

## **The complaint**

Ms M believes that she was mis-sold her second charge mortgage with Tandem Home Loans Ltd, due to the high interest rates charged and because the terms and conditions of the mortgage were not explained to her. This included Ms M not having been aware that the term of the loan was 10 years or that the interest rate was only fixed for the first five years. Ms M says the terms of the loan and interest charged are unreasonable and unfair, and due to a change in circumstances, the mortgage is unaffordable.

Ms M wants the mortgage to be cancelled as she has paid Tandem more than the amount she borrowed plus a reasonable amount of interest.

## **What happened**

In December 2018 Ms M applied for a second charge mortgage with Tandem via an independent intermediary. The mortgage was for £20,000 over a term of ten years and arranged on a repayment basis. The interest rate payable on the mortgage was fixed for the first five years at 17% per year and then it would revert to the lender's standard variable rate (SVR) of interest. Tandem confirmed that for each £1 borrowed Ms M would repay £2.40. Tandem repaid Ms M's credit cards and mortgage arrears directly on her behalf, totalling just over £7,000, before it released the remainder of the advance to her for home improvements.

In late 2023 Tandem wrote to Ms M to remind her that the fixed interest rate period on the mortgage would be ending at the beginning of 2024. She complained to Tandem about the associated increase in monthly payments, and that the mortgage had been mis-sold because it was not affordable.

Tandem responded to Ms M's complaint in an email of 3 November 2023. It highlighted that it had not recommended the mortgage to Ms M and explained to her that she would have to refer her complaint about the mortgage being mis-sold to that business. It confirmed that it had forwarded her concerns to the selling business. In relation to the affordability of the mortgage, Tandem explained that it had completed an assessment when she had applied and this had established she'd a disposable income of over £500 after her normal outgoings and both her main and the Tandem mortgages were paid. Tandem also said that it had completed a stress test, assuming an increase in interest rates at the end of the fixed interest rate period, and that had also determined she'd have some disposable income, albeit a much smaller amount. As such, Tandem didn't believe it had done anything wrong and didn't uphold the complaint.

Ms M responded by telling Tandem that she considered the terms of the agreement were 'largely unfair' and had become difficult to fulfil. She highlighted that she had paid over £23,000 to the mortgage and she requested that Tandem cancel the debt in light of this and the changes to her circumstances since she had taken out the mortgage. Ms M referred the complaint to this Service.

One of our Investigators considered the complaint, but he didn't recommend that it be upheld. He explained why, as a second charge mortgage, the interest rate was higher than it would be on a first charge mortgage and how Ms M's particular circumstances at the time of

the sale would also have affected what she was offered. The Investigator was also satisfied that Tandem had completed an appropriate affordability assessment and that the mortgage had been affordable, based on Ms M's circumstances at the time of the application. He also confirmed that Ms M would need to approach the selling broker if she was unhappy with the advice she had received to take the mortgage.

Ms M responded that she was unhappy with the Investigator's conclusions. She said she understood everything he had said, but her circumstances had changed in the five years since the mortgage had been arranged as her children were older and so her expenditure was higher. As such, she had asked Tandem for a gesture of goodwill in the form of it cancelling the debt or renegotiating the arrangement because the monthly payment had gone up. Ms M asked that the complaint be referred to an Ombudsman for review.

Ms M subsequently confirmed that since the time the loan was taken out her monthly net income had dropped as she had changed employment status, which involved a reduction in salary, and her household costs had increased. Added to this were additional expenses associated with her children growing up, including the cost of one's sporting activities, which are considerable. Ms M also confirmed that the only way she could repay the mortgage would be to set up another credit facility.

### **What I've decided – and why**

Before I consider the merits of Ms M's complaint, I would confirm that I will not be considering the issue of the mortgage believing the mortgage was mis-sold to her. This is because the advice she received to take out the mortgage was not given by Tandem and so it is not responsible for whether the mortgage was suitable for her in 2018. That said, it is responsible for its decision to lend to Ms M and how it has administered the mortgage since it was advanced, so I can consider whether it was reasonable for it to have accepted Ms M's application.

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

Ms M has questioned the amount she still owes on the mortgage, given how much she has paid to it so far. As I have explained above, the mortgage was arranged on a repayment basis. This means that in the earlier part of the loan most of the payments made go toward paying the interest that is accruing. As the term moves on and the balance reduces, more of the monthly payment goes toward repaying the capital and toward the end of the term most of the money will pay off capital. Ms M is around halfway through the term and so I would expect the capital balance to have reduced by around a third, which it has done.

As for the interest rate charged on the mortgage, as the Investigator explained, second charge mortgages represent a higher degree of risk to the lender as there is more chance that if the property has to be sold, there will not be sufficient funds after the first charge debt is repaid to repay the amount owed to the second charge lender. In addition, at the time of the application Ms M had not only unsecured debts, but also arrears on her mortgage. Mortgage arrears would have meant many lenders would not have considered lending to Ms M due to the risk her situation represented. This would again have influenced the interest rate charged. While the interest rate charged on the mortgage is higher than that associated with Mr M's first charge mortgage, I am satisfied that the documentation from the time of the mortgage offer was clear about the rates that would be charged and that it was not unreasonable for Tandem to apply the terms of the mortgage as it has.

I have also considered the information that has been provided about Tandem's assessment of Ms M's application. Tandem had a duty to lend responsibly and it was required to carry

out an assessment of affordability in line with the Mortgages and Home Finance: Conduct of Business sourcebook (known as MCOB).

I have looked carefully at the assessment Tandem carried out before it accepted Ms M's application. It took account of her verified main income, her committed expenditure and the cost of basic essential cost-of-living costs. A secondary income Ms M had, which was variable, was not taken into account, however, despite that the mortgage was evidenced to be affordable. The assessment determined that Ms M had a disposable income of over £500 each month, plus her secondary income, which I am satisfied would have given Ms M a cushion for unexpected expenses and increases to outgoings.

In addition, Tandem completed an interest rate stress test, despite it not needing to do so as the interest on the mortgage was fixed for five years. This test again showed that the mortgage would still be affordable, although Ms M's disposable income would be noticeably lower.

Overall, I think it was reasonable for Tandem to conclude the mortgage was affordable for Ms M and I don't find it was irresponsible to lend to her in the circumstances. Indeed, Ms M has told us the mortgage has allowed her to improve her credit rating considerably.

Ms M has said that she wants the mortgage written-off, given how much she has already paid towards it, or at the least for Tandem to renegotiate its terms to significantly reduce the amount she has to pay. I can understand why Ms M would want the mortgage debt written-off, but I don't consider that would be a reasonable thing to ask Tandem to do in the circumstances. While Ms M's income and expenses may have changed since Tandem agreed to lend her money, that doesn't mean that it should write-off a debt that is legitimately owed. However, if Ms M is in financial difficulties, it does need to consider what it can do to support her and whether it can provide forbearance measures that would help her. Forbearance can take a number of forms, but in order to offer Ms M anything, Tandem would need to complete an assessment of her financial situation so that it can potentially put forward proposals that are affordable and will actually help. I note that Tandem has offered to consider what it can do to help, as I would expect it to, but Ms M doesn't want to consider any options that could have an effect on her credit rating.

As for altering the terms of the mortgage, that is not something we would generally expect a lender to do in such circumstances. So if Tandem doesn't offer further fixed interest rates to any of its customers with mortgages like Ms M's, it wouldn't be fair or reasonable to expect it to offer Ms M that type of arrangement. That doesn't, however, stop Ms M looking for borrowing elsewhere to repay the Tandem loan and obtain a lower interest rate. It would appear that Ms M has already looked into this option and had an offer from her main mortgage lender at a very much lower interest rate than either the fixed or variable rate that Tandem charged.

### **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 Ms M to accept or reject my decision before 28 November 2024.

Derry Baxter  
**Ombudsman**