

The complaint

Miss W's complaint is about a second charge mortgage she took with Equifinance Limited in 2020. She believes the mortgage was irresponsibly lent as it was not affordable.

What happened

In July 2020 Miss W applied for her mortgage with Equifinance following advice from an independent broker. The mortgage that was advanced was for £16,000 plus fees, on a repayment basis and over a term of 10 years. The interest rate on the mortgage was fixed for the first five years at 14.25% and would be charged at a variable rate thereafter. The monthly payment during the fixed interest rate period was £291.52.

The application made on 9 July 2020 said that Miss W wanted money for home improvements and to consolidate some existing debts, including two county court judgements (CCJ) as follows:

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|--------------------------------|-----------|----------------------------|
| • Current account | £8.00 | |
| • Loan | £154.00 | defaulted in December 2015 |
| • Payday loan | £143.00 | defaulted in May 2017 |
| • Other (a telephone contract) | £93.00 | defaulted in August 2017 |
| • CCJ | £640.00 | issued in December 2018 |
| • CCJ | £1,700.00 | issued in January 2015 |

At that time Miss W had a first charge mortgage of approximately £91,500, for which she paid £370 per month. The existing mortgage was arranged on a repayment basis and the interest rate was variable.

Equifinance asked for evidence of Miss W's income and also had her credit report. The latter showed that until April 2020, Miss W's mortgage had been in arrears for almost two years. Clearing the arrears coincided with Miss W being granted a payment holiday by her lender, where she didn't have to make any payments to the mortgage, so anything she did pay, would have reduced the arrears. In addition, it showed that multiple defaults on credit arrangements between December 2015 and August 2018; three of which had outstanding balances. There were also four CCJs dated between January 2015 and December 2018 – only two of which had been paid off. The credit report also shows that four searches had been completed in the previous six months, all of which related to applications for credit. There were two more searches for credit applications in the six months before that.

Miss W was asked to evidence from bank statements the additional income she had from tax credits and child benefit, along with evidence of the payments she'd made to her mortgage in the previous six months. She was not asked for complete bank statements, but rather just evidence of these payments and so filtered statements were provided.

Miss W explained that the CCJs from 2015 had happened due to her split with her partner and the resulting drop in the household income. The 2016 and 2018 CCJs and the mortgage arrears were due to her ex-partner stopping paying child maintenance.

In addition, Miss W was asked to explain why she had missed mortgage payments ten months ago and in February 2020. A missed payment eight months earlier was not asked about. She confirmed the first of those payments were missed because she'd had to make a payment for a parking fine when bailiffs had called at her home. The second was because the local council had debited more than she had expected due to it requiring her to make higher payments towards council tax arrears. Equifinance accepted these explanations as plausible. It also recorded that the council tax arrears had 'been sorted', although Miss W has said that was not the case and she continued having to pay around £48 per month towards the arrears.

Equifinance decided to include the benefits and tax credits that Miss W received due to having a school-age child in her household when determining if the second charge mortgage would be affordable – they amounted to £184.46 per month. She was asked how, when this amount ceased to be paid in around seven years, she would afford to pay the second charge mortgage. Miss W said that she would be receiving annual pay rises and by the time she stopped receiving income for her child, her wages would be £160 more than the reduction in her income.

Equifinance also completed an income and expenditure assessment to determine if the second mortgage would be affordable. When it did this, it compared the information Miss W had provided alongside modelled expenditure information – typical expenditure for a household of the type Miss W had – for living expenses. Equifinance used Miss W's account of her expenditure, as all but one item was higher than the modelled expenditure, and that one item was only £2 lower. This exercise determined that Miss W had a disposable income of just under £300 each month after all expenses including the prospective Equifinance loan was taken into account. Even after reassessing the situation assuming an increase in mortgage interest rates on the first charge mortgage, known as stress testing, Equifinance determined that there would be a disposable income of approximately £140. Equifinance also concluded that the consolidation of the debts would save Miss W approximately £140 each month.

The notes that Equifinance has provided from the time, which related to the acceptance of the mortgage application, state that it was accepted as an exception because Miss W had continued to make mortgage payments despite having a payment holiday.

Miss W missed the second payment to the mortgage, although this was made-up a few days later. However, the mortgage then went into arrears in December 2020 (the fourth payment) and has remained in arrears ever since.

Miss W complained to Equifinance in May 2025 that its decision to lend to her was irresponsible.

Equifinance responded to the complaint in an emailed letter of 30 June 2025. It said that it had conducted a full income and expenditure assessment with Miss W before it had agreed to lend. This identified that even after the payments for the mortgage were stress tested, she could afford it and would have a disposable income left each month. As such, Equifinance was satisfied that its decision to lend to Miss W was not irresponsible and it rejected the complaint.

One of our Investigators considered the complaint, and he recommended that it be upheld. He was not persuaded that Equifinance had asked for sufficient information and, had it done so, it should not have accepted Miss W's application.

Equifinance did not accept the Investigator's conclusions. It said that it didn't think the Investigator's conclusions followed regulatory requirements and guidance, and this resulted

in an inappropriate outcome. The Investigator considered the points Equifinance had made, but they did not change his conclusions. Equifinance continued to disagree with the Investigator's recommendations and asked that the complaint be referred to an Ombudsman.

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.

At the time of the lending decision, mortgage applications like this one were (and still are) covered by the rules of mortgage regulation, found in the Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB) section of the Financial Conduct Authority's Handbook.

The rules require a lender to assess affordability and not lend unless a mortgage 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 a particular type – for living expenses. However, the lender must always use actual figures for committed expenditure such as other credit agreements.

I have noted what Equifinance has said about why it doesn't think that it had reason to complete any further checks to ensure that the new mortgage was affordable. It is correct that it is entitled to rely on what it's told about expenditure – unless, taking a common-sense view, it has reason to doubt it. In addition, as it has highlighted all but one of Miss W's accounts were up to date and there had been little credit taken in the recent past. Also, the CCJs had been incurred several years earlier and only two were outstanding. So on the face of it, I can see the point that Equifinance is making. However, there should be more to a lender's assessment than a simple tick box exercise regarding defaults, CCJs, or calculating what percentage of a consumer's income the credit represents.

Miss W's credit report showed that her mortgage had, until two months earlier, been in arrears since the summer of 2018. It was also evident that on three occasions over the eight months before the arrears were cleared, the arrears increased. Furthermore, the only way that Miss W was able to get her mortgage under what appeared to be control and clear the arrears, was to "misuse" a Covid-19 payment deferral. Covid-19 payment deferrals were created to support consumers who were in financial difficulty due to a drop in their income because of the pandemic. Given the nature of Miss W's employer, I think Equifinance would have been aware that it was unlikely that she would have been in that position and that she had taken the deferral for other reasons.

Equifinance asked Miss W what the reason was for two of the three increases in the mortgage arrears over the previous eight months. The occurrence ten months earlier was explained by Miss W having to unexpectedly pay a parking fine and so being short on money that month. Equifinance didn't ask about the increase in the arrears that happened two months after that, but it did the one in February 2020. Miss W said that this had happened because the local council had taken more than she had expected due to council tax arrears. These arrears were not included in the credit report that we have been provided with and, I am satisfied this would have alerted Equifinance to the fact that Miss W may have had debts that it was not aware of. While Equifinance has said that it asked Miss W about the council tax arrears and she confirmed they had been cleared, no evidence of this discussion or the clearance of the arrears has been provided. I note from the notes on the affordability assessment, that the fact that payments continued when they were not necessary was the

reason that an exception was applied to the application, i.e. it was accepted when it might not otherwise have been.

Equifinance has also highlighted that Miss W had taken very little credit since her financial difficulties between 2016 and 2018, when the defaults were registered on various accounts. While this is true, the credit file also shows that this was only one of five credit checks that had been completed over the previous six months due to Miss W making credit applications. So while she may not have taken much credit recently, it appears that she had tried to take more than she was granted.

In addition, I think that it is reasonable that Miss W's intentions regarding debt consolidation should have raised concerns. I have detailed above what she was planning to consolidate and the size of some of the debts in that list ought reasonably to have raised concerns. Despite Miss W having managed to reduce her mortgage arrears significantly during the payment holiday, she at the point of application thought that she would be unable to repay the £8 she owed to her bank other than by borrowing. Three of the other debts were also relatively small and if her finances were in the state that Equifinance seems to have believed them to be, it would seem unlikely that she would have needed to turn them into a secured loan with an extended repayment term. While I note that only one of the debts – the largest of the CCJs was repaid directly by Equifinance - that does not negate Miss W's intentions to use some of the balance of the money released to repay the debts she had listed.

In light of the above, I think that, acting responsibly, Equifinance ought to have made further enquiries about Miss W's circumstances and finances. Had it done so, I think it would have requested full bank statements for Miss W. I have reviewed the bank statements, and I am satisfied that, had Equifinance viewed them at the time of the application, it would have caused it to have concerns about the affordability of the new mortgage.

The bank statements show spending far in excess of either the modelled figures or those that Miss W had provided, which Equifinance used for the affordability assessment. For example, the payments to the local council which had been documented as £91 in the expenditure form were over £500 in May and over £250 in June. There was also evidence of Miss W having significant commitments to 'buy now, pay later' arrangements, with over 30 payments to this type of arrangement in each of the previous three months. Given such arrangements are usually arranged over relatively short terms, this would indicate that Miss W's finances were in a worse position than her credit file might have suggested.

Much of the spending evidenced by the bank statements could reasonably be described as discretionary expenditure. Despite this, it still needed to be considered in the affordability assessment for the mortgage. It could be argued that as it was discretionary, it could be reduced or removed completely from Miss W's spending. However, if that were to be the position taken in a lending assessment, a discussion would have needed to take place about reducing that spending and to what level. Bearing in mind what Equifinance knew about Miss W's history of financial difficulties, I am not persuaded that it is likely that she would have managed to reduce her spending to the level required for the mortgage to have been considered affordable.

As such, I am satisfied that the information Equifinance used to assess the affordability of Miss W's application significantly underestimated her expenditure. Based on the information that should have been available at the time, had it been asked for, I consider it is more likely than not that the mortgage wasn't affordable, and that Equifinance didn't take reasonable steps to ascertain whether it was or carry out a sufficiently robust affordability assessment.

Equifinance has commented that the fact that Miss W was not making payments to the CCJs does not prevent them from being consolidated. I would agree, but I think Equifinance has

missed the point that the Investigator was trying to make. Given one of the CCJs had been outstanding since 2015, the fact that no payments were being made to them would again indicate that Miss W's finances may not have been in as good a position as Equifinance's affordability assessment indicated they were.

Having considered all of the evidence carefully, I am not persuaded that Equifinance acted responsibly when it agreed to lend to Miss W. I am satisfied that the mortgage with Equifinance should not have been lent.

Putting things right

When considering redress, we aim to place a consumer in as close as possible to the financial position they would have been in, had the financial business not made a mistake.

I don't think it would be fair to write off any element of the capital as Miss W had the benefit of that money. However, I think it would be unfair for Equifinance to collect interest or fees on a mortgage it should not have lent.

To put matters right, Equifinance should:

- recalculate the mortgage balance removing all fees (including the broker, lender and disbursement fee), charges and interest, and treating all payments made to date and in the future, as repayments of the capital;
- agree a suitable repayment plan with Miss W if there is a balance outstanding after the above recalculation; and
- remove any adverse information about the mortgage from Miss W's credit files.

The charge that Equifinance holds on Miss W's property should remain in place until the recalculated balance of the mortgage has been repaid.

My final decision

My final decision is that I uphold this complaint. In full and final settlement of this complaint I require Equifinance Limited to carry out the actions I have detailed above in 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss W to accept or reject my decision before 16 April 2026.

Derry Baxter
Ombudsman