

The complaint

Mr M, through a representative, says Bamboo Limited, trading as Bamboo Loans, irresponsibly lent to him.

What happened

Mr M took out three instalment loans from Bamboo. A summary of his borrowing follows.

loan	taken out	repaid	value, £	term	monthly repayment, £	total repayable, £
1	12/06/2020	18/08/2020	1,500	12	173.95	2,087.36
2	22/09/2020	25/01/2021	1,000	12	106.41	1,276.96
3	13/04/2022	27/02/2023	1,500	12	164.65	1,975.87

Mr M says Bamboo did not carry out proportionate checks before lending to him; the loans were not affordable for him.

Our investigator upheld Mr M's complaint. He said Bamboo's checks were not proportionate and had it completed better checks it ought to have realised the loans would not be sustainably affordable for Mr M.

Unhappy with this assessment Bamboo asked for an ombudsman's review. In summary, it said at the time each of loan Mr M had a largely good credit profile; any adverse data was historic; his overall indebtedness reduced whilst he was a customer, as did his credit utilisation; and he settled the loans early. It argues in these circumstances it would not have been proportionate to request bank statements. And after reviewing them now, whilst it acknowledges there were gambling transactions, it says these were small debit payments and Mr M still had disposable income for discretionary spending.

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 Mr M's complaint. These two questions are:

1. Did Bamboo complete reasonable and proportionate checks to satisfy itself that Mr M would be able to repay the loans without experiencing significant adverse consequences?

- If so, did it make fair lending decisions?

- If not, would those checks have shown that Mr M 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 Mr M'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 Mr M. In practice this meant that the business had to ensure that making the payments to the loans wouldn't cause Mr M 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 Mr M. Checks also had to be proportionate to the specific circumstances of the loan applications.

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 Mr M's complaint.

Bamboo has provided evidence to show that before each loan it asked for some information from Mr M. It asked for his monthly income, his employment status and his housing cost. It completed income verification checks with a third-party and used national statistics to make an assumption about his living costs. It carried out a credit check to understand his credit history and his existing credit commitments. Based on the results of these checks Bamboo thought it was fair to lend.

Loan 1

I am not satisfied the Bamboo's checks were proportionate given what it learnt from the initial results. I say this as it concluded from the credit check that Mr M was already spending £505 each month, from his declared income of £1,350, to meet his existing credit commitments. Whilst I accept he was up to date on his active accounts, this was a high proportion of his income – something that can be a predictor of future financial difficulties. So I think this should have triggered Bamboo to complete a fuller financial review to ensure it fully understood Mr M's actual incomings and outgoings before lending.

Mr M has provided his bank statements from the months prior to his application. I am not saying Bamboo had to request them, but it is a way for me to recreate what better checks would most likely have shown. I think it's fair to assume Bamboo would have learnt that Mr M's income was lower than he declared at £1,177 and his essential living costs were around £770, so much higher than Bamboo had assumed at £303. In addition, his credit commitments were around £600 a month as Mr M had recently taken out another loan. So as Bamboo can see, had it carried out proportionate checks it would have realised Mr M did not have the disposable income needed to sustainably repay loan 1.

It follows I find Bamboo was wrong to give loan 1 to Mr M.

Loans 2 and 3

Given what Bamboo ought to have learnt at the time of loan 1, it follows I would not expect it to lend to Mr M unless it had satisfied itself at the time of any new application that he was financially stable and any new debt would be affordable based on his actual financial position. At the time of loan 2, had it carried out proportionate checks, it would have seen that the level of gambling that was in evidence at the time of loan 1 had increased. Mr M was now spending around 30% of his income on gambling transactions. And by the time Mr M applied for the third loan his spend on gambling had increased threefold and was around 85% of his income. So better checks would have shown Bamboo that Mr M was clearly having problems managing his money and there was a high risk would be unable to repay either loan without suffering adverse financial consequences.

It follows I find Bamboo was also wrong to give loans 2 and 3 to Mr M.

I have thought carefully about Bamboo's submission setting out why it felt it was fair to lend to Mr M based on his credit profile, debt level and the results of its affordability assessment. But I remain of the view this is a case where the lender missed signs of potential money pressure at the time of loan 1 that meant further checks were needed. And had they been carried out I think Bamboo, as a responsible lender, would have realised Mr M could not sustainably afford the loans.

I have seen no evidence that Bamboo acted unfairly or unreasonably in some other way.

Putting things right

I think it's fair and reasonable for Mr M to repay the capital that he borrowed, because he had the benefit of that money. But he has paid interest and charges on loans that shouldn't have been provided to him. Bamboo must put this right.

It should:

- Refund all interest and charges Mr M paid on all three loans.
- As reworking Mr M's loan accounts in this way will result 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 M's credit file in relation to the loans.

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

My final decision

I am upholding Mr M'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 Mr M to accept or reject my decision before 7 June 2023.

Rebecca Connelley
Ombudsman