

Mortgage Reform Bill

UK Mortgage Prisoner Action Group are calling for legislative change to mortgage regulations to protect the homeowner.

1. Prevent borrowers from being trapped on reversionary standard variable rates

We all know that there are very limited circumstances where anyone would willingly remain on an SVR when there are cheaper fixed rate options.

FCA should require an amendment to residential mortgage terms and conditions so that at the end of a fixed rate term, a Lender or the transferee of a mortgage/mortgage book should be required to offer a Borrower a new fixed rate IF the Borrower requests one (on similar criteria to current product switches in mainstream Lenders). The fixed rates offered and likewise any default reversionary rate where a fixed rate is not requested by a customer, should be in line with fixed rates and reversionary rates available to borrowers in similar circumstances in the wider financial group of which the mortgage owner is a part, subsidiary or has financial connections to OR in line with the top 6 Lenders or a bucket group.

This would mean that Borrowers- who entered into a mortgage contract with the same expectations as every Borrower i.e. with no intention to sit on an SVR but rather to switch repeatedly which is common practice in the UK mortgage market - can exercise that well held expectation.

This prevents further mortgage prisoners being created in future.

In relation to current Mortgage Prisoners, the right to access fixed rates now should be introduced as a means of attempting to rectify some of the wrongs of the past and as a much-needed relief to the current situation to place these borrowers on the same footing as other residential customers.

If Mortgage Prisoners have fallen into arrears since the consecutive rate rises starting in December 2021, those arrears should not automatically prevent access to fixed rates for those customers, but individual circumstances should be considered.

Most, if not all these customers are in entities allied to or part of a wider active lending financial group.

This type of protection was wholly absent in the sale of NRAM etc and in current sales.

The majority of borrowers in the current market are unaware that terms and conditions permit their mortgages to be sold without their patent consent but by latent consent via power of attorney clauses and WITHOUT the protection that such sales/transfers should be to entities that continue to provide access to market comparable fixed rates as per common practice and expectations.

Even the Financial Ombudsman Service (FOS) has openly accepted the point of a reversion rate is to attract new customers with a preferential rate and has stated that the reversion point is treated by customers as the point to get a new rate with a new Lender (affordability assessment required) or with their existing Lender (no affordability assessment required in the active market). It is entirely unfair that this is not available to Mortgage Prisoners.

2. No Sales of residential mortgages to non-lenders

A. Subsidiaries set up to hold residential mortgages out of active lending in SPVs and non-lending books should NOT be permitted with regard to borrowers' homes.

Government and Regulator should require that residential mortgages should only be held by firms who not only HAVE a lending licence but lend in practice.

The practice of allowing the rights over mortgages on homes to be purchased by acquisition companies without fresh lending capability and/or intentions and focused on the profit of investors thus abusing the mortgagees and exploiting their position should be ended.

Mortgages originated with active market Lenders should never be sold to non-Lenders who do not offer new products. There is simply no way this can or should be deemed as fair treatment of customers or in line with consumer duty requirements.

This is a massive failing and huge injustice has occurred as a consequence.

B. The term "the same financial group" should be better defined in MCOB regulations so that it applies to being a separate legal entity within a wider group so that

E.g. SPML, managed by Acenden, owned by Kensington, owned by Barclays is treated as Barclays

MAS5-Co Op

Engage-Pepper

Heliodor-Topaz etc

These entities/administrators are instead set up specifically to evade the obligations of the "parent" thus profiteering from homeowners without the obligations of an active lender/parent and preventing access to their products.

There should be no requirement for a "new customer" application for a switch to the wider group product, but this should be treated as a product switch by an existing customer.

Wording in MCOB regulations should be mandatory around this.

It is a cloak and dagger exercise to hold these customers trapped effectively in a locked room in the same house as Borrowers within a wider group who have access to expected rights these prisoners cannot access. The corporate veil of separate legal entity should be lifted in these circumstances.

It is entirely unfair to deny access to preferential rates by permitting sales to books/SPVs/entities that close the door to this and trap homeowners on SVRs, particularly those with historic mortgages who cannot switch Lender e.g. pre GFC interest only borrowers who will not meet post-crash affordability criteria for LTV on their interest only borrowing etc

3. Grandfather Policy / Changed affordability criteria

Post 2008 Global Financial Crash (GFC) affordability criteria are not appropriate for many pre-crash mortgages as many borrowers, particularly those sold interest only products, will, more likely than not, fail the current affordability assessment for the mortgage they are currently paying.

While product switch in active Lenders and modified affordability for those deemed Mortgage Prisoners (under limited and strict definition) go some way, neither are sufficient solutions particularly for interest only customers where there was no regulatory requirement at time of offer to check any or adequate repayment vehicle and where the sale of the mortgaged property was often accepted as a suitable vehicle and which is no longer acceptable by underwriters for those e.g. seeking term extension.

An extended Modified Affordability needs to be introduced to enable Mortgage Prisoners or trapped customers to be assessed on evidence of payment made over a defined period/months/years at the same or a higher rate than the product on offer.

Further, if these payments can be evidenced as having been made by one party in the case of a relationship breakdown, and the other party consents to transfer of title to that paying party, then the mortgage owner should be required to permit a change in the mortgage to the sole name of the paying party without affordability assessment other than evidenced payments.

Grandfather Policy, where there are exemptions to new rules and regulatory changes, should be applied to affordability assessment for pre GFC mortgages.

Policy should urgently be developed to secure the primary residences of those who have been trapped on **interest only** mortgages post GFC and unable to switch to repayment due to the introduction of new affordability criteria post-crash. For example, policy around conversion of these mortgages to lifetime mortgages for those Borrowers so that there is not a generation of Borrowers coming towards term end currently and in increasing numbers over the next 10-15 years, particularly those heading towards retirement, facing homelessness.

This is also good social policy in the context of lack of housing.

Instead, these Borrowers with historic interest only mortgages should be 'grandfathered' and enabled to remain in their homes on average market fixed rates (not higher lifetime rates) continuing to pay interest only and with option to overpay towards capital if there is inadequate income to switch to repayment either due to age or changes in circumstances post affordability changes. These borrowers should also be permitted to downsize on their existing terms under grandfather policy without affordability assessment.

Lenders will have their security on these homes and capital can be repaid when mortgagees are deceased. Any surplus can, and should, be paid to the next of kin.

4. Mortgage Prisoner Compensation Scheme

Government /Financial Conduct Authority /banking industry should participate in a Mortgage Prisoner Compensation Scheme to compensate those held in closed books between 2008 to date at the difference between the rate they paid and base rate plus 2%.

Enormous profits have been generated on the back of trapping customers on high SVRs at the expense of massive detriment to those Borrowers.

Government was aware of potential detriment and yet proceeded with sales.

UK Mortgage Prisoner Action Group

admin@ukmortgageprisoners.com

www.ukmortgageprisoners.co.uk

