

## **The complaint**

Mrs P, who is represented by a third party, complains that Tandem Motor Finance Limited ('Tandem'), trading as 1<sup>st</sup> Stop Car Finance, irresponsibly granted her a hire purchase agreement she couldn't afford to repay.

## **What happened**

In June 2017, Mrs P acquired a used car financed by a hire purchase agreement from Tandem. The amount of credit was £7,400. Mrs P was required to make 60 monthly repayments of £239.88. The total repayable under the agreement was £14,567.60

I understand the agreement was settled in full in May 2022.

Mrs P says that Tandem didn't complete adequate affordability checks. She says if it had, it would have seen the agreement wasn't affordable. And as a result, her financial situation got worse. Tandem didn't agree. It said that it carried out a thorough assessment at the time.

Our investigator recommended the complaint be upheld. He thought Tandem ought to have realised the agreement was unlikely to be affordable for Mrs P.

Tandem said it didn't agree with our investigator's findings and requested an ombudsman's decision.

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.

We've explained how we handle complaints about unaffordable and irresponsible lending on our website. And I've used this approach to help me decide Mrs P's complaint.

Having done so, I'm upholding this complaint for broadly the same reasons as our investigator. I will explain why.

Tandem says it carried out a manual check before agreeing to the finance. This was because Mrs P's application raised concerns against its usual lending criteria. This particular check involved validating Mrs P's income by asking her to provide a pay slip. This showed Mrs P's net monthly income for one particular month as being just under £1,700. As such, Tandem said the finance came within its lending criteria.

Tandem also considered Mrs P's credit file. This showed she owed unsecured credit of around £2,000 elsewhere and had opened three new lines of credit in the previous six months. She also was making use of the overdraft on her current account. She was also paying a mortgage. The check also showed eight defaulted accounts, from 2015 and 2016. The total balance of all these defaults was in the region of £5,500. Seven of them were from

within two years of the date she made her application. There was also a history of using high-cost, short-term borrowing. Tandem decided that despite the credit issues that were shown, Mrs P's recent credit history appeared to be more stable and therefore not something that impacted negatively on Mrs P's application.

Tandem says it also asked Mrs P about her regular monthly expenditure. It's given us some indication of what it might have seen by way these calculations at the time but not the actual figures. This was based on her age and geographical location. Tandem's credit checks didn't give information about what her actual spending was every month for her household costs, including things like rent, food and utility payments. Without knowing more about this, Tandem wouldn't have got a reasonable understanding of whether the agreement was affordable or not.

I agree it would have been proportionate for Tandem to have taken steps to verify Mrs P's financial circumstances at the time in order to better understand her household costs and other committed spending each month. I say this especially given the number of defaulted accounts which, although more than 12 months old, show a level of unpaid debt that should have sparked a concern with Tandem.

Mrs P was taking on a significant new financial commitment of five years. Tandem needed to be assured that not only could she afford each repayment over that time but to be able to do so in a sustainable way. Not knowing about her actual monthly spending against an existing background of unpaid defaulted debt has to give rise to a significant concern that her financial situation was at risk of deterioration.

I've also kept in mind that at the time Mrs P was having treatment for serious illness. Mrs P has told us that she took 12 months off on sick leave, with her salary going from half to full pay. And I've noted from her application that she mentioned about being or going on full sick pay for 12 months. This doesn't appear to have been queried by Tandem, who relied on her payslip, showing the full pay she was receiving.

So I don't think I can say Tandem completed proportionate checks.

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 the bank statements she sent us so as to gain a good indication as to what would most likely have been disclosed. I've reviewed three months of bank statements leading up to the lending decision. The statements show details about Mrs P's spending and committed expenditure at the time and as such I consider they give a fair indication of what Tandem would have found had it carried out more reasonable and proportionate checks. I'm broadly in agreement with what our investigator found. Mrs P was receiving a monthly earned income that averaged out at around £1,660, which is consistent with the payslip she provided.

In terms of monthly spending, I can see that Mrs P was making regular payments towards household costs, as well as servicing her other credit. This worked out at around £1,300 each month. Tandem has said her level of credit repayments would go down by around £160 after two months when a loan was paid off. But she would still need to fund it initially alongside her new repayment under the agreement. But what particularly concerns me, as it did our investigator, is the mortgage payments. Mrs P's mortgage was only in her name and so she was solely responsible for repaying it. The bank statements show she was making monthly payments of £100 to a building society. However, the credit report suggests the full payment of £226 was being made each month. That strongly suggests to me that Mrs P was not managing to make the full repayment herself, notwithstanding that she had responsibility

to do so and would continue to maintain the repayments for another 5-6 years, given the mortgage balance that was still remaining.

I also agree that the outstanding defaults totalling £5,500, which remained unpaid, is a further issue. A demand to repay some or all of these sums could be made any time. Our investigator suggested a figure of £90 per month that would repay the sums over five years. The actual sums due could end up being higher once interest and legal costs of recovery are factored in. Tandem says that these shouldn't have included as repayments when looking at affordability. I don't agree.

I think Mrs P's ability to meet her commitments, including her ongoing mortgage and the defaults that remained on the file, is calls into question whether she could afford the new agreement. As such, they were issues that ought to have given Tandem pause to consider the likelihood of whether Mrs P would be able to meet the new repayments sustainably over the whole duration of the loan.

It follows that I agree with our investigator that based on what can be seen in the bank statements, in addition to the £1,300 she was spending by way of committed expenditure each month, she would have to find something in the region of another £250 if she need to make the full mortgage repayment herself plus to start repaying each of the defaults. When the new repayment is added in, the total rises to around £1,800 - well in excess of Mrs P's declared income.

I think all this demonstrates that Mrs P didn't have sufficient disposable income available to her to be able to afford the £240 payable each month under the new agreement with Tandem. And given what Tandem knew at the time about Mrs P's financial situation, there was a real risk that it would worsen by taking on the new agreement. I therefore don't consider it acted fairly by approving the finance.

Finally, based on the available evidence and information, I agree there's not enough to establish the Mrs P was placed under pressure to take out the finance. I appreciate that Mrs P needed to find another car quickly but the available sale paperwork I've seen doesn't suggest that she wasn't given the necessary information about the borrowing to enable her to make an informed decision before agreeing to it.

I've considered whether the relationship between Mrs P and Tandem might have been unfair under S.140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below should be carried out for Mrs P results in fair compensation for her in the circumstances of her complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.

### **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. Mrs P should therefore only have to pay the original cash price of the car, being £7,500. Anything Mrs P has paid in excess of that amount should be refunded as an overpayment.

To settle Miss P's complaint Tandem should do the following:

- Refund any payments Mrs P has made in excess of £7,400, 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 Mrs P's credit file regarding the agreement.

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

### **My final decision**

I uphold this complaint and direct Tandem Motor Finance Limited, trading as 1<sup>st</sup> Stop Car Finance, to put things right in the manner set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 June 2025.

Michael Goldberg

**Ombudsman**