

The complaint

Mrs and Mr B's complaint is about a third charge mortgage they hold with Tandem Home Loans Ltd. They think the decision to lend to them was irresponsible as they don't think proportionate checks were done and the mortgage was unaffordable.

Mrs and Mr B are represented in their complaint, but for ease, I will refer to all comments as theirs.

What happened

In August 2023 Mrs and Mr B applied for their mortgage with Tandem following advice from an independent broker. The mortgage that was advanced was for £35,000 plus fees, on a repayment basis and over a term of 20 years. The interest rate on the mortgage was fixed for the first five years at 13.10% and would be charged at a variable rate thereafter. The monthly payment during the fixed interest rate period was £445.67.

The application made on 17 August 2023 was for £40,000 over 20 years. This appears to have been reduced to £35,000, but it is not clear when or why. The application form said that Mrs and Mr B wanted to consolidate some existing debt and have money for home improvements. At that time Mrs and Mr B had, in joint names, first and second charge mortgages, which totalled just over £114,000. The second charge mortgage had been arranged in October 2022.

Tandem asked for evidence of Mrs and Mr B's incomes and obtained their credit reports. These showed that in the 18 months prior to applying for the loan with it, they had taken out ten unsecured loans (two of which they had already repaid), and seven new credit cards, on top of a longstanding credit card that Mrs B already had. They had no CCJs recorded against them, but they were still paying off credit arrangements they had defaulted on in 2018 and 2019. Two other defaulted accounts from 2018 and 2022 were also recorded, but they had already been paid off. Mrs and Mr B explained that they had got into trouble with their finances when Mr B's business was failing, but that their financial problems had been resolved by him obtaining a full-time employed job in 2019 and Tandem was assured there would be no further problems going forward.

Only one loan of around £6,500 was to be consolidated into the new mortgage and the remainder of the money was to be used for home improvements.

Tandem also checked Mrs and Mr B's income. It then completed an income and expenditure assessment to determine if the third mortgage would be affordable. When it did this, as it is entitled to do, it used modelled expenditure information – typical expenditure for a household of the type Mrs and Mr B had – for living expenses. However, the actual amounts for Mrs and Mr B's credit commitments were used. This exercise determined that Mrs and Mr B had a disposable income of approximately £1,100 each month after all expenses including the prospective Tandem loan was taken into account. Even after reassessing the situation assuming an increase in mortgage interest rates, known as stress testing, Tandem determined that the disposable income would only reduce to around £900. As such, Tandem

was satisfied that the new mortgage was affordable for Mrs and Mr B and accepted their application.

In February 2024 Mrs and Mr B complained to Tandem that its decision to lend to them was irresponsible.

Tandem responded to the complaint in an email of 22 March 2024. It said that it had conducted a full income and expenditure assessment with Mrs and Mr B before it had agreed to lend. This identified that even after the payments for the mortgage were stress tested, they could afford it and would have a disposable income left each month. As such, Tandem was satisfied that its decision to lend to Mrs and Mr B was not irresponsible and it rejected the complaint.

Mrs and Mr B were not satisfied with Tandem's response and referred their complaint to this Service. One of our Investigators considered the complaint. She concluded that the number of loans and credit cards that had been taken over a relatively short period before the application indicated that Mrs and Mr B were heavily reliant on credit, which should have caused Tandem to undertake additional checks. Furthermore, the Investigator was satisfied that had Tandem done so, the bank statements that would have been obtained would have evidenced that Mrs and Mr B's actual outgoings were materially higher than the modelled figures it had used in the affordability assessment. If the actual figures had been used, the Investigator was satisfied that the affordability assessment would have failed. As such, she didn't think Tandem should have accepted the application. She recommended redress to place Mrs and Mr B in an appropriate position.

Mrs and Mr B accepted the Investigator's conclusions, but Tandem did not. It said that the information contained in Mrs and Mr B's credit file didn't indicate that they had any significant issues in managing their money, as they didn't have any CCJs, significant use of revolving credit/cash advances, or recent defaults. While there were multiple credit card accounts close to their limits, that was deemed an acceptable risk as the credit limits were not large. Tandem highlighted that the Regulator did not require it to obtain information about potential borrower's expenditure – it could rely on what a borrower says, unless there are common sense grounds for doubting it, which there were not in this case. As such, Tandem said it was unfair that this Service was relying on information to uphold the complaint, when that information was not something it had at the time it made its lending decision.

In addition, Tandem stated that much of the spending, that the Investigator had suggested meant the loan was not affordable, was discretionary spending, such as buying takeaways, hotels, holidays, and gambling. Furthermore, it considered that the amount Mrs and Mr B spent on some outgoings was unreasonable. As such, it didn't consider that the information provided by Mrs and Mr B's bank statements about their expenditure was a fair reflection of affordability, as much of it was discretionary, rather than essential. It asked that the complaint be referred to an Ombudsman.

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.

At the time of the lending decision, secured loan applications like this one were (and still are) covered by the rules of mortgage regulation, found in the Mortgages and Home Finance: Conduct of Business Sourcebook (MCOB) section of the Financial Conduct Authority's Handbook.

The rules require a lender to assess affordability and not lend unless a mortgage is affordable. In making the assessment, a lender must obtain evidence of income, and information about expenditure. It can assess expenditure based either on a borrower's actual declared expenses, or it can use modelled expenditure information – such as typical expenditure figures for a household of a particular type – for living expenses. However, the lender must always use actual figures for committed expenditure such as other credit agreements.

I have noted what Tandem has said about why it doesn't think that it had reason to complete any further checks to ensure that the new mortgage was affordable. It is correct that it is entitled to rely on what it's told about expenditure – unless, taking a common-sense view, it has reason to doubt it. In addition, there had not been any defaults since 2022 and no CCJs. So on the face of it, I can see the point that Tandem is making. However, there should be more to a lender's assessment than a simple tick box exercise regarding defaults, CCJs, or calculating what percentage of a consumer's income the credit represents.

Mrs and Mr B's credit reports showed a recent history of taking out loans and credit cards. They had taken a second charge mortgage of £65,000 in October 2022, less than a year before the Tandem application. Since that mortgage had been advanced, there had been further loans and credit cards taken, the largest of which had been taken out only two months before the Tandem application. It was this loan that Mrs and Mr B wanted to consolidate.

While there were no missed payments on either the secured or unsecured debts, and Mrs and Mr B were managing to make the necessary payments each month, there was a clear pattern of borrowing between February 2022 and June 2023. While there were some months where no new credit was taken, there was at least one application in most months during 2022 and in four out of the first six months in 2023. I consider this should reasonably have indicated to Tandem that Mrs and Mr B might be excessively reliant on credit. In light of this, I think that, acting responsibly, Tandem ought to have made further enquiries about Mrs and Mr B's circumstances and finances.

Had it done so, I think it would have requested bank statements for Mrs and Mr B. I have reviewed the bank statements, and I am satisfied that, had Tandem viewed them at the time of the application, it shouldn't have lent because the loan would have been shown to have been unaffordable.

The bank statements show spending far in excess of the ONS figures, which Tandem used for the affordability assessment. Some examples being payments to communications at around £200 a month, tv/packages around £96 a month, and gambling of around £500 a month. While some of this could reasonably be described as discretionary expenditure, as Tandem stated in response to the Investigator's opinion, it still needed to be considered and before a lending assessment could take place, a discussion would have needed to take place about reducing that spending and to what level. However, bearing in mind what Tandem knew about Mrs and Mr B's history of financial difficulties, and the subsequent borrowing, I am not persuaded that it is likely that they would have managed to reduce their spending to the level required for the mortgage to have been considered affordable.

As such, I am satisfied that the information Tandem used to assess the affordability of Mrs and Mr B's application significantly underestimated their expenditure. Based on the information that should have been available at the time had it been asked for, I consider it is more likely than not that the mortgage wasn't affordable, and that Tandem didn't take reasonable steps to ascertain whether it was or carry out a sufficiently robust affordability assessment.

Having considered all of the evidence carefully, I am not persuaded that Tandem acted responsibly when it agreed to lend to Mrs and Mr B.

I don't think it would be fair to write off any element of the capital as Mrs and Mr B had the benefit of that money. However, I think it would be unfair for Tandem to collect interest on a loan it should not have lent.

Putting things right

When considering redress we aim to place a consumer in as close as possible to the financial position they would have been in, had the financial business not made a mistake. In this case, that would have been that the existing unsecured loan would have remained in place and they would not have received the additional money they wanted for a new drive, and would have had to look at alternative options.

To put matters right, I consider that Tandem should:

- recalculate the mortgage balance removing all fees, charges and interest, and treating all payments made to date and in the future, as repayments of the capital;
- agree a suitable repayment plan with Mrs and Mr B; and
- remove any adverse information about the mortgage from Mrs and Mr B's credit files.

The charge that Tandem holds on Mrs and Mr B's property should remain in place until the recalculated balance of the mortgage has been repaid.

My final decision

My final decision is that I uphold this complaint. In full and final settlement of this complaint I require Tandem Home Loans Ltd to carry out the actions I have detailed above in 'Putting things right'.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs and Mr B to accept or reject my decision before 24 July 2025.

Derry Baxter
Ombudsman