

The complaint

Mr F complained that Everyday Lending Limited trading as George Banco acted irresponsibly when it accepted him as guarantor for a loan.

What happened

I issued a provisional decision about this complaint in September 2022 that I summarise below.

Mr F entered into a guarantee and indemnity agreement in respect of a £7,500 loan that EDL provided to the borrower, a close family member, in September 2017. The loan was due to be repaid in 60 monthly instalments of around £282. The total amount to be repaid over the five-year loan term was around £16,922 including interest. From what I understand, the borrower had difficulties repaying the loan and Mr F was called to repay the loan, as guarantor.

Mr F thinks EDL didn't properly explain what he was agreeing to as guarantor, and that it didn't carry out sufficient checks at the time. Mr F says he couldn't afford to guarantee the loan and didn't realise that he would end up paying for it on the borrower's behalf.

I explained that my provisional decision was confined to looking at Mr F's complaint about being accepted as a guarantor, and that I was not considering whether or not EDL did anything wrong when it lent to the borrower.

I explained the basis on which I would decide the complaint, in particular the checks that EDL needed to do. EDL needed to take reasonable steps to ensure that it didn't act irresponsibly when it accepted Mr F as guarantor for the loan – including obtaining his properly informed consent and carrying out reasonable and proportionate checks to satisfy itself that he was in a position to sustainably repay the loan, in the event that the borrower did not, as Mr F was equally liable with the borrower.

I explained that having listened to recordings of telephone conversations between EDL and Mr F at the time he agreed to become a loan guarantor, I thought Mr F had consented and had reasonably understood the potential consequences of guaranteeing the loan. EDL asked Mr F for information about his income and expenditure. It carried out some credit checks and made an affordability calculation using ONS data. EDL thought Mr F was in a position to repay the loan if the borrower had been unable to do so.

Mr F was guaranteeing a costly loan, which was potentially repayable by him as guarantor every month for an extended period. Given this, I would have expected EDL to want to gain a thorough understanding of Mr F's financial position - to ensure that he could sustainably repay the borrower's loan over the whole loan term if he was called to do so.

I reviewed the bank statements that Mr F supplied to this Service. I thought if EDL had carried out what I consider to be proportionate checks, such as requesting bank statements, it's likely that it would have realised that Mr F was having difficulty managing his finances. I set out in my provisional decision why I thought Mr F's bank statements were showing evidence of the beginnings of financial distress.

EDL was required to establish whether Mr F could *sustainably* make the loan repayments, if called upon as loan guarantor – not just whether the loan payments were technically affordable on a strict pounds and pence calculation. Mr F potentially had to maintain the loan repayments as guarantor every month for five years – repaying in the region of £16, 922 in addition to his existing financial commitments. Overall, I thought EDL ought fairly to have realised that Mr F was most likely already finding it difficult to manage his financial position and that it was unlikely that he would be able to sustainably repay a substantial new debt, if he was called to do so as guarantor, over the extended loan term. I thought in these circumstances, EDL should reasonably have concluded it was not appropriate to accept Mr F as loan guarantor.

I considered what Mr F told us about the impact that this matter had had on the borrower and he and his family and I am sorry for the difficulties he has experienced. But I hadn't seen enough information to say that I thought EDL treated Mr F unfairly or unreasonably in some other way.

But on balance, I didn't think EDL ought reasonably to have accepted Mr F as loan guarantor and I said I was intending to uphold the complaint.

I invited both parties to send me any further comments or evidence. Mr F says he has nothing to add and EDL has accepted my provisional 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.

I'd like to thank Mr F and EDL for all the information that has been provided about this matter and for responding to my provisional decision. I now confirm the conclusions I reached in my provisional decision and I uphold Mr F's complaint that he should not have been accepted as a loan guarantor. EDL needs to put things right.

Putting things right

Where I find that a business has done something wrong, I'd expect that business – in so far as is reasonably practicable – to put the consumer back in the position they *would be in now* if that wrong hadn't taken place. In this case, this means EDL putting Mr F in the position he'd now be in if he hadn't unfairly and unreasonably been accepted as a guarantor on this loan.

EDL should put things right for Mr F by:

- a) Releasing Mr F from any obligations under the guarantee and indemnity agreement and then terminating it.
- b) Refunding any payments made by Mr F as guarantor. EDL must add 8%* simple interest a year to each of those sums, from the date Mr F paid them to the date the refund is paid to him.
- c) Removing any information about this loan from Mr F's credit file.

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

My final decision

For the reasons given above, I uphold this complaint and direct Everyday Lending Limited trading as George Banco to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 20 November 2022.

Sharon Parr
Ombudsman