

The complaint

Miss C complains that Bamboo Limited was irresponsible to lend to her on two occasions.

What happened

Bamboo agreed two loans for Miss C. The first was for £1,000 agreed in May 2021. This was to be repaid over five years with monthly repayments of £44. The second was for £1,995.31 agreed in February 2022. The total amount owed on this second loan came to £5,269.25 to be repaid over five years with repayments of £87.22. Miss C used £977.29 of the money she borrowed for her second loan to settle her first, and the remainder was paid directly to her. I understand the second loan is ongoing.

Miss C complained to Bamboo that the loans were unaffordable for her and should not have been agreed. Bamboo didn't uphold Miss C's complaint. It said that it carried out reasonable and proportionate affordability checks before agreeing to lend to her each time. These included checking Miss C's credit file. Bamboo estimated that Miss C would have enough disposable income to meet her loan repayments and so found the loans to be affordable.

Miss C referred her complaint to us. Our investigator looked into what happened. They found that it would have been proportionate for Bamboo to have carried out further checks when Miss C applied for her loans, and that such checks would have led it to decline to lend to her in February 2022. They concluded that Bamboo had been irresponsible to lend to Miss C and upheld her complaint about her second loan.

Bamboo didn't agree with this conclusion and asked for the complaint to come to an ombudsman for a review and it came to me. I issued a provisional decision on 27 March 2023 explaining why I thought that Miss C's complaint should be upheld in full. I allowed time for comments or new information from either party. Miss C agreed with my decision but Bamboo did not and provided some comments for me to consider when making my final 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.

Having reviewed everything again, including what Bamboo said in response to my provisional decision, I remain of the view that Miss C's complaint about both loans should be upheld. I appreciate that this will be very disappointing for Bamboo and I'll explain how I've reached my conclusions again in this final decision and refer to its response where appropriate.

As before, I've had regard to the regulator's rules and guidance on responsible lending (set out in its consumer credit handbook – CONC) which lenders, such as Bamboo, need to abide by. Bamboo will be aware of these, and our approach to this type of lending is set out on our website, so I won't refer to the regulations in detail here but will summarise them.

Before entering into a credit agreement, Bamboo needed to check that Miss C could afford to meet her repayments out of her usual means for the loan terms, without having to borrow further, while meeting existing commitments and without the repayments having a significant adverse impact on her financial situation. The checks needed to be proportionate to the nature of the credit (the amount borrowed, for example) and take into consideration Miss C's circumstances. Bamboo needed to bear in mind that certain factors might point towards a more rigorous assessment and others towards a less rigorous one when deciding what type of creditworthiness assessment was required. Ultimately, Bamboo needed to treat Miss C fairly and take full account of her interests when making its lending decision.

With this in mind, my main considerations are did Bamboo complete reasonable and proportionate checks when assessing Miss C's applications to satisfy itself that she would be able to make her repayments without experiencing adverse consequences? If not, what would reasonable and proportionate checks have shown and, ultimately, did Bamboo make fair lending decisions?

Loan 1 – May 2021

Miss C said her monthly rent payment was £799 when she applied for her first loan. Bamboo checked Miss C's credit file which showed £5,189 of existing debt and estimated that she spent £267 a month on her repayments. Bamboo said it used information from the Office of National Statistics (ONS) and estimated Miss C's essential expenses as £463. Altogether Miss C's estimated expenses, including her loan repayment of £44, came to £1,573.

Miss C gave her income as £3,624. Bamboo said it used a credit reference agency tool which drew on Miss C's bank account data to clarify that she received a minimum amount of £1,573 a month. I haven't seen the results of this check but it didn't raise concerns.

In some instances I could say that the checks Bamboo carried out were reasonable and proportionate but I'm afraid I can't say that they were in this case. Bamboo was required to check that Miss C could meet her repayments without borrowing or experiencing any other adverse impacts. The check Bamboo carried out might have indicated that the loan would be affordable for Miss C on a 'pounds and pence' basis, in other words without considering any unexpected or one-off costs, but I can't see that it gave any reassurance that she would be able to meet her repayments without difficulty. I appreciate that Miss C said her income was more than double this but, as per the regulations, Bamboo couldn't generally rely solely on such a statement. Given this, and that the loan was to be repaid over a five year term and Miss C had two dependents, I think Bamboo should have carried out a more rigorous assessment here.

Bamboo said in response to my provisional decision that its check showed that Miss C had enough disposable income to cover any unexpected costs given what she'd said about her income. Bamboo also said that Miss C had given a different amount as her income when she applied for her second loan, which suggested that she wasn't being truthful about her income level or her employment. As I'd explained, Bamboo needed to do more than assess whether or not Miss C had the minimum income necessary to meet her existing expenses plus her new loan repayment, which is what it seems have done here. Bamboo needed to check that Miss C could meet her repayments for the lifetime of the loan without difficulty.

Bamboo also said in response that Miss C's credit file didn't show any adverse information, such as defaults or county court judgements, and she wasn't utilising any of the £2,000 credit that was available to her on one of her accounts. I've looked again at the detail of the credit file information Bamboo gathered at the time and I think it's fair to say that while there was no current adverse information reported, the information isn't wholly reassuring. It shows that Miss C had cleared the credit card account mentioned just five months prior and

having exceeded her limit. Miss C held several loans and mail order accounts, one of which was reported as being over its £1,000 limit for at least the last six months. It seems she also held a utility account with an outstanding balance of £1,192.

Altogether, I remain of the view that Bamboo should have carried out a more rigorous check before lending to Miss C on this occasion given the loan specifics and her circumstances.

Miss C provided her bank statements from the time and I've reviewed these. To be clear, I'm not suggesting this is the information that Bamboo should have gathered but it is the information I have available and I think it's reasonable to rely on this to understand what a proportionate check might have revealed.

Miss C said in her application that she was employed full-time but I can see from her bank statements that wasn't the case. Her wages came to £288 each month and she was in receipt of state benefit and tax credits bringing her total average monthly income to around £1,730. Miss C received a one-off government payment of £500 in April 2021 as part of its income support during the pandemic and I haven't included this in my estimate. There were occasional transfers in from Miss C's partner, but these weren't regular and came to less than £100 a month on average.

I'd said in my provisional decision that the bank statements showed that Miss C spent around £1,000 a month on her living costs and debt payments in addition to her rent. While the loan repayments were relatively low at £44 a month, I didn't think it was likely Miss C would have been able to meet these for the loan term without taking on further borrowing or experiencing other adverse consequences. I thought Bamboo would have learnt this through a proportionate check and wouldn't have agreed to lend to Miss C on this occasion.

In response to my provisional decision, Bamboo reviewed Miss C's bank statements for the two months prior to agreeing her first loan and said that it didn't find any evidence that she was spending £1,000 a month on her living costs and debt payments.

I reviewed the statements again in detail to check my estimates and reached the same conclusions as before. I did note that Miss C was spending less on loan repayments around the time of her first Bamboo loan than she was spending around the time of her second loan, but her living costs and debt repayments were still significant enough to render the first loan unaffordable being, for example, at least £900 in the month before the agreement began. (These costs included for example council tax, water bills, media and mobile costs, insurance, supermarket food and fuel spending, revolving credit account and buy-now-pay-later commitments.)

Having carefully considered everything again, I remain of the view that a proportion check would likely have shown that Miss C wouldn't be able to meet her loan repayments each month for the term without difficulty, and would likely have led Bamboo to decline her application. I've concluded that it was irresponsible to have agreed to lend on this occasion.

Loan 2 – February 2022

Miss C said her monthly rent payment was £788 when she applied for her second loan. Bamboo checked Miss C's credit file and found she had £8,847 of existing debt, £2,332 of which was her existing Bamboo loan. Bamboo estimated that Miss C was spending £270 a month on her repayments. Bamboo also said it used information from the Office of National Statistics (ONS) to estimate Miss C's essential expenses as £417. Altogether Miss C's estimated expenses came to £1,475.

Miss C gave her income as £2,600. Bamboo said it used a credit reference agency tool which drew on Miss C's bank account data to clarify that she received a minimum amount of £1,608 a month, enough to meet her repayments for her loans. I haven't seen the results of this check but it didn't raise concerns.

For the same reasons as before I don't think Bamboo's checks were proportionate on this occasion. In addition, Miss C's declared income had dropped significantly (her application stated that she was now working part-time) and her existing debt, excluding her first Bamboo loan, had increased. I appreciate that Miss C had met her payments for her first loan on time, but this doesn't mean she was managing to meet them without difficulty.

I can see from Miss C's bank statements that her circumstances hadn't significantly changed and her income and expenditure remained about the same. I don't think it's likely Miss C would have been able to meet the loan repayments for the loan term without taking on further borrowing, which her credit file confirms. I think it's likely Bamboo would have learnt this through a proportionate check and wouldn't have agreed this loan for Miss C. I've concluded that it was irresponsible to have done so.

Putting things right

I've concluded that Bamboo was irresponsible to have agreed to lend to Miss C in 2021 and 2022. As Miss C had the use of the money she borrowed I think it's fair that she repays this, but she shouldn't have to pay any interest, fees or premiums associated with the loans or have her credit file adversely impacted.

To put things right for Miss C, Bamboo should:

- Cap the amount she needs to repay at the capital amount she borrowed, this being £2,995.31;
- Consider all payments she's made towards her accounts (including the settlement payment for the first loan) as payments towards this capital amount; and
 - If Miss C has repaid more than the capital she borrowed, which I think is the case here, then Bamboo should refund these overpayments to her along with 8% simple interest per annum**; or
 - If she hasn't yet repaid the capital then Bamboo needs to treat Miss C fairly and with forbearance which would include agreeing an affordable repayment plan with her.
- Remove any adverse information about these loans from Miss C's credit file once settled.

If Bamboo has sold an outstanding balance to a third part debt collector it must either buy the debt back or work with the current owner to bring about the above steps.

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

My final decision

For the reasons I've explained above, I am upholding Miss C's complaint in full about Bamboo Limited and it should now take the above step to put things right for her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 14 May 2024.

Michelle Boundy
Ombudsman