

The complaint

Mr M complains that Tandem Motor Finance Limited (“Tandem”), trading as Oplo CF Ltd irresponsibly granted him a hire purchase agreement he couldn’t afford to repay.

What happened

In November 2016, Mr M acquired a used car financed by a hire purchase agreement from Tandem. Mr M was required to make 59 monthly repayments of £324.99 with a final payment of £499.79. Mr M also made an advance payment of £100. The total repayable under the agreement was £19,674.20.

I understand the agreement was repaid in November 2021.

Mr M says that Tandem didn’t complete adequate affordability checks. He says if it had, it would have seen the agreement wasn’t affordable and was likely to worsen his financial situation. Tandem didn’t agree. It said that it carried out a thorough assessment at the time. More recently, it has reviewed Mr M’s bank statements and said the loan would have been affordable.

Our adjudicator recommended the complaint be upheld. He thought Tandem ought to have realised the agreement wasn’t going to be affordable to Mr M.

Tandem doesn’t agree. It says Mr M was managing his existing debt well at the time he applied for the agreement. Tandem also disagrees with the way our adjudicator calculated Mr M’s regular and committed expenditure.

The case has therefore been passed to me for a 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.

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Tandem will be familiar with all the rules, regulations and good industry practice we consider when looking at a complaint concerning unaffordable and irresponsible lending. So, I don’t consider it necessary to set all of this out in this decision.

Tandem says the credit check completed showed that Mr M had a good credit record with no defaults or adverse marking on his credit file or county court judgments. He had four credit cards owing a total of around £9,200.

I’ve also seen that Tandem obtained confirmation about Mr M’s pay by way of a payslip. Mr M’s payslip showed he was receiving a net monthly income of around £1,650. But I can’t see that Mr M was asked about his regular monthly expenditure. The credit check Tandem

carried out won't have indicated what Mr M's living costs were each month for things like rent, food and utility payments. Without knowing more about Mr M's regular and committed expenditure, Tandem wouldn't have got a reasonable understanding of whether the agreement was affordable or not. It therefore didn't complete proportionate checks.

When looking into Mr M's complaint, Tandem requested one of Mr M's bank statements and formed the view that his borrowing had been affordable. But I think it would have been proportionate for Tandem to have taken steps to verify Mr M's financial circumstances at the time in order to better understand his living costs. I can't be sure exactly what Tandem would have found out if it had asked. In the absence of anything else, I think it would be reasonable to place significant weight on the information contained in Mr M's bank statements as to what would most likely have been disclosed.

I've reviewed four months of bank statements leading up to the lending decision. This includes the statement Tandem looked at from November 2016. The statements show details about Mr M's spending and committed expenditure at the time. Mr M has confirmed to us that he and his wife were sharing some household costs such as rent, household shopping and some utility bills and this was handled by his making payments from his bank account to her. He was then left to cover other household bills himself, including his existing credit cards and loans. He also kept a separate bank account into which he transferred sums to cover ad hoc payments each month. I agree with our adjudicator that Mr M was having to commit at least £1,500 each month from his income to help cover daily living costs and credit owed elsewhere.

I think all this demonstrates that Mr M didn't have enough disposable income to afford the additional £325 he'd have to pay each month under the agreement with Tandem. So I think there was a real risk that Mr M's financial situation would worsen significantly by taking on the cost of paying for the car. I think appropriate and proportionate checks would have revealed this to Tandem. I therefore don't consider it acted fairly by approving the finance.

Putting things right – what Tandem needs to do

As I don't think Tandem ought to have approved the lending, I don't think it's fair for it to be able to charge any interest or charges under the agreement. Mr M should therefore only have to pay the original cash price of the car, being £12,012.00. Anything Mr M has paid in excess of that amount should be refunded as an overpayment.

To settle Mr M's complaint Tandem should do the following:

- End the agreement with nothing further to pay, if it hasn't already.
- Refund any payments Mr M has made in excess of £12,012.00, representing the original cash price of the car. It should add 8% simple interest per year* from the date of each overpayment to the date of settlement.
- Remove any adverse information recorded on Mr M's credit file regarding the agreement.

*HM Revenue & Customs requires Tandem to take off tax from this interest. Tandem must give Mr M a certificate showing how much tax it's taken off if Mr M asks for one.

My final decision

I uphold this complaint and direct Tandem Motor Finance Limited to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 3 March 2023.

Michael Goldberg

Ombudsman