

The complaint

Ms M complains that it was irresponsible for Everyday Lending Limited, trading as GeorgeBanco.com ('George Banco') to accept her as a guarantor for a loan.

What happened

Ms M was accepted by George Banco as guarantor for a loan in February 2017. The loan was for £2,500 and repayable in 36 monthly instalments. The total repayable was £4,820.40.

Ms M signed a guarantee and indemnity agreement in respect of the loan. That meant, should the borrower be unable or unwilling to make the required repayments, that George Banco could seek repayment from Ms M. I understand Ms M repaid the outstanding balance when the borrower failed to keep up with his repayments. In this decision I will not be considering whether it was reasonable for George Banco to give the loan to the borrower. That is a matter between him and the lender. I will only be considering whether it was reasonable for George Banco to accept Ms M as guarantor for the loan.

Ms M's complaint was assessed by one of our investigators. She didn't think the checks George Banco had done before accepting Ms M as a guarantor had been proportionate. So George Banco wasn't sufficiently aware of Ms M's financial circumstances at the time and that it was unlikely she could sustainably afford the loan repayments should she be required to do so as the guarantor.

As George Banco didn't agree the complaint has been passed to me to decide.

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 approach to complaints of this nature on our website and I've kept this in mind while deciding Ms M's complaint.

The rules and regulations at the time George Banco added Ms M as a guarantor required it to carry out a reasonable and proportionate assessment of whether she could afford to repay what was owed in a sustainable manner should she be required to do so. This assessment is sometimes referred to as an affordability check.

The checks had to be "borrower" focused – so George Banco had to think about whether repaying the credit sustainably would cause difficulties or adverse consequences for Ms M. In practice this meant that George Banco had to ensure that making the repayments wouldn't cause Ms M undue difficulty or adverse consequences. In other words, it wasn't enough for George Banco to simply think about the likelihood of it getting its money back – it also had to consider the impact of any repayments on Ms M.

Checks also had to be "proportionate" to the specific circumstances of the application. 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 guaranteeing.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any repayments to credit from a lower level of income);
- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet higher repayments from a particular level of income);
- the *longer* the period of time a guarantor might be indebted for (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make repayments for an extended period).

There may also be other factors which could influence how detailed a proportionate check should've been for a given application – including (but not limited to) any indications of guarantor vulnerability and any foreseeable changes in future circumstances. I've kept all of this in mind when thinking about whether George Banco did what it needed to before agreeing to Ms M acting as guarantor.

Ms M was entering into a significant commitment with George Banco with the possibility that she could be required to make monthly repayments for a period of up to three years. So I think it was right that George Banco wanted to gather and check information about Ms M's financial circumstances. It asked her for details of her income and monthly housing costs. It also checked her credit file to assess how much she was repaying to other creditors. It also carried out an affordability calculation, using statistical data to calculate her living costs and therefore any disposable income remaining. Based on that it estimated she would have around £140 left as disposable income each month.

When responding to the complaint, George Banco said Ms M hadn't been using her overdraft. But the credit check evidence shows that at the time of the credit application she was making use of a substantial proportion of her £1,000 overdraft each month and had been exceeding it in the months before the credit application was made. Since our investigator's finding, I see Ms M has sent in bank statements for the four months leading up to the agreement. These are all consistent in that they show Ms M making near-constant use of her overdraft and exceeding it on three occasions.

In addition, I've seen that George Banco's credit check showed that a default had been added to one of her credit accounts. Recovery of the outstanding sum of around £1,200 was being made by way of debt collection processes.

I agree with our adjudicator that these are both factors that suggest that better checks needed to be carry out in order for them to be reasonable and proportionate. As things stood there were strong indications that Ms M could easily get into difficulty with being able to sustainably repay the loan if called upon to do so. I've also kept in mind that Ms M's net monthly income was around £1,200. This lends further support to the likelihood that Ms M's financial situation was by no means secure enough to suggest she was in a position to pay off the borrower's loan.

So I think the initial findings from its checks ought to have prompted George Banco to carry out further checks to have a fuller understanding of Ms M's financial situation and her ability to sustainably repay the loan. This might mean, for example, asking a guarantor for additional information about their finances before making its lending decision.

Taking everything into account, I therefore agree that the information George Banco gathered showed that it would be unlikely that Ms M would be able to sustainably meet her obligations as the guarantor of the loan if she was required to do so. I don't therefore think it was reasonable for George Banco to accept her as guarantor for this loan. It follows that George Banco needs to pay Ms M some compensation.

Putting things right – what George Banco needs to do

I understand that Ms M repaid the outstanding loan balance when the borrower failed to make the required repayments. Whilst I accept that George Banco might not have legally required Ms M to fully repay the loan, I think it reasonable to conclude that she only did so because of her guarantor obligations. So to put things right George Banco should;

- Refund to Ms M any repayments she has made on this loan.
- Pay interest of 8% simple a year on any refunded repayments from the date they were paid (if they were) to the date of settlement†
- Remove any information recorded on Ms M's credit file in relation to the loan
- If it hasn't already, release Ms M from any obligations under the guarantee and indemnity agreement and then terminate it

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

My final decision

My final decision is that I uphold Ms M's complaint and direct Everyday Lending Limited trading as GeorgeBanco.com to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 6 October 2023.

Michael Goldberg
Ombudsman