

## **The complaint**

Mr and Mrs W complain that Tandem Home Loans Ltd (trading as Tandem) withdrew a binding mortgage offer unfairly and with no explanation.

## **What happened**

Following advice from a third-party broker, Mr and Mrs W applied for a second charge secured loan from Tandem in July 2024. The purpose of the loan was to consolidate their existing debts.

After Tandem completed initial underwriting checks, it issued a mortgage offer to Mr and Mrs W on 17 July 2024. This offer was for borrowing of around £69,000 to be repaid over 264 months, with an initial interest rate fixed at 11% for the first five years. A broker fee of £2,999 and an acceptance fee of £1,295 were to be added to the loan. And an early repayment charge ('ERC') based on a percentage of the loan would be applicable for five years. For example, if the loan was repaid within the first year, an ERC of up to £3,664.70 would be charged.

Mr and Mrs W's broker contacted Tandem on the same day the offer was issued. The broker said that the loan should have been applied for with a "no ERC" product. So, the broker created a new mortgage illustration based on borrowing of £69,600. Most of the terms of the proposed loan were similar to the mortgage offer that had previously been issued – such as the length of the term. However, the loan amount had increased by £600, and the new product had a smaller ERC which would be equal to around two months' interest – a maximum of £1,389.47 for the first five years.

When Tandem conducted its underwriting checks for the new product, it requested further information from Mr and Mrs W's broker, including a copy of their bank statements. After completing underwriting checks, Tandem found that the loan would be unaffordable for Mr and Mrs W based on the available information. It told Mr and Mrs W's broker about this on 23 July 2024. It offered to review the application again if the broker could provide some further information.

Ultimately, Mr and Mrs W's application with Tandem didn't progress any further and they applied for a secured loan with another lender. Mr and Mrs W complained to Tandem in August 2024 as they were unhappy with what had happened during their application.

Tandem responded to Mr and Mrs W's complaint in September 2024. It didn't uphold the complaint. It said that after reviewing the documents it had received, the application didn't pass its affordability checks. It requested further information from Mr and Mrs W's broker at the time, but the broker asked Tandem to close the application. Mr and Mrs W didn't agree so they asked the Financial Ombudsman Service to look into their complaint.

Our Investigator recommended Mr and Mrs W's complaint should be upheld. He said Tandem should pay Mr and Mrs W £350 compensation to recognise the distress and inconvenience caused by the loss of expectation. That is, being given a mortgage offer suggesting they could achieve the borrowing they'd requested, only to later find out that it

wouldn't be possible with Tandem.

Tandem didn't accept that and asked for an Ombudsman to decide on this complaint. So, the case was passed to me to decide. Because I reached a different outcome to the Investigator, I issued a provisional decision.

### **My provisional decision**

I said:

"I'm mindful that Mr and Mrs W have told us they were advised by their broker to apply for a secured loan with Tandem because the product would come with a low ERC. This was because their plan was to repay the secured loan after around a year. But I have not seen any compelling evidence to show that Tandem was asked to provide a secured loan on this basis – specifically with a low or no ERC – until after the mortgage offer was issued. So, for completeness, I don't consider it acted unfairly by considering the application based on a higher ERC product initially.

I can see Tandem issued a binding mortgage offer to Mr and Mrs W on 17 July 2024. I agree with the Investigator that before Tandem issued this offer to lend, it ought to have asked more questions and for more information. There were several factors, including Mr and Mrs W being in a known cycle of debt, that I consider ought to have prompted more rigorous checks before Tandem offered to lend almost £70,000 to them, secured by a charge on their home. And, if Tandem had completed more rigorous checks (for example, by requesting bank statements from the outset) I consider it's likely it would have shown the loan would be unaffordable for Mr and Mrs W. Tandem's later underwriting checks support this. Therefore, I do not consider Tandem should have issued a mortgage offer to Mr and Mrs W when it did.

But Tandem did issue a binding mortgage offer initially, so I've thought carefully about why the loan didn't proceed after that. A lender can include lawful conditions in a mortgage offer – and if those conditions are breached or not met, the lender can withdraw the offer. A lender cannot simply withdraw an offer, for example, because it has later decided it doesn't want to lend. But I'm not persuaded Tandem did withdraw the offer it made to Mr and Mrs W – Mr and Mrs W chose not to accept it due to the level of the potential ERC. Even if I was persuaded Tandem did withdraw a binding mortgage offer, I do not consider this would have caused any detriment to Mr and Mrs W. I'll explain why.

If Mr and Mrs W had accepted the mortgage offer, they would have been entering into a contractual agreement for an unaffordable loan which would have been secured against their home. If Mr and Mrs W were then unable to maintain the contractual monthly payments, Tandem could have taken action to seek repayment of the debt, which could ultimately have resulted in it taking possession of Mr and Mrs W's home.

In other words, had the mortgage offer not been withdrawn and had instead been accepted by Mr and Mrs W, I think there is a compelling argument to suggest their situation could have been significantly worse. By the loan that was initially offered not going ahead it has led to Mr and Mrs W avoiding this potentially significant detriment. And I consider that this outweighs the impact of any disappointment Mr and Mrs W have experienced by learning, after they had rejected the first offer, that Tandem wouldn't be able to lend to them after all.

I can see Mr and Mrs W's broker updated Tandem that they wanted a "no ERC"

product after the mortgage offer had been issued. The loan amount also changed by a small amount at this point. As the product Mr and Mrs W were applying for had changed, I consider it was fair and reasonable for Tandem to underwrite the application again based on the new product. The new product had different terms and would require a new mortgage offer to be issued.

When Tandem reviewed Mr and Mrs W's application based on the new product, it was unable to show that the loan would be affordable for them. And so, it was unable to lend at that time. It did offer to consider the application again and requested further information from Mr and Mrs W's broker. But I note that Mr and Mrs W sought a loan from another lender instead and their application with Tandem ended.

I appreciate Mr and Mrs W would have been disappointed to learn that Tandem hadn't agreed to lend to them based on the new product with a lower ERC. But I'm satisfied Tandem fairly declined their application at this point. This is because a lender should not agree to lend where it is unable to show that the proposed loan would be affordable for the potential borrowers – and, here, Tandem was unable to do that. It was, therefore, a fair and responsible decision for Tandem to decline the application.

I understand Mr and Mrs W feel they had to provide a lot of information to support their application and that they have concerns about the overall application process. But there is generally a degree of inconvenience for a consumer when applying for a financial product, such as needing to locate and provide supporting information like proof of income. I don't think that is unfair so long as the lender doesn't make unreasonable requests for information. And I haven't seen anything to suggest Tandem caused any significant delays or that it requested unnecessary or unreasonable information. The application process in total took around two weeks which is not out of line with how long it takes for applications of this type. And Tandem kept Mr and Mrs W's broker regularly updated on the situation and the information it needed to see.

Overall, while I appreciate Mr and Mrs W will be disappointed by the outcome, I'm satisfied Tandem acted fairly by declining their loan application when it did. I'm also not persuaded it withdrew a binding mortgage offer – it was Mr and Mrs W's choice to reject the first offer and apply for a different product instead. And, for the reasons I've explained above, I do not consider Tandem needs to do anything further in this individual case. For completeness, this means I do not intend to direct Tandem to pay any compensation to Mr and Mrs W."

I invited Mr and Mrs W and Tandem to let me have any further comments or evidence they wanted me to consider before I make my final decision.

Tandem accepted my decision and didn't have anything further to add.

Mr and Mrs W were disappointed with my decision and provided some additional comments and evidence. They said, in summary:

- They received an illustration from their broker, dated 3 July 2024, which set out that any early repayment charge for the illustrated second charge secured loan would be based on up to two months of interest. They have shared a copy of the illustration.
- They signed a Tandem loan application on 7 April 2024 which also sets out, within the tariff of charges section, that the early repayment charge would be based on up to two months of interest. They have shared a copy of the loan application.

- They feel the above is proof that Tandem changed the early repayment charge when it made a binding offer. They argue that Tandem committed a breach as a result.

Mr and Mrs W have also said that they have managed to maintain the loan repayments on an alternative second charge secured loan they obtained through another lender. Therefore, they do not agree that Tandem declining their loan application was in their best interests. They feel they would have been better off by taking this less expensive loan with Tandem instead of the loan they took with another lender.

### **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.

I note that Mr and Mrs W have said they signed their Tandem application in April 2024, but I'm not persuaded that's correct. I say this because the other documentation Mr and Mrs W have provided about the loan application – and all other evidence I've seen about it – suggests that it began in July 2024. The tariff of charges document attached to the loan application form says it is effective from 4 July 2024 too. And I consider it's unlikely a lender would provide future dated documentation of this nature with an application. I find it more likely that it would provide the tariff of charges applicable at the time. I think the most likely explanation for this is that the date on the application form is in the American date format – month-day-year instead of day-month-year. I consider this is important for context, in terms of how long Mr and Mrs W's application took – weeks and not months.

In terms of the information provided to Mr and Mrs W about the early repayment charge by their broker in the loan illustration and within the application form, the new evidence does raise questions around that. However, even if I were to accept that Tandem received an application from the outset for a low-ERC product, it does not change my wider view on this complaint. I'll explain why.

It is for a lender to decide, once it has assessed a loan application, whether it agrees to lend or not – and to decide the terms on which it is willing to lend. Here, Tandem was initially willing to lend to Mr and Mrs W on the basis that they pay a higher ERC than they wanted to, if they ended the loan early. Mr and Mrs W didn't accept that offer and, for the reasons I explained my provisional decision, Tandem was entitled to reconsider the application based on the terms Mr and Mrs W did want. When it did that it was unable to show the loan would be affordable for them, so it declined their application. I'm satisfied that Tandem's decision to do that was fair and responsible in all the circumstances. And that if it had instead agreed to the loan, it could have led to significant detriment for Mr and Mrs W.

I am pleased to hear that Mr and Mrs W have been able to afford the alternative lending they obtained from another lender after Tandem declined their secured loan, despite it being more expensive. I appreciate they feel this shows the loan with Tandem would have been affordable had it been agreed, but I cannot make my decision with the benefit of hindsight. Instead, I must consider whether Tandem acted fairly based on the information available to it, including what it could reasonably have known, at the time.

Ultimately, Tandem was required to show that the proposed loan would be affordable for Mr and Mrs W before agreeing to lend. It was unable to do that based on the information available to it at the time of reconsidering their application based on a low-ERC product. So, I remain satisfied that Tandem acted fairly by declining their application when it did. Information available now about what happened after the application doesn't change my mind about that.

Overall, having considered again the conclusions I reached in my provisional decision, and the additional evidence Mr and Mrs W have provided, I see no reason to depart from it. I appreciate this will come as a disappointment to Mr and Mrs W, but I do not consider Tandem withdrew a mortgage offer unfairly or that it acted unfairly overall.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and Mr W to accept or reject my decision before 30 June 2025.

Keith Barnes  
**Ombudsman**