

The complaint

Mrs M complains G.R. Finance Limited provided her with loans that she couldn't afford to repay because at the time she had loans with other high cost credit providers.

What happened

Mrs M has complained about 16 home collected loans advanced between June 2015 and January 2017. A summary of Mrs M's borrowing, based on the information provided to us from G.R. Finance, can be found below.

loan number	loan amount	agreement date	repayment date	weekly repayment
1	£500.00	20/06/2015	28/11/2015	£25.00
2	£500.00	17/10/2015	27/02/2016	£25.00
3	£400.00	28/11/2015	23/04/2016	£20.00
4	£500.00	28/11/2015	23/04/2016	£25.00
5	£400.00	19/12/2015	28/05/2016	£20.00
6	£500.00	27/02/2016	23/07/2016	£25.00
7	£400.00	23/04/2016	10/09/2016	£20.00
8	£500.00	23/04/2016	10/09/2016	£25.00
9	£400.00	28/05/2016	19/11/2016	£20.00
10	£500.00	23/07/2016	10/12/2016	£25.00
11	£500.00	10/09/2016	31/12/2016	£25.00
12	£400.00	10/09/2016	28/01/2017	£20.00
13	£400.00	19/11/2016	written off	£20.00
14	£500.00	10/12/2016	written off	£25.00
15	£500.00	31/12/2016	written off	£25.00
16	£500.00	28/01/2017	written off	£25.00

The 'weekly repayment' column is the cost per loan per week. Where loans overlapped the cost per week would have been greater, so for example, Mrs M was due to repay G.R. Finance £50 per week when loans one and two were running concurrently.

Mrs M has had some problems repaying her final four loans and these loans were written off by G.R. Finance.

After Mrs M complained to G.R. Finance it issued its final response letter (FRL) in February 2021. I don't have a copy of that letter, but as part of the response to the complaint G.R. Finance agreed to write off the balance of the final four loans. This write off appears to have been confirmed in March 2021.

At the end of February 2021 G.R. Finance wrote to Mrs M and provided a copy of her account statements. At which point, she went back as she was unhappy with the redress that G.R. Finance offered.

Another, letter was issued to Mrs M in April 2021, it explained that the matter (the subject of her complaint) was now closed.

Unhappy with this response, Mrs M referred her complaint to the Financial Ombudsman in May 2021.

After the complaint was referred here, G.R. Finance initially said that it didn't think we could consider the complaint as Mrs M had agreed with the redress that it had offered – to write the loans off. However, later, it then agreed to provide the Financial Ombudsman with a file and the case moved forward to be assessed.

When G.R. Finance supplied its file to the Financial Ombudsman Service it made several points. I have read what G.R. Finance says in full, but I've summarised them here:

- Mrs M wasn't in arrears when the loans were issued.
- Mrs M sought and requested further borrowing.
- The loans provided Mrs M with the flexibility she needed and this is why the loans were split to give her more refinance options. This was no benefit to G.R. Finance as it says this increased its costs.
- Mrs M's income and expenditure was checked which means G.R Finance was able to check whether the loans were affordable and sustainable for Mrs M.
- G.R. Finance has provided evidence to show these loans were not for day-to-day costs but were for one off events like Christmas.
- It would've been unfair to not have issued loans to Mrs M given her perfect repayment record.
- Had loans not been issued Mrs M may have approached unregulated lenders for loans.
- There is no reference in the rules or regulations that apply to home credit that deals with pattern of lending.
- G. R. Finance has been told by the industry regulator that there is no limit on the number of loans that can be granted for one applicant.
- Mrs M was treated with forbearance – it didn't pursue her for the debt and instead wrote off the balance.
- The rules and guidance laid down by the industry regulator have been followed.

An adjudicator reviewed Mrs M's irresponsible lending complaint and she thought the complaint should be upheld in part.

The adjudicator explained that she didn't think that G.R. Finance had treated Mrs M unfairly when it approved loans 1 – 4. But she thought it shouldn't have provided loans 5 – 12. The adjudicator also noted that she wouldn't consider loans 13 – 16 because redress had already been paid in relation to these loans.

She thought that when loan 5 was granted Mrs M had too many loans outstanding, had taken the loans in quick succession and her weekly commitment had increased significantly. So, in the adjudicator's view G.R. Finance wasn't able to determine whether the loans were being paid sustainably.

She then went on to explain that G.R. Finance had an obligation to make sure the lending wasn't unsustainable or harmful for Mrs M. Thinking about that, and looking at the overall lending pattern the adjudicator was now satisfied that the lending was harmful for Mrs M by the time loan 6 was advanced. So, this loan and all loans that she considered (up to loan 12) should be upheld.

The adjudicator concluded that it was clear these loans were harmful to Mrs M because she went on to have quite significant repayment problems with her final four loans.

Mrs M appears to have accepted the adjudicator's findings.

However, G.R. Finance didn't agree with the adjudicator's assessment. I've read, in full, the comments G.R. Finance has provided, and I've provided a summary of them below:

- there was no evidence of repayment problems leading up to loan five being advanced.
- Mrs M wasn't borrowing from other sources to meet her weekly repayments.
- The regulator says there is no limit on the number of loans which can be provided – as long as they are affordable and sustainable. Which the checks for loans 5 – 11 showed they were.
- The adjudicator hasn't understood the concept of Home Credit.
- When loan six was approved, G.R. Finance considered whether Mrs M could afford the repayment over the lifetime of the agreement – 30 weeks.
- Loans were issued on the same day, with different repayment terms at the request of Mrs M.
- G.R. Finance agreed that Mrs M's borrowing didn't decrease – once it reached her required borrowing level the borrowing remained at a consistent level.
- the adjudicator has made a 'big leap' with no supporting evidence for her conclusions that the loans were lent unsustainably.
- The checks carried out showed that each loan was both affordable and sustainable.
- G.R. Finance then provided some examples, of what it says is Mrs M providing information which may not be correct, for example, Mrs M says she borrowed from it for many years, when in fact she took loans over an 18 month period.
- G.R. Finance says the Financial Ombudsman Service is retrospectively assessing this case using a different interpretation of the rules than would've been used say had a complaint been made in 2015.
- The industry guidance and rules were followed in this case.

As no agreement could be reached the case was passed to me and I then proceeded to issue a provisional decision.

The provisional decision explained why, Mrs M's complaint should still be upheld but based on the evidence that I had I wasn't intending to uphold as many loans as the adjudicator.

A copy of the provisional findings follows this in italics and a smaller font and form part of this final decision.

What I said in my provisional decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It may help, and for clarity for all parties concerned, that I outline the legal and regulatory environment when the lending was approved. So below I've outlined what I consider to be the key regulatory requirements on the part of G.R. Finance before providing the lending.

The legal and regulatory framework and other publications

From 1 April 2014, G.R. Finance was regulated by the Financial Conduct Authority ("FCA"), In the FCA's guidance there are references made to the Office of Fair Trading guidance which is called the Irresponsible lending Guidance (ILG). What this shows, in effect, is a

continuity of regulation and continuity of requirements for what G.R. Finance needed to do before each loan was approved.

In November 2018 the FCA rules were reworded but as lending had stopped by this point, I don't consider it necessary to include the new wording in this decision.

Regulation by the Financial Conduct Authority (from 1 April 2014)

G.R. Finance gave Mrs M all the above loans after the regulation of Consumer Credit Licensees had transferred from the OFT to the FCA on 1 April 2014.

The FCA's Principles for Business set out the overarching requirements which all authorised Firms are required to comply with. The Principles themselves are set out in PRIN 2.1.1R. And the most relevant overarching principle here is PRIN 2.1.1 R (6) which says:

A firm must pay due regard to the interests of its customers and treat them fairly.

The FCA's Consumer Credit sourcebook (CONC) is the specialist sourcebook for credit related regulated activities. It sets out the rules and guidance specific to consumer credit providers, such as G.R. Finance. CONC 5 sets out a firm's obligations in relation to responsible lending. And CONC 6 sets out a firm's obligations after a consumer has entered into a regulated agreement.

The starting point for the relevant rules in this case is Section 5.2.1R(2) of CONC which sets out what a lender needs to do before agreeing to give a consumer credit of this type. These rules were subsequently updated into CONC 5.2A but this didn't occur until November 2018, which is after the date when these loans were provided. So the wording of the rules applicable to the lending for Mrs M is:

- (a) the potential for the commitments under the regulated credit agreement to adversely impact the customer's financial situation, taking into account the information of which the firm is aware at the time the regulated credit agreement is to be made; and*
- (b) the ability of the customer to make repayments as they fall due over the life of the regulated credit agreement, or for such an agreement which is an open-end agreement, to make repayments within a reasonable period.*

CONC 5.2.3 then details and outlines some of the factors that may be relevant to a lender when deciding what a proportionate check may look like for each loan application.

The extent and scope of the creditworthiness assessment or the assessment required by CONC 5.2.2R (1), in a given case, should be dependent upon and proportionate to factors which may include one or more of the following:

- (1) the type of credit;*
- (2) the amount of the credit;*
- (3) the cost of the credit;*
- (4) the financial position of the customer at the time of seeking the credit;*
- (5) the customer's credit history, including any indications that the customer is experiencing or has experienced financial difficulties;*
- (6) the customer's existing financial commitments including any repayments due in respect of other credit agreements, consumer hire agreements, regulated mortgage contracts, payments for rent, council tax, electricity, gas, telecommunications, water and other major outgoings known to the firm;*
- (7) any future financial commitments of the customer;*
- (8) any future changes in circumstances which could be reasonably expected to have a significant financial adverse impact on the customer;*
- (9) the vulnerability of the customer, in particular where the firm understands the customer has some form of mental capacity limitation or reasonably suspects this to be so because the customer displays indications of some form of mental capacity limitation (see CONC 2.10).*

CONC also includes guidance about 'proportionality of assessments'. CONC 5.2.4G(2) says:

A firm should consider what is appropriate in any particular circumstances dependent on, for example, the type and amount of credit being sought and the potential risks to the customer. The risk of credit not being sustainable directly relates to the amount of credit granted and the total charge for credit relative to the customer's financial situation.

CONC 5.3 contains further guidance on what a lender should bear in mind when thinking about affordability. And CONC 5.3.1G(1) says:

In making the creditworthiness assessment or the assessment required by CONC 5.2.2R(1), a firm should take into account more than assessing the customer's ability to repay the credit.

CONC 5.3.1G(2) then says:

The creditworthiness assessment and the assessment required by CONC 5.2.2R (1) should include the firm taking reasonable steps to assess the customer's ability to meet repayments under a regulated credit agreement in a sustainable manner without the customer incurring financial difficulties or experiencing significant adverse consequences.

In respect of the need to double-check information disclosed by applicants, CONC 5.3.1G(4) states:

(b) it is not generally sufficient for a firm to rely solely for its assessment of the customer's income and expenditure on a statement of those matters made by the customer

CONC 5.3.1G(6) also provides guidance, that beyond the loan being pounds and pence affordable the loan also has to be sustainable.

(6) For the purposes of CONC "sustainable" means the repayments under the regulated credit agreement can be made by the customer:

(a) without undue difficulties, in particular:

(i) the customer should be able to make repayments on time, while meeting other reasonable commitments; and

(ii) without having to borrow to meet the repayments;

(b) over the life of the agreement, or for such an agreement which is an open-end agreement, within a reasonable period; and

(c) out of income and savings without having to realise security or assets; and "unsustainable" has the opposite meaning

And CONC 5.3.7R says that:

A firm must not accept an application for credit under a regulated credit agreement where the firm knows or ought reasonably to suspect that the customer has not been truthful in completing the application in relation to information supplied by the customer relevant to the creditworthiness assessment or the assessment required by CONC 5.2.2R (1).

On 6 March 2019, The FCA wrote a 'Dear CEO' letter to the Chief Executive Officer of all firms allocated to the 'High Cost Lenders' portfolio, which G.R. Finance is part of. This letter was published after Mrs M's agreements were entered into. This letter didn't include any new rules but deals with how firms ought to be handling complaints about whether their previous lending was unaffordable. I do think that this offers some insight on the FCA's approach on its rules and guidance. So, I consider it to be of relevance in this case.

The letter sets out the FCA's view of the key risks that High Cost Lenders pose to consumers and the markets they operate in. On page two of this letter, the FCA sets out its view of the key causes of harm. It says:

"To assess how firms in the High Cost Lenders portfolio could cause harm, we analysed their strategies and business models. We considered a wide range of information and data, including firms' regulatory histories, the number and nature of complaints, and findings from the HCCR. We also carried out diagnostic work on guarantor lenders, which involved issuing a data request to firms in October 2018.

Following our analysis, we see two key ways that consumers may be harmed across the High Cost Lenders portfolio:

- a high volume of relending, which may be symptomatic of unsustainable lending patterns*
- firms' affordability checks may be insufficient, leading to loans that customers may not be able to afford".*

The FCA sets out its areas of focus for all firms in the portfolio on page three of the letter. The section entitled 'Relending' says:

"Relending: We have seen a high volume of relending across all credit products in the portfolio. We aim to carry out diagnostic work across the portfolio so that we can better understand the motivation for, and impact of, relending on both consumers and firms. This work will examine aspects of relending such as customers' borrowing journeys, firms' marketing strategies for offering additional credit and the costs of relending for consumers. We want to understand what harm, if any, relending may cause consumers. As part of this work, we will proactively engage with home-collected credit firms to ensure they understand our expectations. We will also discuss any changes to their processes as a result of the new rules and guidance on relending which we issued in our December 2018 Policy Statement on high-cost credit".

The section entitled 'Affordability' says:

Affordability: We recognise that there is an inherent challenge for these firms in assessing affordability for both new loans and repeat borrowing. High-cost credit customers' finances are often squeezed and they may have poor credit histories and low financial resilience. Nevertheless, firms must ensure that they are complying with all our affordability requirements. We gave an outline of these requirements in the Dear CEO letter we sent to HCSTC firms in October 2018. While this letter was aimed at HCSTC firms, the main principles are relevant to all firms in this portfolio.

Finally, under the section entitled 'Complaints' it says:

"Complaints: We know that there have been increasing numbers of complaints about many of the products in this portfolio. Firms should ensure that they are handling complaints appropriately. We expect firms to fulfil all relevant obligations, including analysing the root causes of complaints and taking into account the Financial Ombudsman Service's relevant decisions. We gave further detail about what we expect from firms' complaint-handling procedures in the Dear CEO letter we issued to HCSTC firms in October 2018. This is equally relevant to all firms in the portfolio".

I accept that this letter, refers to high cost short term lenders, which G.R. Finance isn't one. But I think it is useful to see how the FCA looked at some of the issues. Turning to the 'Dear CEO' letter issued by the FCA on 15 October 2018, which was mentioned in the 'Affordability' section of the March 2019 FCA letter.

"We note that the Ombudsman has recently published four examples of determinations of individual complaints about payday loans to illustrate its approach to the issues raised in those complaints (see: <https://www.financialombudsman>).

org.uk/publications/technical.htm). If relevant, firms should take these examples of determinations into account as part of establishing their own effective procedures for complaints handling (see DISP 1.3.1R)".

Paragraph eight of the letter went on to say:

"We would highlight in particular the risks in relation to repeat borrowing. These were flagged in our price cap proposals in CP14/10, in July 2014, in which we said that we were concerned that repeat borrowing could indicate a pattern of dependency on HCSTC that is harmful to the borrower. We noted that rigorous affordability assessments were key to avoiding harm in this area, and firms should ensure they are making responsible assessments of the sustainability of borrowing".

The above, are the rules and guidance that I'm considering when thinking about whether G.R. Finance did anything wrong when it lent to Mrs M. To be clear, I am not retrospectively applying the rules, I am applying the rules that were relevant to G.R. Finance at the time it lent to Mrs M.

Questions for me to consider before deciding whether G.R. Finance did anything wrong when it provided Mrs M with her loans.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Bearing in mind everything that I've set out above and our long-established approach to considering these types of complaints (which is also set out on our website), I think the overarching questions I need to consider in deciding what's fair and reasonable in the circumstances of this complaint are:

- Did G.R. Finance, each time it lent, complete reasonable and proportionate checks to satisfy itself that Mrs M would be able to repay in a sustainable way? If not, would those checks have shown that Mrs M would've been able to do so?*
- Bearing in mind the circumstances, at the time of each application, was there a point where G.R. Finance ought reasonably to have realised it was increasing Mrs M's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further credit?*
- Did G.R. Finance act unfairly or unreasonably in some other way?*

If I determine that G.R. Finance did not act fairly and reasonably in its dealings with Mrs M and that she has lost out as a result, I will go on to consider what is fair compensation.

Did G.R. Finance, each time it lent, complete reasonable and proportionate checks to satisfy itself that Mrs M would be able to repay the credit in a sustainable way?

It is important to note the FCA at the time, didn't, and doesn't, specify exactly how an assessment of affordability is to be carried out but the "extent and scope" and the "types and sources of information to use" needed to be enough to be able to reasonably assess the sustainability of the arrangement for the consumer. Although, the OFT's ILG guidance does provide some examples of information a lender may wish to use.

In other words, the assessment needs to be consumer-focussed. It is not an assessment of the risk to the lender of not recovering the credit but of the risk to the consumer of incurring financial difficulties or experiencing significant adverse consequence as a result of the decision to lend.

As set out in CONC, the risk to the consumer directly relates to the particulars of the lending and the circumstances of the consumer. Therefore, a lender's assessment of creditworthiness would likely need to be adaptable to the individual needs and circumstances of a consumer. That is to say, what is sufficient for one consumer might not be for another, or indeed what might be sufficient for a consumer in one circumstance might

not be so for the same consumer in other circumstances.

Bearing the above in mind, I would expect an assessment of creditworthiness to vary with the circumstance of each request for credit. In general, I'd expect a lender to require more assurance, the greater the potential risk to the consumer of not being able to repay the credit in a sustainable way.

But, certain factors might point to the fact that G.R. Finance should fairly and reasonably have done more to establish that any lending was sustainable for Mrs M. These factors include, but are not limited to:

- the lower a customer's income (reflecting that it could be more difficult to repay 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 longer the term of the agreement (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and*
- the greater the number and frequency of credit agreements, and the longer the period of time during which a customer has been given the credit (reflecting the risk that ongoing use of these agreements may signal that the borrowing had become, or was becoming, unsustainable).*

G.R. Finance considers its checks were appropriate and complied with the regulations at all times when providing this lending.

It seems for each loan G.R. Finance would've asked Mrs M for details of her income and expenditure for its assessment to decide whether to lend. It isn't clear whether for example whether G.R. Finance carried out any other checks such as carrying out a credit search.

A spreadsheet table has been provided by G.R. Finance to show the information Mrs M declared for each loan and I've thought about and considered

Loans 1 – 4

The adjudicator didn't uphold these loans overall, she hadn't seen enough to make her think that G.R. Finance had acted unreasonably when it approved these loans. As both G.R. Finance and Mrs M have agreed with the adjudicator's assessment about these loans they no longer appear to be in dispute.

But for completeness, given the number of loans, the amounts borrowed and what G.R. Finance knew about Mrs M's circumstances I also agree a reasonable decision was taken to approve these loans.

I therefore also don't uphold Mrs M's complaint about these loans.

Loan 5

G.R. Finance has shown, on its spreadsheet of the income and expenditure information that was taken for this loan, Mrs M declared she had a weekly income of £420. This was made up of wages as well as some benefits.

G.R. Finance has also taken a fairly detailed list of Mrs M's outgoings, and these have come in at around £217 per week. This left Mrs M with £203 disposable income, to pay her total weekly commitment to G.R. Finance of £90 (£20 for this loan).

The statement of account provided by G.R. Finance also shows that Mrs M hadn't missed any repayments on other loans up to this point in time. So, it would've been reasonable for G.R. Finance to believe that Mrs M could've afforded her loan repayments.

The adjudicator thought this loan ought to be upheld, because in her view Mrs M had returned for further borrowing while there were still other loans outstanding. In her view, having several loans outstanding as well as being granted a fifth loan within six months, and her commitment increasing significantly from £25 to £90 per week ought to have shown G.R. Finance that Mrs M couldn't sustainably repay the loan.

I've thought about this argument and what G.R. Finance has said in response to the adjudicator's assessment. While, I'm concerned about the fact that Mrs M's total borrowing and weekly repayment had increased significantly since the first loan and she was committed to spending a not insignificant amount each week to G.R. Finance – all in my view ought to have led it to have thought very carefully before it advanced further credit.

However, to date, Mrs M hadn't had any repayment problems and appeared to be able to manage her finances well, and she'd recently repaid loan one without any concerns. So, unlike the adjudicator, while having four loans outstanding can be a sign that Mrs M was having wider financial issues I don't think here, given what else G.R. Finance knew that it would've been enough to have stopped lending to her.

But that doesn't mean that G.R. Finance did all that it needed to do before it granted this loan and future loans. Given the fairly quick uptake of borrowing, Mrs M had multiple loans overlapping ones, and had returned for new lending shortly after loan one was repaid, I think this ought to have prompted it to carry out further checks.

G.R. Finance could've done this a number of ways, it could've asked to see copies of her bank statements, copies of wage slips, utility bills as well as looking at her credit report – or at least try to establish whether there was any other outstanding credit that Mrs M owed.

Overall, based on what I've seen I don't think that the checks from at least loan five were proportionate or went far enough and I'm satisfied this is compliant with CONC, whereby the checks being proportionate needed to change depending on what G.R. Finance knew. In this case Mrs M was coming back for new loans on the same day previous loans were being repaid and she was running a number of loans concurrently.

However, that isn't the end of the matter. For me to be able to uphold this loan, I must be satisfied that had G.R. Finance carried out a proportionate check it would've likely discovered that Mrs M couldn't afford it.

Mrs M's hasn't, to date, provided copies of her bank statements or other supporting documentation. So, I don't know and can't say for sure what G.R. Finance may have seen had it verified the information she provided it as part of the loan application.

However, Mrs M has had previous complaints at the Financial Ombudsman Service against other home credit and high cost credit providers. I've looked at these, but many have very limited information and the only one thing I can be sure of is she took two loans in 2014 for a high cost credit provider. None of the cases have any other information that I may have been able to use to establish what her overall financial situation was at the time.

So, without any further information from Mrs M about her other living costs which, it's difficult for me to conclude what G.R. Finance would've likely seen had it made better checks.

Based on the information I've been given to date, had G.R. Finance done further checks, I can only conclude that it would've thought the loan was affordable. So, I'm intending not to uphold Mrs M's complaint about this loan.

Loans 6 – 8

The adjudicator upheld these loans because she concluded these loans were harmful for Mrs M because it was now unsustainable to continue to lend to her.

I can understand why the adjudicator has concluded this, but I don't think, G.R. Finance would've likely thought these loans were now harmful to Mrs M.

I accept, that Mrs M had been indebted with G.R. Finance (by loan six) for around 8 months and in that time had taken six loans at which four had overlapped at any one time. In some situations, this could be a sign that she was now reliant on these loans or at the very least having longer term money management problems. Neither can I ignore that the lending was consecutive and overlapped, which could show that Mrs M had a continued need for credit.

But I also must keep in mind that, on the evidence I have now, these loans were being repaid without any obvious repayment problems and Mrs M's overall indebtedness didn't now seem to be increasing.

So, taking everything together, I don't think GR Finance would've or ought to have realised these loans were unsustainable for Mrs M, but that doesn't mean G.R Finance did all it should've done before advancing these loans.

For the same reasons as loan five G.R. Finance ought to have been verifying the information Mrs M had provided in order to gain a full and complete picture of her financial position – G.R. Finance didn't do this so I don't think its checks went far enough.

However, as I don't have any information about Mrs M's financial position at the time I can't say that had G.R. Finance carried out further checks it would've likely discovered these loans were unaffordable for her. As this is the case, I'm intending to not uphold Mrs M's complaint about these loans either.

Bearing in mind the circumstances, at the time of each application, was there a point where G.R. Finance ought reasonably to have realised it was increasing Mrs M's indebtedness in a way that was unsustainable or otherwise harmful and so shouldn't have provided further loans?

In addition to assessing the circumstances behind each individual loan provided to Mrs M by G.R. Finance, I also think it's fair and reasonable to look at the overall pattern of lending and what unfolded during Mrs M's lending history with G.R. Finance. This is because, there may come a point where the lending history and pattern of lending itself demonstrates that the lending was unsustainable.

It is also worth noting here that in August 2020 the FCA released its review to "Relending by High Cost creditors". The FCA lists Home Credit as part of its high cost credit portfolio so it would be applicable to G.R. Finance.

Although this review came out after these loans had been lent, it didn't include any new information or amendments to the rules but clarified the position that really was always there within the rules.

The review said;

In that, we highlighted the risks in relation to repeat borrowing given that it could indicate a pattern of dependency on credit that is harmful to the borrower. Rigorous affordability assessments are key to avoiding harm in this area, and firms should ensure they are making proportionate and responsible assessments of the sustainability of borrowing

I've already concluded above, and the same goes for here, that the checks G.R. Finance had carried out weren't by this time proportionate and so I can't fairly conclude that its checks were rigorous and so opens the door that Mrs M may have been taking these loans in an unsustainable manner.

So, referencing the relevant rules and guidance as summarised in the earlier part of my decision, G.R. Finance was required to establish whether Mrs M could sustainably repay her

loans – not just whether the loan payments were affordable on a strict pounds and pence calculation.

The loan payments being affordable on this basis might be an indication a consumer could sustainably make their repayments. But it doesn't automatically follow this is the case. This is because CONC defines sustainable as being without undue difficulties and in particular the customer should be able to make repayments on time and while meeting other reasonable commitments.

It follows that a lender should realise, or it ought fairly and reasonably to have realised, that a borrower won't be able to make their repayments sustainably if they're unlikely to be able to make their repayments without borrowing further. I think this point was reached by loan 9.

- at this point G.R. Finance ought to have realised Mrs M was not managing to repay her loans sustainably. Mrs M had been indebted to G.R. Finance for at just under a year. So G.R. Finance ought to have realised it was more likely than not Mrs M was having to borrow further to cover the hole making her previous loan repayments was leaving in her finances and that Mrs M's indebtedness was now unsustainable.
- Mrs M's first loan was for £500 and loan 6 was for £400. Although the amount Mrs M was borrowed had only slightly decreased her actual weekly commitments were now significantly more given the number of overlapping loans that she still had outstanding at the time. At this point G.R. Finance ought to have known that it was likely Mrs M had an ongoing need for this type of credit and was dependent on it.
- Mrs M had developed a pattern of taking out new lending (and repaying old lending) on the same day, for example loan nine was taken out on the same day that loan five had been repaid and both of these loans were for the same amount. To me that shows that Mrs M had long term financial issues that she needed the money for and wasn't merely using these loans to plug a short term gap in her finances but to continue to make ends meet.
- From loan 9 onwards Mrs M continued to be provided with new credit whilst she hadn't repaid other loans and she always had at least four loans running at the same time. Further supporting my view, that Mrs M was likely having financial difficulties as there was a continued need for credit.
- Mrs M wasn't making any real inroads to the amount she owed G.R. Finance. Loan 12 was taken out around 15 months after Mrs M's first. And it was for a slightly smaller sum. However, this was also taken on the same day as loan 11 and combined the total capital borrowed on this day was greater than the first loan. In addition, at this time loans 9 – 11 hadn't yet been repaid, so her weekly commitment had increased from starting with £25 per week to £90 and had stayed at this level for some time. Mrs M had in effect paid large amounts of interest to service a debt to G.R. Finance over an extended period.

I think that Mrs M lost out because G.R. Finance continued to provide borrowing from loan 9 onwards because:

- these loans had the effect of unfairly prolonging Mrs M's indebtedness by allowing her to take credit over an extended period.
- the length of time over which Mrs M borrowed was likely to have had negative implications on Mrs M's ability to access mainstream credit and so kept her in the market for these loans.

Overall, I'm upholding Mrs M's complaint about the loans 9 – 12 and I've outlined below what G.R. Finance needs to do to put things right.

I've thought about the copies of the text messages that G.R. Finance have provided between Mrs M and her agent. I would agree with G.R. Finance that much of the contact appears to

have been initiated by Mrs M and her requirements for further borrowing. Which, in of itself could be a sign of wider financial difficulties, after all why would she need to keep borrowing new loans.

However, notwithstanding my concerns about Mrs M's motivation for contacting G.R. Finance it is, as I've explained above its regulatory requirement to make sure that before it lent to Mr M that proportionate checks had been carried out. In my view, copies of these messages don't add anything further to the complaint.

Did G.R. Finance act unfairly or unreasonably in some other way?

I've thought about everything provided. Having done so, I've not seen anything here that leads me to conclude G.R. Finance acted unfairly or unreasonably towards Mrs M in some other way. Indeed, it does seem to have treated her with forbearance once it became aware of her financial difficulties.

Response to the Provisional decision

Both G.R. Finance and Mrs M were asked for any further comments and evidence as soon as possible, but no later than 4 August 2022.

G.R. Finance responded to the provisional and fully accepted the findings and the outcome I was intending to reach. It explained that since the loans have been granted it has put in place new procedures and policies.

Mrs M partly agreed with the provisional decision. But she asked for a reconsideration of loans 5 – 8. Her comments are summarised as follows.

- Mrs M says that she did text the agent for further loans but only because after the agent had collected her payment she would tell her that she was eligible for further loans – but she would have to text the following week. Mrs M wouldn't just text the agent without prior knowledge of knowing a loan was available to her.
- Mrs M wasn't asked for proof of income and her expenditure – she says she was told by the agent that she just needed to give an approximate number.
- Mrs M only became aware of G.R. Finance by an agent who worked for another home collect credit provider.
- Had G.R. Finance carried out proper checks it would've seen loans 5 – 8 weren't affordable to Mrs M because she had other borrowing at the time from home credit providers and payday loan companies.
- Mrs M says the loans were offered on the same day (for different repayment terms) wasn't something she would've requested or have known about.
- Mrs M says she contacted a independent third party debt advice charity when her health started to be affected, at which point the full extent of her borrowing was discovered.

As both parties have responded to the provisional decision before the deadline, I see no reason to delay issuing the 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.

Neither G.R. Finance nor Mrs M disagree with the outcome that I am now going to reach about loans 9 – 12. So, I say no more about them here.

I've also thought about what Mrs M says about the text messages that G.R. Finance provided. She has provided testimony which explains why she contacted the agent. I've thought about this, but I hadn't placed any weight on these messages when explaining the outcome that I was intending to reach. I don't think that I need to make a specific finding about the messages. But I do note, what Mrs M has told us.

However, Mrs M has asked me to reconsider the findings I made in relation to loans 5 – 8. I've considered these loans again in light of Mrs M's comments and having done so I am still of the view that G.R. Finance's checks needed to go further, but I haven't been given quite enough evidence for me to be able to conclude G.R. Finance was wrong to have provided loans 5 – 8.

As I explained, for these loans G.R. Finance needed to really have a full and complete picture of Mrs M's financial position. As far as I can see, it didn't do this and just relied on the information Mrs M declared about her income and expenditure.

G.R. Finance could've verified the information it was given by Mrs M and it could've done this a number of ways, it could've asked to see copies of say a payslip, bills, a copy of her credit file and / or it could've asked to see her bank statements.

Although proportionate checks weren't carried out by G.R. Finance that doesn't mean I am able to uphold these loans. I would also have to be satisfied that had G.R. Finance carried out further checks it would've likely discovered Mrs M either couldn't afford the loans or there was evidence to suggest the loans wouldn't be sustainable for her.

Unfortunately, in this case, I don't know what G.R. Finance may have seen had it carried out proportionate checks. As I've explained, I'm satisfied that Mrs M was more likely than not taking loans from other home credit providers and as she says she was borrowing from payday lenders as well. I have evidence that she was using well known high cost credit companies because I found other complaints within our case handling system.

However, there is no information contained within those records, so I can't for example say whether there were (or weren't) loans outstanding or how much these loans were for with these providers at the time the G.R. Finance loans were provided. I therefore can't work out how these other loans may have impacted Mrs M's ability to afford the G.R. Finance loans.

This means, I can't be sure what Mrs M's financial position was at the time loans 5 – 8 were granted and why, in this case I wasn't able to ask G.R. Finance to pay compensation for these loans.

I therefore don't think G.R. Finance ought to have advanced loans 9 – 12 and I've outlined below the steps that it needs to take in order to put things right for Mrs M.

Putting things right

In deciding what redress G.R. Finance should fairly pay in this case I've thought about what might have happened if it had stopped lending from loan 9, as I'm satisfied it ought to have. Clearly there are a great many possible, and all hypothetical, answers to that question.

For example, having been declined this lending Mrs M may have simply left matters there, not attempting to obtain the funds from elsewhere – particularly as a relationship existed between them and this lender which they may not have had with others. If this wasn't a viable option, they may have looked to borrow the funds from a friend or relative – assuming that was even possible.

Or, they may have decided to approach a third-party lender with the same application, or indeed a different application (i.e. for more or less borrowing). But even if they had done that, the information that would have been available to such a lender and how they would (or ought to have) treated an application which may or may not have been the same is impossible to now accurately reconstruct. From what I've seen in this case, I certainly don't think I can fairly conclude there was a real and substantial chance that a new lender would have been able to lend to Mrs M in a compliant way at this time.

Having thought about all these possibilities, I'm not persuaded it would be fair or reasonable to conclude that Mrs M would more likely than not have taken up any one of these options. So, it wouldn't be fair to now reduce G.R. Finance's liability in this case for what I'm satisfied it has done wrong and should put right.

Although, I've not considered loans 13 – 16 G.R. Finance did write off an amount that was owed to it by Mrs M. I do think it is fair and reasonable when considering what it needs to do to put things right to allow G.R Finance to offset against the refund below against any principal amount that was written off for those loans.

I say this because if the Financial Ombudsman Service had decided those loans shouldn't have been granted, our starting point for putting things right is to ensure that at least the capital can be recovered by the lender.

I think G.R. Finance shouldn't have given Mrs M loans 9 -12.

- A. G.R. Finance should add together the total of the repayments made by Mrs M towards interest, fees and charges on all upheld loans without an outstanding balance, not including anything G.R. Finance has already refunded.
- B. G.R. Finance should calculate 8% simple interest* on the individual payments made by Mrs M which were considered as part of "A", calculated from the date Mrs M originally made the payments, to the date the complaint is settled.
- C. G.R. Finance should remove all interest, fees and charges from the balance on any upheld outstanding loans, and treat any repayments made by Mrs M as though they had been repayments of the principal on all outstanding loans. If this results in Mrs M having made overpayments then it should refund these overpayments with 8% simple interest* calculated on the overpayments, from the date the overpayments would have arisen, to the date the complaint is settled. G.R. Finance should then refund the amounts calculated in "A" and "B" and move to step "E".
- D. If there is still an outstanding balance then the amounts calculated in "A" and "B" should be used to repay any balance that was written off. If this results in a surplus then the surplus should be paid to Mrs M. However, if there is still an outstanding balance G.R. Finance shouldn't pursue outstanding balances made up of principal it has already written-off.
- E. The overall pattern of Mrs M's borrowing for loans 9 – 12 means any information recorded about them is adverse, so it should remove these loans entirely from Mrs M's credit file.

*HM Revenue & Customs requires G.R. Finance to deduct tax from this interest. It should give Mrs M a certificate showing how much tax it has deducted if she asks for one.

My final decision

For the reasons I've explained above and in the provisional decision, I'm partially upholding Mrs M's complaint.

G.R. Finance Limited should put things right for Mrs M as directed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 26 August 2022.

Robert Walker
Ombudsman