DRN-5272267

The complaint

Miss A complains that Tandem Home Loans Ltd gave her second charge secured loan that was unaffordable. She also said it did not treat her fairly when she experienced financial difficulty.

What happened

In September 2019, Miss A took out a secured second charge loan for £10,000 repayable over ten years. The loan had a fixed interest rate of 17% for five years, followed by a variable rate for the remaining term of the loan. The lender was 1st Stop Home Loans – which is now called Tandem Home Loans. I will refer to Tandem throughout this decision.

In 2020, Miss A fell into arrears on the loan and it has remained in arrears since then.

Miss A complains that Tandem did not carry out proper checks before giving her the loan – and if it had t would not have done so. She also complains that it has not treated her fairly when she experienced financial difficulty.

The investigator thought the affordability complaint should be upheld. He did not consider the decision made by Tandem to give Miss A a loan was reasonable based on the information it had. He did not think the complaint about financial difficulty should be upheld.

Miss A's representative accepted what the investigator said. Tandem did not. It responded to make a number of points, including:

- There was no need to carry out a stress test as the loan had a fixed interest rate for five years. But it stress tested Miss A's main mortgage at 3%.
- It had gathered information about Miss A's income and expenditure twice. The first time it included the child benefit and Miss A was left with a disposable income of £118.70. But when it assessed affordability once the child benefits stopped Miss A was left with £129.
- Miss A only started to miss payments three months into the loan because of a change in her circumstances that it could not foresee – not because of any lack of affordability or sustainability checks.
- In April 2020, Miss A also gave it emails which said she received tax credits for an additional £232, that she had arrears on her council tax arrears and utilities and also that she'd taken additional credit since taking the loan. That is why Miss A was struggling – it was nothing to do with its loan but rather down to how Miss A managed her finances.
- It has worked with Miss A since she told it she was experiencing financial difficulty. It has frozen interest since September 2020 and Miss A is making token payments of £50 a month.

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.

Affordability rules

The relevant rules in this case are the Mortgages and Home Finance: Conduct of Business sourcebook (MCOB). I must take those rules, amongst other things, into account in deciding what I consider to be fair and reasonable in the individual circumstances of this complaint.

MCOB 11.6 covers responsible lending. Its requirements for lenders include:

- Before agreeing a mortgage, a lender must assess whether a customer will be able to pay the sums due under the mortgage and be able to demonstrate the mortgage is affordable.

- A lender must take full account of the net income of a customer, their committed expenditure, and the basic essential expenditure and basic quality-of-living costs of the customer's household.

- A lender may generally rely on any evidence of income or information on expenditure provided by a customer unless, taking a common-sense view, it has reason to doubt the evidence or information. A lender must have evidence of income and take reasonable steps to obtain details of a customer's committed expenditure. A lender can either obtain details of a customer's expenditure or use statistical data.

- If a lender is or should reasonably be aware from information obtained during the application process that there will, or are likely to, be future changes to the income and expenditure of the customer during the term of the mortgage, the lender must take them into account when assessing affordability.

- A lender must take account of the impact of likely future interest rate increases on affordability by applying a stress test. The lender must have regard to the prevailing Financial Policy Committee recommendation on interest rate stress-tests, which at the time was 3%. This applies to all regulated mortgage contracts, not just first charge mortgages. A second or subsequent charge lender must also apply any stress test to the first and any subsequent charge loans as well as its own lending.

Affordability and sustainability

Tandem completed two income and expenditure exercises (I&E). The first I&E included Miss A's income from child benefit. The second I&E did not, to reflect that Miss A's child was twelve at the time the mortgage was sold, so she would not receive child benefit for the full term of the loan.

Tandem recorded that Miss A had £1,434.86 from her main job I think that was reasonable. It had proof of her income that supported that figure.

I am not persuaded that it was reasonable to include the child benefit income as it would not last the full term of the loan. I accept that Tandem tried to take that into account by doing two I&Es. But I don't think that resulted in a fair outcome in the circumstances. I say that because there was some uncertainty about how long she would receive child benefit for. And the second I&E includes reduced expenditure for food and outgoings. But it is not clear why that was. In any event, even if Tandem was right to use the lower figure, I don't consider it changes the outcome here.

Tandem said it used Government figures for essential expenditure and day-to-day living costs unless it found out they were higher. That is not unreasonable. It also took into account Miss A's committed expenditure. On the first I&E that left Miss A with a disposable income of £118.70 and £5.61 after stress testing the main mortgage. On the second I&E that left a disposable income of £129 and £15.91 after stress testing.

What strikes me is that the figures before stress testing for both I&Es are relatively low. They do not leave much room for any emergency expenditure that may occur or for anything other than essential and day-to-day expenditure. Tandem has not put forward a clear or persuasive argument why that was sustainable or produced a good outcome for Miss A, bearing in mind this was a secured loan where Miss A's home was at risk if she could not maintain payments.

Further both I&E calculations said that Miss A had three defaulted accounts with the total balance for all three of £1,165. Tandem recorded payments of £14 a month to the defaults but it is not clear those payments were taken into account in the affordability calculations. That does not make any difference to the outcome though.

Looking at Miss A's credit file, there was some evidence of some existing financial strain. She'd been over limit on two credit card accounts in the past four months and was in a payment arrangement on one. Again that indicates that Miss A was not managing as she was and giving her more debt would not be sustainable.

The disposable income after stress testing on both I&Es was extremely low. At the time in question, interest rates were very low. There was a significant chance they would go up. And the point of the stress test was to assess the impact of that on affordability. I do not see how a responsible lender acting reasonably could regard a disposable income of at best £16 as being sustainable.

Overall, I do not consider that Tandem fairly or reasonably assessed whether the loan was affordable and sustainable for Miss A. At the most basic level she appeared to have the enough to afford the loan after her essential expenditure and committed outgoings. But the evidence did not support that was sustainable – particularly when we consider Miss A's wider circumstances, her credit history and the likelihood the payment on her main mortgage would go up during the term of this loan.

I agree with Tandem that Miss A's change of circumstances is not relevant to whether it made a fair lending decision. Nor was there any requirement for it to carry out a stress test on the payment for this loan. But in any event, I do not consider the decision to lend was fair and reasonable for the reasons set out above. There was a significant chance of harm to Miss A by agreeing the loan where there was at nest significant doubt about its sustainability.

Putting things right

It would not be fair for Tandem to benefit from interest or any fees or charges it applied. So it should:

- Deduct any interest, fees and charges that have been applied to the loan since its inception – and do not apply any more interest fees or charges.

- Reschedule the remaining principal balance over a term of ten years – and apply the payments that Miss has made to the rescheduled balance.

- Tandem should amend Miss A's credit file to reflect the amended position set out above

In the circumstances I do not consider it would be in Miss A's interests for other lenders not to see this loan or how it has been conducted – albeit on a rescheduled basis.

Financial difficulty

Tandem had an obligation to treat Miss A fairly when she experienced financial difficulty.

It appears that Miss A's circumstances changed once she took out the loan and her income reduced. I can see that Tandem accepted reduced payments and frozen interest. Overall I think that was reasonable.

It is likely that it would be in Miss A's interests for her to contact Tandem if she accepts my decision so that Tandem can properly explore what concessions would be appropriate for Miss A bearing in mind the revised position of the loan.

My final decision

My final decision is that I uphold this complaint. Tandem Homme Loans Ltd should take the steps I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss A to accept or reject my decision before 17 April 2025.

Ken Rose
Ombudsman