It said it carried out proportionate checks when it lent to Mr K and made fair lending decisions. It pointed to its assessment that it says showed Mr K had enough disposable income to afford the loan repayments.

As this complaint hasn't been resolved informally, it has come to me, as an ombudsman, to review and make a decision.

## **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 have also taken into account the law, any relevant regulatory rules and good industry practice at the time.

When Bamboo lent to Mr K the regulator was the Financial Conduct Authority and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC).

Bamboo was entering a regulated credit agreement. So, it had to carry out a reasonable assessment of Mr K's creditworthiness before it entered the agreement. This means that Bamboo had to consider both the risk to it that Mr K wouldn't make the repayments under the agreement when due, and the risk to Mr K of not being able to make these repayments. In particular, Bamboo had to consider Mr K's ability to make repayments under the agreement as they Bamboo due over the life of the agreement, without him having to borrow to meet the repayments, without him failing to make any other repayment he had a

contractual or statutory duty to make, and without the repayments having a significant adverse effect on his financial situation.

The rules don't set out any specific checks which must be completed to assess creditworthiness. But the lender should take into account the borrower's income (over the full term of the loan) and their ongoing expenditure for living expenses and other debts. Whilst it is down to the lender to decide what specific checks it wishes to carry out these should be reasonable and proportionate to the type and amount of credit being provided, the length of the term, the frequency and amount of the repayments and the total cost of the credit. So, a lender's assessment of creditworthiness would need to be flexible and what is appropriate for one person might not be for another. And what might be sufficient for a borrower in one circumstance might not be so for the same borrower in other circumstances.

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

- 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 longer the period of time a borrower will be indebted for (reflecting the fact that the total cost of credit is likely to be greater and the borrower is required to make repayments for an extended period).

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

- Did Bamboo complete reasonable and proportionate checks when assessing Mr K's loan application to satisfy itself that he would be able to repay the loan in a sustainable way? If it did, did Bamboo then make fair lending decisions?
- If not, what would reasonable and proportionate checks have shown?

## **Loan 1**

I can see that Bamboo asked Mr K about his income and expenditure. It also carried out a credit check and used Office of National Statistics (ONS) data to assess his living costs. It says it also verified Mr K's income.

It recorded down and says it verified Mr K's monthly income as £2770. It noted down his housing costs as £400, his living expenses as £308, existing credit commitments as £946 along with the repayment for this loan as around £263. This would leave Mr K with disposable income of around £1046.

I've carefully considered what Bamboo has said about how it calculated Mr K's disposable income when it agreed to the loan. I don't think its checks were proportionate for this loan because I think it would have seen enough from the information that it gathered that ought to have given it concerns. At least enough that I think, the checks should have alerted it to wanting to find out more.

On the credit check it carried out it would have seen that Mr K had 3 short term loans that he had taken out shortly before he applied for this loan. He also had taken out 9 new accounts within the past 6 months. He was close to the limit with his credit card accounts as well. It

would have been at odds with its assessment of Mr K's finances, that he would have such a lot of recent history taking out short term credit and using all of his revolving credit available. I think it ought to have alerted Bamboo to want to find out more to assure itself that Mr K was in a position to repay the loan in a sustainable way. This leads me to think that Bamboo needed to take additional steps to verify what Mr K's actual monthly expenditure was.

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So, I need to decide whether it is more likely than not that a proportionate check would have told Bamboo that Mr K would have been unable to sustainably repay this loan.

Bamboo was required to establish whether Mr K could make his loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

I've carefully considered the information provided by Mr K. He was able to provide bank statements for 3 months before he applied for this loan. I've looked through these and having done so, it's clear Mr K was heavily reliant on using finance by other short-term lenders. I can see on the bank statements that the frequency of Mr K's loan taking was in order to fill a gap in his finances. It is clear to me looking at his statements from August to October 2018, that he had become reliant on them. As the investigator also found in his view, I can see that there were also short-term loans in Mr K's bank statements that had not appeared on his credit file either.

Mr K was struggling to manage his finances and the repayments he had to make on these loans, meant he would have had to carry on lending in order to meet his commitments. In short, the loan repayments for this loan from Bamboo wouldn't have been sustainable.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have shown Bamboo that Mr K would not have been able to sustainably repay this loan. So, I'm satisfied that Bamboo's failure to carry out proportionate checks resulted in it unfairly providing it to Mr K.

## **Loan 2**

Mr K went back to Bamboo only around 7 months later and asked for a top up loan. This involved him repaying loan 1 with some of the capital. Mr K asked for this loan to be over a longer term of 24 months. Mr K's credit file had not improved at all since loan 1 and he had taken out a further 12 new accounts in the 6 months previous to this application.

I think, when I consider what I have already concluded, I think this ought to have alerted Bamboo to want to carry out further checks to assure itself that Mr K could afford to make the repayments for this loan in a sustainable way. If it had done this and carried out further checks it would have seen that Mr K's finances hadn't improved at all since, he took out loan 1. He was still heavily reliant on short term lending to meet a shortfall in his finances. His statements for March-May 2019 showed that he has repaying a number of short-term loans each month, whilst regularly being in his overdraft. He also was repaying additional short-term loans that did not appear on his credit file. I think if Bamboo had seen all this, it would have seen that Mr K would not have been able to afford loan 2 either.

So, in conclusion, I conclude Bamboo needs to put things right regarding loans 1 and 2 for the reasons given above.

## **Putting things right**

In line with this Service's approach, Mr K shouldn't repay more than the capital amount he borrowed. With this in mind, Bamboo should:

- add up the total amount of money Mr K received as a result of being given loans 1 and 2. The payments Mr K made should be deducted from this amount. Any payments made after the total repaid exceeds the amount Mr K was given should be treated as overpayments and refunded to him;
- add interest at 8% per year simple on any overpayments from the date they were paid by Mr K to the date of settlement†;
- remove any adverse information placed on Mr K's credit file because of these two loans.

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

### **My final decision**

My final decision is that I uphold Mr K's complaint for the reasons set out above and require Bamboo Limited, to put things right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 25 August 2022.

Mark Richardson  
**Ombudsman**