

The complaint

Mr E says Bamboo Limited irresponsibly lent to him.

What happened

Mr E took out a loan for £1,000 over 18 months from Bamboo in July 2021. The monthly repayments were £82.55 and the total repayable was £1,482.13. He says he was just taking out loans to pay off other loans and getting deeper into debt. This has impacted him financially and taken its toll on his health.

Our investigator upheld Mr E's complaint. She said there were signs Mr E might not be able to repay the loan sustainably.

Bamboo disagreed and asked for an ombudsman's review. In summary, it said its checks were proportionate and Mr E had an excellent credit profile with no current arrears or defaults. He had just one active payday loan and was not taking out cash on credit. He made nine repayments on time before settling the loan early.

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 E's complaint.

These two questions are:

1. Did Bamboo complete reasonable and proportionate checks to satisfy itself that Mr E would be able to repay the loan without experiencing significant adverse consequences? - If so, did it make fair lending decisions? If not, would those checks have shown that Mr E 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 E'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 E. In practice this meant that the business had to ensure that making the payments to the loan wouldn't cause Mr E 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 E. 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 E's complaint. Bamboo has provided evidence to show that before each loan it asked for some information from Mr E. It asked for his monthly income, his employment status and his housing costs. 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 as Mr E had around £838 disposable income each month.

There has been debate between the investigator and Bamboo about whether or not its checks were proportionate, but I need not make a finding in this point as even based on the information it gathered I don't think Bamboo made a fair lending decision. I'll explain why.

When Mr E applied for this loan Bamboo's assessment showed he was already spending around £805 of his income each month to repay existing debt – so around a third of his income. I think this ought to have concerned Bamboo. As the industry is aware, consumers spending a high proportion of their income on credit are at risk of falling into financial difficulties. So I don't think it was responsible to increase this further. Bamboo argues that its loan can often be the first positive step away from using payday loans. But it did not verify this was his plan. In fact, it said in its submission that Mr E's loan was for a 'special purchase' – and this was what Mr E said on the application follow-up call I have listened to. So Bamboo was aware in this case its loan was increasing Mr E's indebtedness, and not being used to settle more expensive debt.

Bamboo's credit check showed Mr E was using 92% of his available revolving credit, that he had opened three loan accounts in the prior two months, and that he had an active payday loan. He had made only the minimum payments on revolving credit six times in the last 12 months. And he was overdrawn (and almost at his limit) on one of his current accounts. So in the round I think there were indicators that Mr E was already under financial pressure and most likely in a cycle of borrowing to repay. In addition, I think Bamboo ought to have considered it unusual that if Mr E had £838 disposable income each month he would opt to take out an expensive loan for £1,000.

Bamboo argues that Mr E met all his repayments for 9 months and then repaid the loan early. But it does not know how he did this and Mr E's testimony is that it was by again borrowing to repay.

Overall, I find there were sufficient indicators in the available information that giving Mr E this loan would likely cause financial harm.

It follows I think Bamboo was wrong to lend to Mr E. I have not seen any evidence it acted unfairly towards Mr E in some other way.

Putting things right

I think it's fair and reasonable for Mr E 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. Bamboo must put this right.

It should:

- Refund all interest and charges Mr E paid on his loan.
- As reworking Mr E's loan account 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 E's credit file in relation to the loan.

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

My final decision

I am upholding Mr E'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 E to accept or reject my decision before 16 October 2023.

Rebecca Connelley
Ombudsman