

## **The complaint**

Miss O and Mr O's complaint is about a second charge mortgage they have with Equifinance Limited. They believe that Equifinance acted irresponsibly when it agreed to lend to them due to their circumstances.

Miss O and Mr O are represented in their complaint, but for ease, I will refer to all comments and actions as theirs.

## **What happened**

In 2017 Miss O and Mr O applied for a second charge mortgage following advice from an independent mortgage broker. In October 2017 they applied to borrow £16,000 plus fees over a term of 15 years. The application form said the money was to be used to consolidate existing debts.

At the time Mr O was documented with an occupation in the building trade and Miss O was not working, although she said she would be returning to work once their youngest child (who was one at the time) started nursery. Approximately £13,000 of debt on credit/store cards, hire purchase, catalogue accounts and an overdraft was detailed.

Equifinance completed an assessment of Miss O and Mr O's finances to establish if they could afford the mortgage they had applied for. In relation to Mr O's income, Equifinance used the figures contained in the monthly contractor payment slips he had received for the four months before the application. When determining his net income, it used the figure for the gross payment less the CIS deduction made for tax and national insurance payments. The four net monthly payments were added together and an average used for monthly income. Miss O's income was in the form of child tax credits – she was receiving around £220 each month, but Equifinance used just under £150 of the income as it was aware that the credit would reduce in the near future due to the ages of their children. Miss O also confirmed that she would be returning to work when their children were of an age to go to nursery.

In relation to outgoings, Equifinance asked Miss O and Mr O how much they spent. Equifinance then compared those figures with Office of National Statistics (ONS) average figures. Where the figures provided by Miss O and Mr O were lower than ONS figures, Equifinance questioned it. There were three areas in question:

- Shoes and clothing – their declared outgoing was £80 each month in comparison with an ONS figure of £120. Miss O explained that she and Mr O seldom bought clothes for themselves, and much of their children's needs were provided for from an allowance from their grandparents.
- Transport costs – they declared £67 per month plus car insurance against an ONS figure of £245 per month. Miss O explained that Mr O was provided with a vehicle from work and, as they lived in a village, she walked most places. So they didn't use their own vehicle much.
- Health costs – dentist, opticians, prescriptions, insurance policies – they declared no such costs. The ONS figure was £22 per month. Miss O confirmed that they didn't pay for any health insurance or private health care.

Equifinance accepted these explanations and assessed the affordability of the mortgage based on the figures Miss O and Mr O had provided. It calculated that they had a disposable income of over £660 per month after their existing expenditure and the cost of the new mortgage was taken into account. Equifinance also assessed the affordability of the new mortgage taking into account the fact that Miss O and Mr O's existing mortgage rate would end the following year and so might increase. Factoring in an increase of over £300 for the two mortgage payments, the calculation determined that Miss O and Mr O had a disposable income of over £450 per month.

The application was accepted and advanced at the beginning of November 2017. The interest rate was variable – 18% at that time – and the monthly payments were £297.85. Payments were made consistently until toward the end of 2019 when Miss O and Mr O missed, and then made up, the occasional payment. A Covid-19 payment deferral was put in place for the six months from the April 2020 payment. The first direct debit payment after the deferral ended bounced, but Miss O and Mr O made up the payment shortly thereafter. There was then a payment problem at the beginning of 2021 due to them needing to set up a standing order, as they'd asked to change their payment date, but they didn't do so. A payment arrangement was set up to cover the missed payments – the financial assessment showed that they had over £1,000 disposable income in May 2021.

Payments began to be missed again from late 2021. They explained that this was due to periods of illness and changes to their employment situation. Once Miss O and Mr O's employment situations stabilised, they made higher monthly payments to reduce the arrears.

In August 2024, Miss O and Mr O's representative made a complaint to Equifinance on their behalf.

Equifinance responded to the complaint on 17 October 2024. It set out how it had assessed the affordability of the mortgage and why it had concluded that it was affordable. Equifinance also highlighted that the consolidation allowed Miss O and Mr O to reduce their outgoings by almost £350 each month and removed almost all of their credit commitments, allowing them a fresh start on their finances. Equifinance was satisfied that the mortgage was affordable and so the complaint was rejected.

Miss O and Mr O were unhappy with the response they received and referred their complaint to this Service. When they did, they told us that they were experiencing severe financial difficulties in 2017, including being in arrears on other debts. They have also said that Mr O was self-employed and so didn't have a secure income if he needed unexpected time off work.

One of our Investigators considered the complaint, but he did not recommend that the complaint be upheld. Miss O and Mr O did not accept the Investigator's conclusions. They reiterated and expanded on why they thought the decision to lend to them was irresponsible.

### **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.

In 2017, when this mortgage was taken out, it was (and still is) covered by the rules of mortgage regulation, which can be 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 outgoings, or it can use modelled expenditure information - such as typical expenditure figures for a household of the consumer's type – for living expenses. However, it 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.

I have looked carefully at the assessment Equifinance carried out before it accepted Miss O and Mr O's application. It took account of their verified incomes and their actual expenditure. The new mortgage was evidenced as being affordable with Miss O and Mr O having a disposable income of over £650 each month.

In addition, Equifinance completed an interest rate stress test on the first charge mortgage, as the fixed interest rate attached to it was due to expire the following year. This test again showed that the mortgage was affordable, although Miss O and Mr O's disposable income would reduce by around half. I note that the stress test was done at 2.5%, rather than the recommended 3% at the time. However, even if the higher rate had been used for the stress test, Miss O and Mr O's disposable income would have still been over £400 per month and the new mortgage would have shown as being affordable.

Miss O and Mr O have highlighted the three areas of their expenditure that they told Equifinance they spent less than ONS figures identified would be average for a household like theirs. They provided plausible explanations for why those figures were lower. I don't consider that Equifinance was wrong to accept those explanations. This is especially the case as the ONS figures are an average, which very simply means that there will be households where the actual figure for all of the expenditure asked about will be lower than the ONS figure and others that will be higher. The fact that the figure is lower does not mean that it is wrong and should be replaced with the ONS figure.

In addition, Miss O and Mr O have questioned how Equifinance worked out Mr O's net income – they appear to think that the number used is not based on the information they provided. I have looked at the four contractor payslips that Mr O provided in 2017 and it would appear that Equifinance used the gross pay figure, less the CIS deduction, to determine the monthly net figure. It then took an average over the four months. I note that Miss O and Mr O don't believe that this income assessment was completed over a long enough period. However, I note that Equifinance also requested a copy of Mr O's tax calculation from the previous tax year in addition to his contractor payslips. I am not persuaded that how Equifinance assessed Mr O's income was unreasonable or inappropriate.

I note that Miss O and Mr O have said that Equifinance's assessment didn't take into account the fact that there was the possibility of Mr O's income reducing because he was self-employed or their costs increasing. I understand what Miss O and Mr O are saying, but the type of stress testing that they are suggesting is not something that we would expect a lender to do. In simple terms, a lender can't anticipate everything that could happen and guard against it when completing an affordability assessment. If it did that, it is unlikely a lender would ever lend.

No matter how a person is employed, there is always the possibility that their income will drop, just as there is the likelihood that unless something unforeseen happens, their income will increase over time. It is also guaranteed that over time the cost of living will increase – the important factor is whether their income can provide for such increases – hence the need to assess how much disposable income a consumer has. The disposable income is the buffer that allows a consumer to cope with unexpected expenses and cost of living increases.

I also note that Miss O and Mr O do not appear to have had difficulties paying the mortgage in the first years. The turning point appears to have been around the time of the Covid-19 pandemic when, given Mr O's occupation, he would have been unable to work initially and later with restrictions that may well have continued to affect his income. Miss O also confirmed to Equifinance that the later financial difficulties were due to illness and changes in their circumstances. So it would appear that the mortgage became unaffordable for reasons that were not, and could not have been, known in 2017 when the decision to lend was made.

Furthermore, Miss O and Mr O's credit report showed that they'd recently made payments late on two of their credit accounts in the previous six months, but the remainder had been managed fine during that period. Equifinance asked them about this, and Miss O explained that they wanted to consolidate the debts to ensure affordability going forward because they'd missed the occasional payment – they were taking action to pre-empt this situation escalating. I think it was reasonable for Equifinance to accept this explanation, especially as Miss O and Mr O had not taken out any new credit out several years and there were no county court judgements or defaults recorded against them.

Overall, I think it was reasonable for Equifinance to conclude the mortgage was affordable for Miss O and Mr O. I am also not persuaded that, given how they had managed their credit commitments prior to making this application, along with their explanation of the slight problems they'd had, the mortgage was lent irresponsibly.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss O and Mr O to accept or reject my decision before 22 September 2025.

Derry Baxter  
**Ombudsman**