

## **The complaint**

Mr M and Miss M complain that Tandem Home Loans Ltd irresponsibly lent them two second charge secured loans. They say these loans have put them in financial difficulty, they've had to take out more credit since to keep on top of their outgoings, and these loans have severely impacted Mr M's health.

## **What happened**

In May 2016 Tandem (formerly 1<sup>st</sup> Stop Home Loans Limited) agreed to lend Mr M and Miss M a loan of £15,000 plus fees, which was secured by way of a second charge on Mr M's and Miss M's property. This loan was sold by a broker.

In April 2018 Tandem agreed to lend Mr M and Miss M a loan of £26,000 plus fees, which again was secured by way of a second charge on Mr M's and Miss M's property. Both loans were taken for the purpose of debt consolidation. The first loan was consolidated into the second loan, as well as other unsecured debts.

In March 2024 Mr M and Miss M complained to Tandem with the help of a professional representative. They complained that the loans had been lent to them irresponsibly. They said the loans were too expensive and had actually increased their monthly outgoings rather than reduce them as intended. They said they had struggled to afford the loans over the last five years, and Tandem should have known the loans wouldn't be affordable from the outset.

Tandem said that Mr M and Miss M's complaint about the 2016 loan was out of time, as that loan was sold more than six years before the complaint was made. It said before it agreed to lend the 2018 loan, it conducted an income and expenditure assessment and confirmed Mr M and Miss M's income via their payslips. It said it used government guidelines for basic household essentials and living costs unless the applicant advised they were higher, or it found evidence of them being higher. It said its assessment showed Mr M and Miss M had £355.55 disposable income each month, which reduced to £7.53 after stress testing which showed the loan was affordable.

Tandem also said it conducted a creditworthiness assessment before agreeing to the loans, and both applicants' credit files were deemed satisfactory. All the defaults showing on the credit files were for products that were being consolidated into the loan. It said Mr M and Miss M had made all payments in full and on time until July 2019. The loan was currently in arrears of £2,655.75, but Mr M had assured Tandem he would be returning to a full salary which would make the monthly payments affordable moving forward. It said it had no control over any borrowing taken by Mr M and Miss M after this loan was agreed, and that is not something it could be held responsible for.

Mr M and Miss M brought their complaint to our service. One of our Investigators looked into things and agreed the complaint about the 2016 loan had been made outside the time limits our service must apply. He didn't think the complaint had been made late as a result of exceptional circumstances.

The Investigator considered whether Tandem had lent the 2018 loan responsibly, and he

wasn't persuaded it had. He wasn't satisfied that Tandem had accurately assessed Mr M and Miss M's income and expenditure, and had relied on a tenancy agreement to demonstrate income received from a buy-to-let property when the bank statements it had seen showed that less was being received. He said the loan wouldn't have been affordable had Tandem used accurate figures for the rental income.

The Investigator said to put things right Tandem should bring the loan to a close. It should calculate what Mr M and Miss M have paid towards the interest on the loan so far and offset that against the capital. He said Tandem should also remove any lending or product fees from the capital balance. He said it should work out an affordable and sustainable repayment plan for the remaining capital. He also said that any fees or charges that had been added to the loan as a result of arrears should be refunded. And any adverse entries that had been made to credit reference agencies should be removed.

Tandem disagreed with the Investigator's outcome. It said that whilst the bank statements showed lower rental income had been received than the tenancy agreement stated, there was nothing to suggest that the rental income would not increase in the future. It said even with the lower amounts stated, the application was still deemed acceptable and within risk due to the overall free cash each month.

Tandem asked for the complaint to be referred to an Ombudsman, so the complaint's been passed to me to decide.

### **What I've decided – and why**

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

Firstly, I'm sorry to hear about Mr M's poor health and the difficult times he and Miss M have been through in recent years. I appreciate Mr M and Miss M's openness and honesty about their situation and have taken everything they've said into account when reaching this decision.

### **Our jurisdiction to consider this complaint**

Whilst both parties have accepted the Investigator's position on our service's jurisdiction to consider this complaint, I must nonetheless satisfy myself that we have the power to consider this complaint before I can reach a determination on its merits. Having done so, I agree with the Investigator that Mr M and Miss M's complaint about the sale of the 2016 loan has been made too late for our service to be able to consider it under the relevant rules. I'm satisfied it was made outside both the six and three year time limits, and I'm not persuaded it was brought late as a result of exceptional circumstances. As a result, our service only has the power to consider Mr M and Miss M's complaint about the 2018 loan.

### **Did Tandem lend irresponsibly?**

This loan was taken out in April 2018, which means it's a regulated mortgage contract, and so the regulator's rules for responsible mortgage lending applied at the time Tandem assessed Mr M and Miss M's application. Those rules can be found in the Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB) Chapter 11.

In summary, before agreeing to lend to Mr M and Miss M, Tandem had to ensure that Mr M and Miss M would be able to pay the amounts required under the agreement. The rules say that when assessing whether the loan is affordable, Tandem had to take full account of the customer's income and their committed and basic essential expenditure and quality of living

costs of the household. They also say that Tandem needs to take account of likely future interest rate increases. It does this by applying what's known as a 'stress test' to ensure that the loan would still be affordable if rates were to rise.

Tandem did conduct an income and expenditure assessment to check whether the loan was affordable for Mr M and Miss M. It also gathered evidence in the form of payslips, Mr M's most recent tax return, bank statements, and a tenancy agreement for Miss M's buy-to-let property. After Tandem conducted its assessment, it concluded that Mr M and Miss M would have a disposable income of over £350 once the loan was in place, and after it applied its stress test it still left them with over £7 per month. Whilst the outcome of Tandem's assessment showed the loan would be affordable for Mr M and Miss M, I'm not persuaded that assessment was based on all the information it knew about Mr M and Miss M's income and expenditure, and their circumstances overall.

Miss M had provided Tandem with a tenancy agreement for her buy-to-let property which showed that until May 2018, Miss M's tenants would pay £525 per month in rental payments. That's the figure Tandem used in its assessment of Miss M's income. Mr M and Miss M have said that there were some months when they didn't receive any rental income, and when they did, they didn't receive £525.

It's not clear whether Miss M actually told Tandem this during the application process, but Tandem did have copies of Miss M's bank statements – none of which showed she had received the full £525 per month. Miss M's buy-to-let property was managed by a management company (which was clear from the tenancy agreement) and so I think it would have been reasonable for Tandem to have questioned whether in light of that, Miss M was receiving the full rental payment or whether she was having to pay the management company out of those funds. I also note the tenancy agreement Miss M provided ran up until May 2018. Given this loan was applied for in April 2018, I've seen no evidence that Tandem queried this with Miss M or asked what would be happening after the tenancy agreement ended. I think this is important, because without that rental income, Tandem's assessment had shown that the loan would not have been affordable for Mr M and Miss M.

Tandem has said that there was nothing to suggest Miss M's rental income wouldn't increase in the future. Whilst I agree that is the case, as a responsible lender it needed to ensure that Mr M and Miss M could afford the loan based on what it knew about their circumstances at the time, and any likely future changes. I'm not persuaded it was reasonable to assume that the loan would have become affordable in the future, based on nothing other than speculation. If anything, as the tenancy agreement was ending the following month, and a new one hadn't been supplied, I think it would have been more reasonable to assume that actually the rental income couldn't be relied on.

Tandem has said the loan would still have been affordable if the lower figures that Miss M had recently received as shown on her bank statements (£441.54) were received instead of the full £525. Whilst that amount may have made the loan affordable at the time, it wouldn't have been affordable after Tandem applied its stress test as it was required to do by the regulator. It was also aware that rental income was not guaranteed beyond May 2018, and if there weren't new tenants in place, or a renewed agreement reached, then the loan would not have been affordable at all even before the stress test was applied.

That isn't the only discrepancy in the figures Tandem used to assess Mr M and Miss M's income and expenditure. Miss M had recently gone back to work after maternity leave, and had started to pay for childcare. Some of that childcare was paid for using childcare vouchers Miss M received from her employer, which were shown on her payslips. But she was also topping that up each month by paying an additional £177 directly to the childcare provider. Tandem had recorded Mr M and Miss M's childcare costs as £0, as it said they had

been accounted for from Miss M's payslips. Again, it's unclear whether Mr M or Miss M told Tandem about the additional payments they were having to make on top of what the childcare vouchers covered, but Tandem had Miss M's bank statements which showed a payment of £177 to a nursery. So I think it had evidence Miss M was paying more for childcare than what it had recorded during its assessment.

Tandem has said it used government guidelines for basic household essentials and living costs, which it is entitled to do. But I'm satisfied Tandem had evidence that those costs were much higher for Mr M and Miss M each month than it had recorded. In total it recorded £410 per month for shopping, clothes, and socialising. Even just looking at the most recent bank statements Tandem had showed the amount Mr M and Miss M were spending on those things was actually more than double that amount. As Tandem had that evidence I think it ought to have questioned whether it was still appropriate to rely on the government guidelines for expenditure to determine the affordability of this loan.

Whilst Mr M and Miss M may have been able to maintain their monthly loan payments until July 2019, I've seen evidence that they have taken out multiple other forms of credit since this loan was approved, which they've said they were relying on to keep up with their outgoings. So I don't think the fact that there were no arrears on the loan for over a year after it was taken out proves it was affordable. I'm satisfied that had Tandem taken account of everything it knew about Mr M and Miss M's income and expenditure, as well as their overall circumstances at the time they applied for this loan, it would have concluded that the loan would not be affordable for them when it applied its stress test, and as such it shouldn't have lent to them.

I appreciate that Mr M and Miss M had existing debts they were looking to consolidate, including an existing loan with Tandem, and this loan would have reduced their overall monthly outgoings compared to what they were paying before. But that doesn't mean Tandem was acting responsibly when it lent to them. Committing Mr M and Miss M to a new debt secured against their home that they couldn't afford was not lending responsibly. And so taking everything into account, I'm not persuaded Tandem was acting fairly and reasonably when it agreed to lend to Mr M and Miss M in 2018.

### **Putting things right**

As I don't consider Tandem should have lent Mr M and Miss M this loan, I'm satisfied it should refund the lender's fee that it added to the loan account at inception, including the interest that's been charged on the fee.

Tandem should also re-work the loan account as if all of Mr M and Miss M's monthly loan payments went towards the capital they borrowed instead of the interest. And all interest that's been charged on the loan should be written off. I don't think Tandem should write off any of the capital as Mr M and Miss M did receive the benefits of those funds which enabled them to clear some of their existing debts at the time.

Mr M and Miss M have missed loan payments as they weren't able to afford them. I don't think it's fair that those arrears should be recorded on Mr M and Miss M's credit files as the loan should not have been lent to them in the first place. As such, Tandem should update the way it's reported Mr M and Miss M's loan to credit reference agencies to show that it has not been in arrears. It should also refund any fees or charges it has applied to the loan because of those arrears. Including the interest charged on them.

If after doing the above Tandem feels that Mr M and Miss M need to make continued payments to repay all the capital, it should have a discussion with them to work out how they can do that in a way they can sustainably afford. Both parties will need to engage positively

in that conversation in order to reach an agreement that is fair to both parties. The legal charge will remain on the property until the debt is repaid, at which time Tandem should remove it.

However, if the above re-work of the loan results in it being paid off, Tandem will need to remove its legal charge over the property. It will also need to refund any overpayment to Mr M and Miss M.

I've also thought about whether Tandem should pay an additional award to reflect the distress and inconvenience this loan has caused, but whilst I appreciate Mr M and Miss M have been through a very difficult time, I consider that a full refund of all interest paid is adequate compensation in this case.

### **My final decision**

Considering everything, for the reasons I've explained, I uphold this complaint and instruct Tandem Home Loans Ltd to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M and Mr M to accept or reject my decision before 24 December 2024.

Kathryn Billings  
**Ombudsman**