



**Response from the UK Mortgage Prisoners Action Group to CP 20/13: Consultation on mortgages: Removing barriers to intra-group switching and helping borrowers with maturing interest-only and part-and-part mortgages**

Summary

UK Mortgage Prisoners action group which in this response from here we will refer to as UKMP.

The UKMP welcomes the FCA's further actions to help the mortgage prisoner situation but feels that the detriment that is caused on consumers trapped with inactive lenders, unregulated entities and vulture funds is still not fully realised. The mortgage prisoners are being overcharged by between 2.4% and 3.5%. This is in some instances up to 8 times the detriment the FCA identifies when it states the mortgage prisoners were only being overcharged by 0.4% a year.

The UKMP have given the FCA a number of cases of mortgage prisoners as well as mortgage prisoners contacting the FCA directly so feel that in this consultation paper using real case studies would have been more appropriate in showing the real impact and misery caused by these firms and where the lack of fair treatment has been continued to be allowed and the consumer has little or no protection from.

The FCA has proposed that the use of the streamlined affordability test when mortgage prisoners are trying to switch to a different lender within the same banking group as a voluntary measure. UKMP feel this should be made compulsory for the lenders to use. By not forcing this onto the lenders will just give them the opportunity as time has shown to simply continue to fail to help the mortgage prisoners.

For years, the large banks and building societies who hold the separate subsidiaries or closed books have shown little willingness to offer better deals but have continued to exploit them. By the FCA choosing to make this a 'voluntary' action UKMP does not feel it pushes the lenders to change their ways but rather continue to exploit mortgage prisoners and continue causing the misery for thousands of homeowners.

12 months ago, the new modified affordability test was introduced which brought great hope for the mortgage prisoners. Since then not one mortgage prisoner has been able to switch to a better deal using the new criteria. That is another 12 excruciating high mortgage payments, these consumers cannot be made to wait any longer. UKMP want an investigation into the levels of interest rates being charged and for a cap to be introduced to prevent further exploitation. The FCA needs to work urgently on this to protect all mortgage prisoners and for those who are unable to switch.

The UKMP recommends that not only does the guidance restricting repossessions on interest only and part and part mortgages applies to mortgages prior to 20<sup>th</sup> March 2020 but to ALL mortgages that have matured prior to the date. It excludes those customers from protection when in most cases they also have been seen paying their monthly payments. These homeowners who are facing repossession should not be prevented from benefitting from the guidelines because it happened before 20<sup>th</sup> March 2020.

Again UKMP feel that by the FCA requiring the lenders to only consider options for the interest only customers it gives little support and fair treatment when the consumer is offered a choice of full repayment of capital or face losing their family home through repossession. We feel that time should be given to work through a list of options and strategies to be fairly considered by the lender with the repossession being the very last option after every other action has been investigated.

### **Comments on the statement on mortgage prisoners**

The FCA statement although welcomed in that the mortgage prisoner situation is being examined UKMP feels that the true magnitude of the misery and detriment caused on the consumer and their whole family is not truly understood. The damage impacted on mortgage prisoners, financially, mentally, and physically causes daily issues to all the family.

When the FCA produce figures in relation to interest rates we feel it is misleading when our calculations show mortgage prisoners with inactive lenders are being overcharged by between 2.3% and 3.5%.

If the FCA had used real cases studies which they could request from UKMP or those sent in individually, we feel that the FCA staff and board members would begin to comprehend the lived experiences of mortgage prisoners and their family's due to being trapped and the exploitation by inactive firms and lenders.

The UKMP requests a review of all inactive lenders, unregulated entities, vulture funds and lenders when approaching customers. We suggest a 'vulnerability working group' which UKMP can sit on review areas of concern when dealing with cases.

We also request results from the FCA's letter to closed books on 1<sup>st</sup> May, 2020\* It would be beneficial to know if the closed books have critically reviewed the setting of their standard variable rate ensuring it is in line with the FCA Handbook requirements such as PRIN 6 and MCOB 12.5, customers on variable rates of interest are being treated fairly.

The FCA makes comments in the statement on the case of an extension on the perimeter that it would give regulatory reach or improve reach but the FCA has found in the majority of cases, where books have been sold to unregulated entities they have delegated key decision making responsibilities on interest rate changes and forbearance, to regulated firms. We ask for the FCA to make clear where they currently stand on this point as it seems to now conflict with what the Governor of the Bank of England told the Treasury Committee.

\*<https://www.fca.org.uk/publication/correspondence/letter-mortgage-lenders-administrators-managing-closed-mortgage-books.pdf>

## **Answers to consultation questions**

**Q1: Do you agree with our timeline for when our proposed rule change on 'intra-group switching' would come into force?**

**Q2: Do you agree with this timeline for when our proposed guidance on maturing interest-only and part-and-part mortgages would come into force?**

Yes, we agree with these proposed timelines.

**Q3: Do you agree with our proposal to extend our rules, that do not require a standard affordability assessment for borrowers switching with their existing lender, to include borrowers in closed books looking to switch with a lender within the same group as their closed book?**

In the experience UKMP has had with inactive firms allowing mortgage prisoners to switch to better deals has been unsuccessful. By applying the streamlined affordability tests voluntarily UKMP believe that these firms will simply continue to not offer help. UKMP calls for it to be made compulsory for all. In doing this it would also be suggested that the FCA investigates the reason why the larger banks and building societies keep mortgage prisoners trapped within closed books or separately authorised subsidiaries. It leads us to believe their only reason is that lenders are exploiting trapped customers by holding them on high SVR, failing to offer new deals or simply offering new deals but at similar high rates. In a number of cases the treatment of the consumer's account unfairly and wrongly marking mortgage prisoner's credit files is also a method of damaging files which hinders the consumers chance to switch to a new deal trapping the consumer for longer on the firms high interest rate.

Consumers were promised after the FCA's Mortgage Market Review that lenders would not be allowed to take advantage of trapped borrowers. It has become apparent that closed book and subsidiary entities are not adhering to this rule but the FCA are not enforcing this. UKMP wants the FCA to put a sanction on lenders who are contravening principle 6. We believe that the major banks and building societies have been able to exploit mortgage prisoners trapped within separately authorised subsidiaries causing borrowers significant detriment, paying between 1.55% and 5.15% higher interest rates. These extra monthly costs are causing damaging effects on mortgage prisoners and their families. Many have vulnerabilities such as mental health issues, ill health, disabilities, disabled children, and victims of domestic violence.

The FCA says that firms will not be required to make use of the new test as "lending is always a commercial decision." The UKMP feels this seems to ignore the fact that firms have already lent to these customers. In most cases there seems no reason for charging these borrowers higher interest rates. The only way to ensure the fair treatment for mortgage prisoners is to make the new test compulsory. Once it has made this compulsory, the FCA should ensure that firms write to all customers in their closed mortgage books or separately authorised subsidiaries to inform them about the new deals which are available.

UKMP have been working with brokers and the industry seem frustrated that they want to help the customer but there are no suitable products and no lenders taking up the affordability test. Time and time again the mortgage prisoners are presented with the barrier of the affordability test despite historically proving they have paid a higher monthly payment for sometimes up to 12 years.

**Q4: Do you agree with the guidance we are proposing on interest-only and part-and-part mortgages?**

**Q5: Do you agree that the guidance should only apply to those up to date with payments at maturity and who maintain interest payments thereafter?**

**Q6: Do you agree that the guidance on interest-only and part and-part mortgages should be in place for 12 months?**

UKMP welcome the new guidance restricting repossessions on interest only and part and part mortgages. We urge the FCA to not exclude the customers whose mortgages matured prior to 20 March 2020. These mortgage prisoners are all facing the same situation as the mortgage prisoners whose mortgages mature after that date.

The potential harm faced is the same, properties being repossessed if they are unable to repay. Unable to establish a repayment strategy. Attaining a lower value of their property due to market conditions. The effect on the lenders supporting those prior to the 20<sup>th</sup> March 2020 would be minimal.

Those customers facing possible repossession could possibly be vulnerable particularly during a pandemic. There could be possible ill health with the customer or their family members and the fear of becoming homeless due to inability of being able to meet extra costs of rent due to possible employment circumstances changes through the pandemic.

The UKMP have found in most of the cases interest only customers have not been able to establish a repayment strategy due to the demanding high interest rate charges that they have been trapped on for the last 12 years. In our experience these consumers have been told by their lender in an attempt to be seen to be offering financial advice to their vulnerable customers to seek advice. They are often then told they are too old to re-mortgage or do not pass the affordability test for a repayment mortgage or that they are too young for an equity release mortgage or do not have enough equity to qualify. This circle of lack of help goes on and on with no common-sense solution all whilst the lender is seen to be offering advice. Whilst all the time the mortgage prisoner can often historically prove they have been paying their high interest rate mortgage payment each month for a substantial length of time. We have several cases where evidence can be shown if requested.

UKMP feel there is a need of a whole review of all these guidance's and look to offer a bespoke approach of advice and strategy working towards a solution. This would investigate and consider all circumstances of mortgage prisoners. In this way mortgage prisoners could be supported in preparing offers to propose to their lenders in a way that enables the very often vulnerable customer and their family to stay in their home and a length of time given whilst all along still continuing to pay each month.

We would recommend a review on income and outgoing expenditure forms. In our experience working on cases with mortgage prisoners the rigidity of the forms does not allow for reasoning or the whole picture of the individual's circumstances to be considered. The lenders need to be able to understand through a more transparent form the details why the mortgage prisoner is in a certain position. This will support the more 'common sense' approach to assessing the customers position. UKMP would also suggest incorporating this method with assessing mortgage prisoner's income and expenditure by looking at historic evidence of payments. For example if a customer can prove through bank statements that the individual has been the sole payer of the monthly payment then they should be allowed to switch to a better deal and an ex-partner removed from the mortgage contract. We have several cases where ex partner's have not made one contribution towards the mortgage in up to

12 years but the consumer is trapped on the lenders high interest rate because they do not pass the affordability test yet historically the evidence proves they can pay each month.

The UKMP should be used to consult with in working with the customer and lender to an exit plan with a view to advocating a fair mortgage plan. This could be a proposal discussed within the working group along with other organisations. We feel offering this strategy would bring stability back to mortgage prisoners finances.

