DRN-5170528

The complaint

Mr H says that a secured (second charge) loan he took out in 2017 with Equifinance Limited was unaffordable and irresponsibly lent.

What happened

Mr H applied for this loan in November 2017 through an independent mortgage broker. The offer issued on 1 December 2017 shows Mr H was borrowing £25,000 (plus £2,895 fees) over an 8-year term on a repayment basis. The interest rate was Equifinance's standard variable rate (which was 18% at the time of the offer). That gave a monthly payment of £550.18.

The application form indicated that Mr H had bought the property in October 2016 for £127,000 and the desktop valuation carried out for this application gave an estimated value of £139,000 in November 2017.

The loan completed on 5 December 2017.

The first payment was made in January 2018, with the direct debit due in February 2018 being returned as unpaid, albeit the payment was made up a week later. The May 2018 direct debit was also returned as unpaid, with no payment being made in that month. And the direct debit was also returned as unpaid most months from July 2018 – sometimes the payment was made later in the month, but other times it wasn't. The account went into arrears in May 2018 and remained so until March 2020, when the arrears were cleared by a lump sum payment.

Mr H complained to Equifinance about the loan in November 2023. Equifinance issued a complaint response letter to Mr H on 7 December 2023. It said responsibility for the suitability of the advice and ensuring Mr H understood the product sat with the broker. It said it had evidenced Mr H's income by way of payslips and bank statements, and these showed an income (made up of gross pay and benefits) of £4,649. And that once his declared expenditure was taken into account there was a monthly surplus of £305, so it said the loan was affordable. It said Mr H's credit report showed no evidence of financial stress as all payments were being made, indicating the loan was affordable and sustainable.

Mr H referred the complaint to the Financial Ombudsman Service where it was looked at by one of our Investigators. He said Equifinance had carried out adequate affordability and creditworthiness checks and hadn't lent irresponsibly. He didn't uphold the complaint.

Mr H didn't agree and so it was passed to me to decide.

What I've decided – and why

I issued a provisional decision earlier this month, the findings of which said:

‘At the time of the lending decision, secured loan applications like this one were (and still are) covered by the rules of mortgage regulation, found in the MCOB section of the Financial Conduct Authority’s Handbook.

The rules require a lender to assess affordability, and not lend unless a loan is affordable. In making the assessment, a lender must obtain evidence of income, and information about expenditure. It can assess expenditure based either on a borrower’s actual declared expenses, or it can use modelled expenditure information – such as typical expenditure figures for a household of this type – for living expenses but must always use actual figures for committed expenditure such as other credit agreements.

The rules also say that a lender is entitled to rely on what it’s told about expenditure – unless, taking a common-sense view, it has reason to doubt it.

Mr H’s credit file showed fourteen active accounts, three of which had been taken out in the six months running up to this loan application, as well as eight credit searches having been undertaken in that same period.

Since November 2016 Mr H had taken out:

- In November 2016 a credit card with a £3,000 credit limit that had an outstanding balance of around £2,950.
- In January 2017 a loan for £6,000, with an outstanding balance of around £2,560 and monthly payments of £418.
- In May 2017 a loan with an outstanding balance of around £4,560 and monthly payments of £227.
- In June 2017 a loan for £1,000 (which was repaid in August 2017).
- In September 2017 a loan for £2,000, with an outstanding balance of around £1,900 and monthly payments of £294.

The credit file information showed Mr H also held:

- A loan with an outstanding balance of around £338 and monthly payments of £26.
- A credit card with a £5,500 credit limit and an outstanding balance of around £5,420.

So, in the year running up to this loan being taken out Mr H had taken out four separate loans and a credit card account, with the total amount borrowed (including the credit card balance) of over £16,000.

There were late payments on two of the listed credit commitments – with one account showing one missed payment three months earlier, and another showing two missed payments (one four months earlier and the other three months earlier).

I’ve not been provided with anything to show Equifinance asked why Mr H had taken on so much unsecured debt in the year running up to this application, or that it asked him why he had eight credit searches in the last six months – things that can be indicative of a person seeking debt options, which could mean they were in financial difficulties and/or a spiral of debt.

I’ve also not seen anything to show Equifinance asked Mr H about those recent missed payments. Putting everything together I think the bigger picture shows a consumer that wasn’t managing his finances well at the time.

There are also parts of the declared income and expenditure that, taking a common-sense view, don't seem right. I include some examples below which I asked Equifinance about.

On the application form Mr H didn't mark that he was in receipt of child benefit and it also didn't show on his bank statements that he was receiving payments, but it was then included in the affordability assessment. When I questioned this with Equifinance it said Mr H had two children and a monthly child benefit amount of £149.07 was in line with that at the time.

I further questioned that with Equifinance, explaining that Mr H's income at the time was over the high income child benefit charge threshold, so it is possible he had chosen not to claim it, and if he had claimed it then he would have incurred a tax charge which Equifinance hadn't taken into account. In reply Equifinance simply said 'Further verification was not required at the time.'

As Mr H didn't declare receipt of child benefit on his application form, the bank statements he provided didn't evidence receipt of it, and there is a good reason why he might have chosen not to claim it then it doesn't seem appropriate for Equifinance to have included that amount as income in the affordability assessment. And even if Mr H had provided evidence to show he was in receipt of child benefit, then there would have needed to have been an adjustment to take into account the additional tax he would have needed to pay.

The affordability assessment also shows £0 for transport costs, noting that Mr H had a company car and fuel card, with the company paying for the tax and insurance of the vehicle. But neither Mr H's payslips nor his 2016 tax summary showed anything to indicate that he received any taxable benefits (which a company car would be classed as).

It seems Equifinance may have had some concerns that the payslips it received didn't show the complete picture as it asked for a copy of Mr H's P60 for the tax year ending April 2017. But rather than pursue that it instead accepted a tax summary for the tax year April 2016 which I can't see would have added any value to the assessment as it was for a period that ended over 18 months before this application. It also didn't show any taxable benefits or other tax adjustments, was for a total income of £34,625 which was a lot less than the £54,000 now being declared, and potentially part covered a period whilst Mr H wasn't in his current employment.

I can only assume that Equifinance asked for the 2017 P60 for a reason, so its explanation now of why it accepted a 2016 tax summary instead – 'For the assessment of the application at the time, the HMRC tax statement was deemed to be sufficient in combination with payslips for August, September and October 2017' – seems wholly insufficient. I would expect to see contemporaneous underwriting notes to indicate why it wanted sight of the 2017 P60 and how the 2016 tax summary was instead acceptable.

I also asked Equifinance about the lack of childcare and other child related costs on the affordability assessment, bearing in mind Mr H had two young children (one being a baby). Equifinance said that Mr H's partner lived with him and was responsible for minding their children, but when questioned where this was asked of Mr H and he told Equifinance that was the case, it just said 'This was a reasonable assumption based on the circumstances of the case at the time.' From this I take it that Equifinance didn't ask the questions and instead simply assumed there were no childcare or other child related costs.

I was also concerned to read Equifinance's recent statement 'There is only one affordability assessment, and I have attached a copy for your reference and to avoid any further confusion' when it then sent a different affordability assessment to the one that had been previously provided. It is clear from this that there were (at least) two affordability assessments, with no explanation of how or why that happened.

The first affordability assessment we were sent was part of the 43-page submission pack which we received from Equifinance in January 2024. The second, different, affordability assessment was sent to us by Equifinance in October 2024, with the statement above that it was the only affordability assessment.

In respect of the unsecured debt, the application form and first affordability assessment indicated the following:

- A credit card with lender H of around £2,950 wouldn't be paid off.
- A mobile phone loan of around £340 wouldn't be paid off. The monthly payment was noted as £26.
- A credit card with lender A of around £5,420 would be paid off.
- A mail order with lender N of around £1,900 would be paid off.
- A loan with lender M of around £4,560 would be paid off. The monthly payment was noted as £227.
- A loan with lender N of around £4,560 would be paid off. The monthly payment was noted as £418.

Whereas the second affordability assessment indicated the following:

- A credit card with lender H of around £3,000 wouldn't be paid off.
- A mail order with lender N of around £1,900 wouldn't be paid off.
- A loan with no lender name stated of around £1,810 wouldn't be paid off. The monthly payment was noted as £294.
- A credit card with lender A of around £5,510 would be paid off.
- A loan with lender M of around £4,330 would be paid off. The monthly payment was noted as £227.
- A loan with lender E of around £4,365 would be paid off. The monthly payment was noted as £418.

The schedule of disbursements then confirmed the following debts would be repaid:

- A credit card with lender A of around £5,680.
- A loan with lender M of around £1,940.
- A loan with lender E of around £5,140.

Finally, I asked Equifinance why it carried out the stress test at 2.5% rather than the recommended 3%. It initially said 'The case was underwritten in 2017 prior to the Stress Test update by FPC in December 2017. The recommended stress test at the time that the case was assessed was 2% and we stress tested at 2.5%.' When it was explained that was incorrect as the recommended stress test at the time was 3% Equifinance instead said 'Please kindly note that the link you are referring to was not relevant to us at the time. The BoE recommendation applied to all lenders which extended residential mortgage lending in excess of £100 million per annum. At the time, Equifinance fell well short of this threshold.'

As this loan was taken out after 31 March 2016, it was a regulated mortgage contract, to which the MCOB section of the Financial Conduct Authority Handbook applies. Section 11.6 covers the responsible lending rules and guidance.

MCOB 11.6.18 says:

(1) Under MCOB 11.6.5R (4), in taking account of likely future interest rate increases for the purposes of its assessment of whether the customer will be able to pay the sums due, a mortgage lender must consider the likely future interest rates over a minimum period of five years from the expected start of the term of the regulated mortgage contract (or variation), unless the interest rate under the regulated mortgage contract is fixed for a period of five years or more from that time, or for the duration of the regulated mortgage contract (or variation), if less than five years.

(2) In coming to a view as to likely future interest rates, a mortgage lender must have regard to:

  (a) market expectations; and

  (b) any prevailing Financial Policy Committee recommendation on appropriate interest-rate stress tests;

and must be able to justify the basis it uses by reference to (a) and (b).

(3) For the purposes of this rule, even if the basis used by the mortgage lender in (2) indicates that interest rates are likely to fall, or to rise by less than 1%, during the first five years of the regulated mortgage contract (or variation), a mortgage lender must assume that interest rates will rise by a minimum of 1% over that period.

MCOB 11.6.18A says:

(1) Under MCOB 11.6.5R (4), in taking account of likely future interest rate increases for the purposes of its assessment of whether the customer will be able to pay the sums due, a second charge lender must also consider the likely future interest rates of any regulated mortgage contract in existence at the time of the assessment and remaining in existence after the relevant second charge regulated mortgage contract has been entered into.

(2) The second charge lender must, at a minimum, base its assessment under (1) on the balance outstanding of any regulated mortgage contract relevant under (1).

MCOB 11.6.19 says:

In relation to MCOB 11.6.18R (2):

(1) an example of market expectations is the forward sterling rate published on the Bank of England website. A mortgage lender should not use its own forecast; and

(2) a mortgage lender should not link its determination to market expectations without considering the likely effect of rate changes in accordance with the market expectations on the specific regulated mortgage contract in question.

At the time this loan was taken out the Financial Policy Committee recommendation on appropriate interest-rate stress tests was to use an interest rate 3 percentage points higher than the reversion rate.

It isn't clear how Equifinance reached a decision that an uplift of 2.5 percentage points was reasonable for the stress test, rather than the 3 percentage points that was the standard recommendation at the time. MCOB 11.6.18 doesn't give the option of market expectations 'or' any prevailing Financial Policy Committee recommendation, it says 'and.'

I can't see any reasonable basis here for Equifinance to decide to use a 2.5% stress test, rather than the recommended 3%. Whilst Equifinance isn't bound by that recommendation, it would be viewed as good industry practice and for a lender to deviate from it I'd expect to see a detailed and robust reason for that decision.

Had the stress test been carried out using the recommended 3 percentage point increase then I believe the result would have been about £45 higher.

I've taken into account what Equifinance has said, and the information it received at the time, as well as what the rules of mortgage regulation say.

I do think that Equifinance ought to have made further enquiries into Mr H's expenditure and credit worthiness at the time. Although the minimum standard required by the rules is only to obtain information about expenditure, there is an overarching obligation to act fairly and as a responsible lender.

It seems reasonable to take from Mr H's wider circumstances that he was struggling to manage his finances at the time of the application, and there were also questions about the information that had been disclosed and whether it represented the full picture. In those circumstances, I think – acting responsibly – Equifinance ought to have satisfied itself that this lending was affordable and sustainable by making more detailed enquiries into Mr H's expenditure rather than taking what it was told at face value.

I think there were grounds for doubting some of the individual expenditure Mr H declared. And, more broadly, there were grounds for doubting whether Mr H was really living within his means – or whether, as his recent credit history suggested – living beyond it.

I'm therefore satisfied that, acting responsibly, Equifinance ought to have made further enquiries as it had reason to doubt what it had been told, and that should have included requesting copies of his bank statements.

I've reviewed the bank statements and I'm satisfied that, had Equifinance viewed these at the time, then it shouldn't have lent because the loan would have been shown to have been unaffordable.

The bank statements show spending way in excess of that which was declared with substantial gambling transactions, payments being returned as unpaid, fairly large transfers in and out with third parties, and various transactions in relation to vehicles (such as payments made to Mr H's employer, and payments of car tax for various different registration numbers).

Whilst some of the additional spending could be discretionary expenditure, it still needs to be considered and a discussion held about which payments could possibly be reduced and to what level. But bearing in mind the level of gambling transactions, around £15,000 in one month as an example, it doesn't seem Mr H was in a position – at that time – to reduce his spending to a level where this loan would have been affordable and sustainable. The other bank statements we hold show that these transactions are not out of character – they reflect other transactions in the months before and month after the loan application.

I don't think it's enough for Equifinance to say it relied on what Mr H told it about his expenditure, and that he didn't declare any reasons why the loan might be problematic. It's not enough to rely on what the applicant says alone when, as here, there were clear grounds, on a common-sense view, for doubting it.

The bank statements also show that Mr H had taken out additional unsecured debt that didn't show on the credit file information provided by Equifinance. Having reviewed Mr H's credit file (both from before the sale, and a later copy from after the sale) and bank statements, the following debts look to have potentially been left outstanding when this secured loan was taken out:

- The loan with a balance of around £4,560 with lender L. This had a monthly payment of £227. This loan was recorded on both affordability assessments as to be paid off.
- A loan with a balance of around £338. This had a monthly payment of £26. This was on the first affordability assessment but missing from the second one.
- A credit card with a balance of around £3,000 with lender H. This was recorded on both affordability assessments as being left outstanding.
- A payday loan of £900 with lender L taken out on 12 October 2017.
- A payday loan of £600 with lender P taken out on 16 October 2017.
- A payday loan of £250 with lender L taken out on 17 November 2017.
- A payday loan of £300 with lender C taken out on 17 November 2017.
- A payday loan of £60 with lender M taken out on 17 November 2017.
- A payday loan of £500 with lender L taken out on 17 November 2017.

Based on the second affordability assessment that Equifinance provided, removing the child benefit from the income and using a 3% stress test (rather than 2.5%) is enough for this loan to show as unaffordable. That's before the other issues and discrepancies that I've detailed are taken into account.

For all the reasons given, I think the information Equifinance used to assess Mr H's affordability significantly underestimated his expenditure, and based on the information that would have been available at the time (had it been asked for), it's more likely than not that the loan wasn't affordable for Mr H, and that Equifinance didn't take reasonable steps to ascertain whether it was or carry out a sufficiently robust affordability assessment.

Having considered everything very carefully I'm not persuaded Equifinance acted responsibly when it agreed to lend to Mr H, and so I'm minded to uphold this complaint.'

I said, to put things right, Equifinance should:

'To put matters right, Equifinance should bring the loan agreement to an end and remove any adverse entries associated with this loan from Mr H's credit file.

Equifinance sent £12,198.70 of the funds directly to Mr H. The volume of gambling transactions on Mr H's bank statements were extremely unlikely to be representative of someone who was gambling in a mindful or enjoyable way. After the money from the loan had been deposited into Mr H's account on 5 December he had gambled £3,945 of it by the time all the funds had been spent on 15 December.

Having reviewed the way Mr H had been managing his money in the months leading up to the loan application I think it was evident that there was a high risk he would use some of the funds to gamble.

As I think there was an obvious risk that Mr H would use some of the funds Equifinance paid to him for gambling, rather than to repay debts, for home improvements or other spending I think Equifinance should write off that £3,945 of the capital as had that not been sent to Mr H then he couldn't have spent it on gambling.

It should also remove the £2,895 fees from the balance, as well as all interest charged on the borrowing to date. If any other fees have been added to the balance over the life of the loan those should also be removed. Equifinance should then treat all the payments Mr H has made as payments reducing the capital balance.

If this results in a balance outstanding, Equifinance should reach a sustainable arrangement with Mr H for the repayment of the remaining outstanding capital balance, without applying future interest, and can retain the charge over the property in the meantime.

If, however, this means that Mr H has already repaid more than the capital he borrowed, the excess should be refunded to him, adding simple annual interest of 8% running from when any payments above the total capital amount were made to the date Equifinance refunds them. In this scenario, Equifinance may deduct income tax from the 8% interest element of my award, as required by HMRC – but should tell Mr H what it has deducted so he can reclaim the tax if he is entitled to do so. In this case, it should also remove the charge from the property.

I don't think it would be fair to ask Equifinance to write off the remaining capital balance (other than the amount I've detailed above), if there is one, or to refund the payments made towards that capital. Mr H received the capital and used it to pay off other debts as well as other spending (outside of gambling), so it's fair and reasonable that he pays back what he borrowed. But it's not fair and reasonable for Equifinance to charge fees and interest for a loan it should not have entered into.

It's possible Mr H would have come to some arrangement with his unsecured creditors had this loan not existed. So it's not possible to be sure exactly what capital or interest Mr H would have had to pay if the debts had not been consolidated into this loan.

It's likely that removing all interest from this loan results in a saving to Mr H compared to the amount he would have had to pay towards the consolidated debts had they not been consolidated. But it's also possible he would have entered an arrangement such as an IVA or bankruptcy which would have led to him paying less (though with other consequences).

It's likely there is some saving in removing interest from the loan. But nevertheless I think it's a fair outcome to this complaint because I don't think it's fair and reasonable for Equifinance to recover fees and interest charged under a loan agreement that ought never to have been entered into.

Although the existence of this loan caused Mr H distress and inconvenience, with the added worry that it was secured over his property, I don't propose to compensate Mr H separately for the distress and inconvenience this lending and the associated financial difficulties caused him. I think the saving made in writing off the interest on this loan, compared to what he would likely have had to pay had the debts not been consolidated, represents fair compensation for that.'

Mr H accepted my provisional findings in full. Equifinance accepted my decision in principle, but said that it didn't agree with the redress I'd put forward. It said, in summary:

- It thought it was unreasonable for the broker fee to be refunded as the fee wasn't conditional on the loan being approved. It said that without the fee the broker may not have considered helping Mr H.

- It didn't think it should write off the £3,945 Mr H spent on gambling as it couldn't have anticipated that was going to happen based on the information it had at the time, and it had no control over Mr H's use of the funds.

I asked our Investigator to obtain evidence from Equifinance that the broker fee would still have been charged even if the application had been declined as nothing we held on file indicated that would have been the case.

Equifinance responded to say:

> 'You had asked for evidence to show that the broker fee would still have been charged if the loan application had been declined.
>
> To clarify, the broker fee was added to the mortgage loan. Under the terms of the mortgage offer and ESIS, if the mortgage loan does not go ahead, then there are no funds to add the broker fee too hence it cannot be charged. If the loan application was declined, there would be no offer made and no loan, therefore the broker fee could not be applied to the loan.
>
> In addition, we do not think that it is right for us to write off £3,945 of the capital that the customer spent on gambling.'

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

I've carefully considered what Equifinance has said in response to my provisional decision and having done so I'm not persuaded to change my findings or proposed redress.

Despite a request, Equifinance hasn't provided any evidence to show that the broker would still have charged Mr H the £2,000 broker fee if this application had been declined. As Equifinance has identified, the broker fee was added to the loan, so this isn't a case where Mr H had paid a potentially non-refundable £2,000 fee directly to the broker when he applied for the loan. Instead, the broker would have needed to have got Mr H to have signed a fees agreement before the application was made, setting out that Mr H would pay the £2,000 to the broker directly if the application was declined, and the broker would then have needed to have pursued Mr H for that sum if he didn't pay it.

Equifinance hasn't evidenced that was the case here and so I'm not persuaded it is more likely than not that Mr H would still have incurred the £2,000 broker fee if this application had been declined. I'm satisfied if Equifinance had declined this application, which I consider it should have done, then Mr H wouldn't have paid the £2,000 to the broker, and so for that reason I find Equifinance should refund that £2,000 to Mr H as part of putting things right.

In relation to the £3,945 Mr H spent on gambling, I can only reiterate what I said in my provisional decision, which was:

> 'Equifinance sent £12,198.70 of the funds directly to Mr H. The volume of gambling transactions on Mr H's bank statements were extremely unlikely to be representative of someone who was gambling in a mindful or enjoyable way. After the money from the loan had been deposited into Mr H's account on 5 December he had gambled £3,945 of it by the time all the funds had been spent on 15 December.

> Having reviewed the way Mr H had been managing his money in the months leading up to the loan application I think it was evident that there was a high risk he would use some of the funds to gamble.
>
> As I think there was an obvious risk that Mr H would use some of the funds Equifinance paid to him for gambling, rather than to repay debts, for home improvements or other spending I think Equifinance should write off that £3,945 of the capital as had that not been sent to Mr H then he couldn't have spent it on gambling.'

If Equifinance had obtained bank statements from Mr H which I'm satisfied it should have done, then I believe it would have been relatively foreseeable that Mr H would have spent some of the funds on gambling. For that reason I'm satisfied Equifinance should write off the £3,945 in question as I set out in my provisional decision.

I've considered the full file afresh and having done so I see no reason to depart from the findings, and proposed redress, I put forward in my provisional decision.

Putting things right

To put matters right, Equifinance should bring the loan agreement to an end and remove any adverse entries associated with this loan from Mr H's credit file.

Equifinance sent £12,198.70 of the funds directly to Mr H. The volume of gambling transactions on Mr H's bank statements were extremely unlikely to be representative of someone who was gambling in a mindful or enjoyable way. After the money from the loan had been deposited into Mr H's account on 5 December he had gambled £3,945 of it by the time all the funds had been spent on 15 December.

Having reviewed the way Mr H had been managing his money in the months leading up to the loan application I think it was evident that there was a high risk he would use some of the funds to gamble – likely causing Mr H further harm and indebtedness.

As I think there was an obvious risk that Mr H would use some of the funds Equifinance paid to him for gambling, rather than to repay debts, for home improvements or other spending I think Equifinance should write off that £3,945 of the capital as had that not been sent to Mr H then he couldn't have spent it on gambling.

It should also remove the £2,895 fees from the balance, as well as all interest charged on the borrowing to date. If any other fees have been added to the balance over the life of the loan those should also be removed. Equifinance should then treat all the payments Mr H has made as payments reducing the capital balance.

If this results in a balance outstanding, Equifinance should reach a sustainable arrangement with Mr H for the repayment of the remaining outstanding capital balance, without applying future interest, and it can retain the charge over the property in the meantime.

If, however, this means that Mr H has already repaid more than the capital he borrowed, the excess should be refunded to him, adding simple annual interest of 8% running from when any payments above the total capital amount were made to the date Equifinance refunds them. In this scenario, Equifinance may deduct income tax from the 8% interest element of my award, as required by HMRC – but should tell Mr H what it has deducted so he can reclaim the tax if he is entitled to do so. In this case, it should also remove the charge from the property.

I don’t think it would be fair to ask Equifinance to write off the remaining capital balance (other than the amount I’ve detailed above), if there is one, or to refund the payments made towards that capital. Mr H received the capital and used it to pay off other debts as well as other spending (outside of gambling), so it’s fair and reasonable that he pays back what he borrowed. But it’s not fair and reasonable for Equifinance to charge fees and interest for a loan it should not have entered into.

It's possible Mr H would have come to some arrangement with his unsecured creditors had this loan not existed. So it’s not possible to be sure exactly what capital or interest Mr H would have had to pay if the debts had not been consolidated into this loan.

It's likely that removing all interest from this loan results in a saving to Mr H compared to the amount he would have had to pay towards the consolidated debts had they not been consolidated. But it’s also possible he would have entered an arrangement such as an IVA or bankruptcy which would have led to him paying less (though with other consequences).

It’s likely there is some saving in removing interest from the loan. But nevertheless I think it’s a fair outcome to this complaint because I don’t think it’s fair and reasonable for Equifinance to recover fees and interest charged under a loan agreement that ought never to have been entered into.

Although the existence of this loan caused Mr H distress and inconvenience, with the added worry that it was secured over his property, I don’t propose to compensate Mr H separately for the distress and inconvenience this lending and the associated financial difficulties caused him. I think the saving made in writing off the interest on this loan, compared to what he would likely have had to pay had the debts not been consolidated, represents fair compensation for that.

My final decision

For the reasons I’ve given, I uphold this complaint and direct Equifinance Limited to put matters right in the way I’ve set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 24 December 2024.
Julia Meadows
Ombudsman