

## **Complaint**

Miss H has complained that Everyday Lending Limited (trading as “George Banco”.com) unfairly accepted her as a guarantor on a guarantor loan. She says that she was pressured by the borrower into being a guarantor and there was no way she’d be able to make the payments.

## **Background**

Miss H became the guarantor on a loan of £3,552.00 provided to the borrower in October 2017. The loan was secured by way of a guarantee and indemnity agreement and was due to be repaid in 60 instalments of £129.06. The total amount to be repaid was £7,743.60.

One of our investigators looked at this complaint and thought that George Banco hadn’t carried out proportionate checks before lending and that such checks would more likely than not have shown George Banco, Miss H would not have been able to sustainably repay the loan in the event she had to. George Banco disagreed with our investigator and asked for an ombudsman to review this complaint.

## **My findings**

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 the key rules, guidance and good industry practice related to guarantor loans - on our website. And I’ve referred to this when deciding Miss H’s complaint.

Having carefully thought about everything, I’m upholding Miss H’s complaint.

The rules and regulations in place when George Banco lent to the borrower required it to carry out a reasonable and proportionate assessment of whether he could afford to repay this loan in a sustainable manner. The existence of a guarantee and indemnity agreement and the potential for George Banco to pursue Miss H, instead of the borrower, for the loan payments doesn’t alter, lessen, or somehow dilute this obligation.

As the borrower isn’t a party to this complaint, I don’t have any evidence of the checks that George Banco carried out, or the depth that they went into, before it agreed to lend to the borrower. But the lack of information from both George Banco and the borrower on this matter doesn’t lessen the problem here, as George Banco is seeking to enforce the guarantee and indemnity agreement. And Miss H has been called upon to make the payments.

In any event, notwithstanding the conclusions reached by our investigator and for reasons I’ll go on to explain further on, I don’t think that this matters too much in this case. And as this is the case, I don’t think that it’s necessary for me to make a finding on whether the checks George Banco carried out on the borrower were proportionate. I say this despite the considerable weight of information Miss H has provided about the borrower and George

Banco is seeking to enforce the guarantee against Miss H. And both of these factors are indications that the monthly loan payments may have been unaffordable for the borrower in the first place.

The reason I don't consider it necessary to make a finding on whether the borrower should have been provided with the loan is because I'm satisfied that Miss H should never have been accepted as a guarantor on this loan. I say this because as well as carrying out reasonable checks to establish that the borrower could afford to make the repayments, George Banco also needed to carry out similar enquiries into Miss H's circumstances to check that she'd be able to make the payments to this loan in the event she had to.

The information George Banco has provided suggested that it carried out a credit check on Miss H before this loan was provided. The results of which showed that Miss H was already significantly indebted. George Banco says that all bar four of Miss H's accounts were taken more than a year before this loan and that she'd maintained her payments. But making payments on previous credit doesn't in itself mean that a prospective guarantor will be able to repay a loan for someone else.

I'm also mindful that George Banco's own checks showed that, at best, if Miss H had to make the payments to this loan these would take her right towards the margin of her income. And this was with the use of estimated expenditure even though Miss H had a dependent. Furthermore, this was in circumstances where Miss H was already using most of the credit available to her.

All of this leaves me persuaded by what Miss H has said about already being in a difficult financial position herself at the time. And in these circumstances, I think that George Banco ought to have realised that Miss H simply wasn't in a position to act as a guarantor on this loan. As this is the case, I think that George Banco's failure to properly look into Miss H's circumstances meant that unfairly accepted her as the guarantor for this loan.

As Miss H is, at least, still being expected to make payments to a loan that she shouldn't have been accepted as a guarantor on, I'm satisfied that she has lost out as a result of what George Banco did wrong. And I'm satisfied that George Banco needs to put things right.

### **Fair compensation – what George Banco needs to do to put things right for Miss H**

Having thought about everything, I think it would be fair and reasonable in all the circumstances of Miss H's complaint for George Banco to put things right by:

- releasing Miss H from all obligations under the guarantee and indemnity agreement and then terminating it;
- refunding any loan payments that Miss H may have made;
- adding interest at 8% per year simple on the above payments from the date they were paid by Miss H, if they were, to the date of settlement†;
- removing any information recorded on Miss H's credit file as a result of this loan;

† HM Revenue & Customs requires George Banco to take off tax from this interest. George Banco must give Miss H a certificate showing how much tax it has taken off if she asks for one.

**My final decision**

For the reasons I've explained, I'm upholding Miss H's complaint. Everyday Lending Limited should put things right for Miss H in the way I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 6 January 2023.

Jeshen Narayanan  
**Ombudsman**