

The complaint

Mr H complains about two loans provided to him by Bamboo Limited, trading as Bamboo Loans, ("Bamboo"), which he says were unaffordable. The complaint is brought to this service on Mr H's behalf by a claims' management company. But for ease, I shall refer below to all actions being taken by Mr H.

What happened

Bamboo agreed two loans for Mr H. Loan 1 was for £2,000 and taken out in April 2018 . Loan 2 was for £1,200 and taken out in September 2019. Both loans have been repaid. Some of the information Bamboo provided about the loans is shown in the table below.

Loan number	Start date	End date	Loan amount	Monthly repayments	Term (months)
1.	13/4/2018	20/11/2018	£2,000	35 monthly repayments of £113.45 and one monthly repayment of £113.48	36
2.	14/9/2019	28/11/2019	£1,200	11 monthly repayments of £139.16 and one monthly repayment of £139.13	12

Mr H says that Bamboo ought to have known that he couldn't repay the loans and in order to repay the loans, he would have to borrow further loans from other lenders which resulted in trapping him into a debt spiral. He got into further debt and suffered financial hardship as a result.

Our investigator's view

Our investigator recommended that the complaint should be upheld. She said with regard to Loan 1 that Mr H's reliance on credit to manage his financial commitments was a strong indication that taking on new lending may not have been affordable. With regard to Loan 2, she said that Mr H's finances hadn't improved at the time of Loan 2 and appeared to have deteriorated. It seemed reasonable to conclude that Bamboo didn't make a fair lending decision because Mr H was in a debt cycle, he was likely struggling financially, and he couldn't afford to sustainably meet the repayments on the loan.

Bamboo disagreed and responded to the investigator's view to say, in summary, that:

- It considered that the checks it undertook were proportionate, the loans were for modest values and it had calculated that Mr H had a good net disposable income on each application
- It asked additional questions and received proof of his income for Loan 2 through a credit reference agency which linked to Open Banking.
- At the time of Loan 2, Mr H was using just 16% of his available credit and this had reduced from 89% at the time of the application for Loan 1

- There was no evidence of cash advances on any of Mr H's credit cards. There appeared to be a categorisation error on the credit reports
- Both loans performed as expected before Mr H settled each loan early. So, it considered that no detriment had been caused to Mr H by its decision to lend
- It had undertaken a new recent credit report on Mr H which showed he had an in-credit balance on a credit card with a limit of £5,500, he wasn't using any of his available overdraft and had paid all of his credit perfectly since he became a Bamboo customer.
- Its credit checks for Loan 1 provided different figures to those the investigator calculated. It said that Mr H had opened seven new credit accounts within the six months prior to the application and had only carried out two credit searches in the three months prior and six searches in the 12 months prior. It calculated that Mr H had used 11 payday loans in that 12 months' period and not the 20 payday loans that the investigator had suggested. As the purpose of the loan was for debt consolidation, it considered that Mr H could have improved his financial situation
- With reference to Mr H's overdraft at the time of Loan 2, Mr H could have cleared his balance with the loan. So, it wasn't too concerned that he had exceeded his overdraft limit of £200 by just 65 pence.
- On Loan 2, Mr H seemed not to be using his overdraft. The £200 limit on the current account was for a joint account, and not just an account belonging to Mr H.

As this complaint hadn't been resolved informally, it was passed to me, as an ombudsman, to review and resolve.

my provisional decision

After considering all the evidence, I issued a provisional decision on this complaint to Mr H and to Bamboo on 23 February 2022. I summarise my findings:

I'd noted that when Bamboo lent to Mr H the regulator was the Financial Conduct Authority and relevant regulations and guidance included its Consumer Credit Sourcebook (CONC).

I'd said that Bamboo would be aware of the relevant regulations and how we considered irresponsible lending complaints, so I didn't go into detail on these points. I'd summarised by saying that it needed to check that Mr H could afford to meet his repayments without difficulty before agreeing credit for him. In other words, it needed to check he could make his repayments out of his usual income without having to borrow to meet them, while meeting his existing obligations and without the payments having a significant adverse impact on his financial situation. The assessments needed to take into account the nature of the credit and Mr H's circumstances.

With this in mind, my main consideration was whether Bamboo had treated Mr H fairly when it agreed to lend to him. I'd thought about whether Bamboo completed reasonable and proportionate checks when assessing his applications to satisfy itself that he would be able to make his repayments without experiencing adverse consequences. I'd thought about the information it knew, and what it ought reasonably to have known.

Loan 1

The loan was repayable by 35 monthly repayments of £113.45 and one monthly repayment of £113.48. The interest rate was 54.19%, (69.9% APR). If Mr H made each payment when it was due, he'd pay £4,084.23 in total. The loan was repaid on 20 November 2018.

I'd noted that Bamboo had gathered some information from Mr H about his income and accommodation expenses before it agreed the loan. It assessed his living expenses using data from the Office for National Statistics ("ONS"). It also carried out a credit check.

Mr H told Bamboo he was living with his partner and had two dependents, he had a mortgage, and his net monthly income was £2,100. He also received other monthly income of £130.

Bamboo didn't ask Mr H for any information about his living costs. It assessed these as £467.27 according to ONS statistical information.

The lender used information from its credit checks to assess Mr H's monthly credit commitments as £408.

I'd reviewed Bamboo's credit checks. I'd noted that these showed that Mr H had 11 active credit accounts and that seven of these had been opened in the previous six months. I'd concentrated on Mr H's use of credit over the 12 months before the loan application although the checks showed Mr H's significant use of credit before then.

I could see that Mr H had opened three credit card accounts in the ten months prior to the application for Loan 1. His balances on two of those cards totalled £6,614. So, he'd borrowed relatively heavily on those cards since they were opened. Two of the account balances were around their respective credit limits of £1,200 and £5,500 respectively. The lower balance of the two was £1,175. But it had been £1,174 in the previous month and £976 with a £1,000 credit limit in the month before that. I'd said that Mr H's use of the card with the higher balance was more concerning. He'd missed a payment three months earlier and his balance was £53 over the credit limit two months earlier. In addition, he'd taken six cash advances totalling £200 in February 2018, three totalling £120 in January 2018 and ten totalling £2,200 in the previous month. I thought Mr H's need to take this number of cash advances ought to have concerned Bamboo. I thought Bamboo ought reasonably to have questioned why Mr H, who apparently had a high level of disposable income, had needed to take out so many costly cash withdrawals.

I'd also noted that the checks showed that Mr H's current account had been over its overdraft limit from August 2017 to December 2017, and the checks showed a missed payment three months prior to the loan application.

More worryingly, I'd noted that Mr H had borrowed ten loans from May 2017 to March 2018. One loan appeared to be an unsecured loan for £1,279 taken out in June 2017. The other loans appeared likely to be short term loans. In the six months prior to the loan application Mr H had borrowed six loans. And in March 2018, Mr H borrowed three such loans totalling £550. Two of those loans totalling £350 were still outstanding.

The credit checks also showed that Mr H was taking out payday loans regularly throughout 2016.

I'd said that simply performing credit checks wasn't enough. A lender needed to react appropriately to the information that any checks showed. Altogether I thought Bamboo's credit checks ought to have caused it concerns as Mr H's finances appeared to be under pressure and suggested that Mr H was likely struggling to manage his money. This was shown on its credit checks by Mr H's relatively recent need for a relatively high amount of credit as shown by two credit card accounts near their respective credit limits, a total of 19 cash advances taken between December 2017 and February 2018, a current account recently over its overdraft limit for five months and six recent loans in the six months prior to his loan application. I thought it would have been reasonable for Bamboo to conclude from

its credit checks that despite the disposable income it had calculated, it was likely that Mr H was having significant financial difficulties and wouldn't be able to repay the loan without the repayments having an adverse effect on his financial situation.

I'd noted that Bamboo had said that there was no evidence of cash advances on any of Mr H's credit cards, and there appeared to be a categorisation error on the credit reports. I disagreed. The checks showed the number of cash advances taken each month on one credit card from November 2017 to February 2018, and the total value of the advances each month. The data summary at the beginning of the credit checks also summarised the cash advances taken. I couldn't see evidence of a categorisation error on the checks.

Bamboo said that Mr H had told it that his payday loans would be settled within the next two months and he wouldn't need any moving forward. He'd also said he would be using the loan proceeds to consolidate some of his debts. I couldn't see from the information received from Bamboo that it had made debt consolidation a condition of the loan. So, it couldn't be sure that the loans would be paid off. And Mr H would still have been left with a relatively large amount of debt to repay even if he did repay some of his debts with the loan proceeds. I also thought the regularity and relatively high amount of short term borrowing and multiple cash advances shown on the credit checks might have suggested that Mr H was having serious problems managing his finances that a debt consolidation wouldn't have solved. Mr H's need for credit appeared to be an ongoing one and his finances weren't stable.

Bamboo also said that as the loan purpose was for debt consolidation, it considered that Mr H could have improved his financial situation. But, in view of Mr H's recent need to borrow as shown in Bamboo's credit checks, I didn't think it could safely assume that Mr H wouldn't borrow again after he'd received its loan.

I could also see that even if Mr H had used the proceeds of the loan for debt consolidation, his total indebtedness was still increasing. He would be using a loan of £2,000 to repay debt, but he would need around £4,084 to repay that loan over the loan term.

I also didn't think it was reasonable for Bamboo to rely on statistical information about Mr H's living costs without verifying them. Bamboo used ONS data, which was based on the finances and expenditure of the average consumer, to estimate Mr H's living expenses. But Mr H's multiple recent credit applications meant that Bamboo knew it was providing a loan to someone who fell outside this average portfolio. I didn't think that using ONS data – which was unlikely to reflect the existing commitments of someone in Mr H's circumstances – was fair, reasonable, and proportionate.

Altogether, I didn't think that Bamboo had carried out proportionate checks. Its affordability assessment wasn't tailored to Mr H and I thought it should have been in his circumstances.

I'd noted that Bamboo had said that Mr H had a monthly disposable income of £1,022.75 to meet the monthly proposed loan repayment of £113.45, and that this showed that the payments should have been affordable for Mr H. It seemed to me that Bamboo was focussing on its calculation of whether the loan was affordable for Mr H on a pounds and pence basis. But the lender was required to establish whether Mr H could sustainably make his loan repayments – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. The loan payments being affordable on this basis might be an indication that a borrower could sustainably make the repayments. But it didn't automatically follow that this was the case. And as a borrower shouldn't have to borrow further in order to make their payments, it followed that a lender should realise, or it ought fairly and reasonably to realise, that a borrower wouldn't be able to sustainably make their

repayments if it was on notice that they were unlikely to be able to make their repayments without borrowing further.

I'd said that I wasn't going to investigate what further checks might have shown in view of what I'd said above. Overall, I was satisfied that the available information demonstrated that Mr H wasn't in a position to take on any more debt and so Bamboo's decision to arrange the loan wasn't fair and reasonable in the circumstances. Agreeing further credit for Mr H was only likely to add to his financial pressures. And, I thought Bamboo ought to have been concerned about Mr H's ability to repay its loan out of his usual means, without borrowing, as it didn't appear he was managing to do so with his existing debt.

I'd noted that Bamboo had said that the loan performed as expected before Mr H settled it early. But I didn't think that necessarily meant that the loan repayments were repaid sustainably without Mr H having to borrow further to meet the repayments and without being caused undue difficulty or adverse consequences.

I'd also noted that Bamboo has referred to information contained in a recent credit report. But I'd made my decision on the basis of the information available to Bamboo and what it ought reasonably to have known at the time of the loan.

So, I didn't think Bamboo had treated Mr H fairly in providing Loan 1 to him and subject to any further representations by Mr H or Bamboo, I said that I intended to uphold Mr H's complaint about Loan 1.

Loan 2

I'd noted that Loan 1 was repaid early, and Mr H borrowed Loan 2 around ten months after repaying Loan 1. Loan 2 was repayable by 11 monthly repayments of £139.16 and one monthly repayment of £139.13. The interest rate was 65.88%, (89.9% APR). If Mr H made each payment when it was due, he'd pay £1,669.89 in total. The loan was repaid on 28 November 2019.

I'd noted that Bamboo again gathered some information from Mr H about his income and accommodation expenses before it agreed the loan. It assessed his living expenses using ONS data. It also carried out a credit check and a check with a credit reference agency using Open Banking data on financial behaviour.

Mr H told Bamboo he was living with his partner and had two dependents, he had a mortgage, and his net monthly income was £2,274.

Bamboo didn't ask Mr H for any information about his living costs. It assessed these as £470.55 according to ONS data. As I'd said above, I didn't think the use of ONS data was appropriate in Mr H's circumstances.

The lender said it used information from its credit checks to assess Mr H's monthly credit commitments as £389.

I'd reviewed Bamboo's credit checks and concentrated on Mr H's recent credit in the 12 months prior to his application for Loan 2. I'd noted that the checks showed that Mr H had 13 active credit accounts and that three of these had been opened in the previous six months. I could see that Mr H's use of credit cards had decreased so his credit card balances had fallen by about £5,400 since he'd taken out Loan 1. But at the same time, I'd noted that Mr H's total loans balance had increased by around £13,000.

I could see that Mr H had one credit card account balance which was at its credit limit. I'd also noted that he had other credit cards which he wasn't using. I'd also seen no recent evidence of Mr H making cash withdrawals on his credit cards.

I'd also noted that Mr H had a mail order account and that he'd twice missed payments on this account two and three months prior to the loan application, and the balance outstanding had only reduced from £364 to £352 in three months.

I could also see that Mr H had taken out an unsecured loan for around £10,000 around ten months prior to the loan application and he'd taken out another loan for around £3,735 around three months prior to the loan application. In May 2019, he'd taken out a further two loans totalling £560. But the checks appeared to show just two other loans taken out in the previous 12 months which could have been payday loans, and they didn't show any new credit accounts taken out in the three months prior to the loan application.

Mr H had told Bamboo that he was using Loan 2 for debt consolidation. But as the loan was for £1,200, this would only repay around a twelfth of Mr H's debt. I couldn't see from the information received from Bamboo that it had made debt consolidation a condition of the loan. So, it couldn't be sure that the debt would be paid off. And Mr H would still have been left with a large amount of debt to repay even if he did repay some of his debts with the loan proceeds.

I'd also noted the Open Banking data which showed that Mr H was 65 pence over his overdraft limit. Bamboo said that this was a joint account. I could see from the data that the overdraft was being used each month, although it wasn't clear if the overdraft balance exceeded the overdraft limit at other times. The data also suggested that the account holders' spending exceeded their income, although it wasn't clear how much of the spending was on essential living costs.

Altogether I thought Bamboo's credit checks ought to have caused the lender some concerns as they suggested that Mr H's recent finances appeared to be under pressure. This was shown by Mr H's relatively recent need for credit shown by the new loan for around £3,735 in June 2019 and the two loans in May 2019, the fact that his credit card balance was at its credit limit, and the recent missed payments on Mr H's mail order account.

I'd noted that Bamboo had calculated that Mr H had a monthly disposable income of £1,264.45 to meet the monthly proposed loan repayment of £139.16. But I thought Bamboo might have been concerned as to why someone with such a large proportion of available income (according to its own calculations) would need to borrow expensive credit. I didn't consider the disposable income calculated by Bamboo to be consistent with the amount of relatively recent credit Mr H had taken out, his missed payments, and the need to borrow a high cost loan.

Looking at everything in the round, I didn't think it was reasonable for Bamboo to rely on the ONS data and the information provided by Mr H without verifying it. I thought Bamboo should reasonably have taken steps to gain a more thorough understanding of Mr H's financial position in order to satisfy itself that he could repay Loan 2 without having to borrow to meet the repayments, without failing to make any contractual or statutory payments and without the repayments having a significant adverse impact on his financial situation. It could have done this by, for example, requesting bank statements from Mr H, asking for copies of bills and/or receipts for his expenses and by asking him for more information about his existing credit commitments. Bamboo didn't say that it took steps to do this, other than to verify Mr H's income using the Open Banking data. So overall, I didn't think the checks Bamboo had carried out on this occasion were reasonable and proportionate.

But that in itself didn't mean that Mr H's complaint should succeed. I also needed to be persuaded that what I considered to be proportionate checks would have shown Bamboo that Mr H couldn't repay Loan 2 without the repayments having a significant adverse impact on his financial situation. So, I asked the investigator to ask Mr H for copies of his bank statements, so I could see what better checks would have shown Bamboo.

I wasn't suggesting that this was the exact check that Bamboo should have carried out. Looking at Mr H's bank statements was one way of achieving that although there were other ways that level of detail could be established. But I thought that by looking at Mr H's bank statements, I would be able to get a good idea of what better checks might have shown.

Despite our request, Mr H hadn't provided us with copies of his bank statements from around the time of Loan 2. So, I wasn't able to get a picture of what his financial situation was like at the relevant time. That meant I couldn't say that, if Bamboo had completed further checks, it would've found that Mr H couldn't afford to repay Loan 2. So, based on the information I'd seen, I wasn't able to conclude that Bamboo shouldn't have agreed to provide Loan 2 to Mr H. I'd said that if Mr H could provide us with the relevant copies of his bank statements, I would reconsider my decision. But subject to any further representations by Mr H or Bamboo, I didn't intend to say that Mr H's complaint about Loan 2 should be upheld.

So, for the reasons set out above, I didn't think Bamboo had acted fairly when it provided Loan 1 to Mr H. Subject to any further representations by Mr H or Bamboo, I intended to say that Mr H's complaint should be upheld in part, and that Bamboo should put things right as follows:

Putting things right – what Bamboo needs to do

I don't think Bamboo should have agreed to give Loan 1 to Mr H. So, Bamboo should:

1. Refund all the interest and charges Mr H paid on Loan 1;
2. Pay interest of 8% simple a year on any refunded interest and charges from the date they were paid to the date of settlement*; and
3. Remove any adverse information recorded on Mr H's credit file in relation to Loan 1.

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

Mr H responded to my provisional decision to say that he accepted it.

Bamboo responded to my provisional decision to say that it had no further comments.

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.

Given that Mr H and Bamboo have given me nothing further to consider, I see no reason to depart from the conclusions I reached in my provisional decision. It follows that I

uphold this complaint in part and require Bamboo to take the steps set out above under the heading “Putting things right - what Bamboo needs to do”.

My final decision

My decision is that I uphold this complaint in part. In full and final settlement of this complaint, I order Bamboo Limited, trading as Bamboo Loans, to put things right as I’ve set out above under the heading “Putting things right – what Bamboo needs to do”.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 13 April 2022.

Roslyn Rawson

Ombudsman