UK Mortgage Prisoners

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Response to FCA Review on Mortgage Prisoners

March 2022

UK Mortgage Prisoners Action Group

Introduction

In November 2021 the FCA Mortgage Prisoners Review was presented to Parliament by the Economic Secretary to the Treasury, John Glen MP.

This Review was announced by the Minister during the debate on the amendments proposed to the Financial Services Bill on 26th April 2021.

Those debated amendments followed on the heels of the detailed report published by UK Mortgage Prisoners in March of 2021 "Setting The Record Straight" which contains a comprehensive review of history and facts together with proposed solutions for mortgage prisoners.
The proposed amendments were seen by UK Mortgage Prisoners as an important lifeline for some on the way to a wider resolution and in the absence of any other proposal by the Government but, despite receiving huge parliamentary support, were opposed by the Minister and deemed unacceptable to the Government.

The Review announced was to be of FCA data on mortgage prisoners,

"to ensure that we have further detail on the characteristics of those borrowers who have mortgages with inactive firms and are unable to switch despite being up to date with their mortgage payments"[1]

The Review is therefore limited from the outset by it's terms of reference and, as we will go on to discuss, does not provide for consideration of relief for mortgage prisoners **other** than those with inactive books and up to date with their payments nor for solutions other than switching.
Consequently it is the view of UK Mortgage Prisoners that not only are the true numbers of mortgage prisoners effectively misrepresented by narrowing the category of those considered as such by virtue of the terms of reference, but further, by eliminating swathes who fall outside the restrictive definition used, skews its ability to effectively consider the impact, in the context of the overall problem, of the limited help currently available ie the effects of interventions to date which was the second stated purpose of the Review, namely to look at

"the effect of its recent interventions to remove the regulatory barriers to switching for mortgage prisoners".[2]

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1 https://hansard.parliament.uk/commons/2021-04-26/debates/799687B0-470D-4E86-A522-54FA8D15DBE6/FinancialServicesBill#contribution-B330231B-C0CD-4041-A025-430A441A04FC

2 https://hansard.parliament.uk/commons/2021-04-26/debates/799687B0-470D-4E86-A522-54FA8D15DBE6/FinancialServicesBill#contribution-B330231B-C0CD-4041-A025-430A441A04FC

Therefore, when John Glen stated that,

"The Treasury will use the results of the review…to establish whether further solutions can be found for such borrowers" and "will continue urgently to seek any further solutions that may provide support to borrowers with inactive lenders who may be unable to switch"[3]

By limiting this to a narrower sub group within the cohort of mortgage prisoners, leaves no room for proper consideration around solutions for the large numbers who fall outside the category referenced and offers no other effective proposals for resolution.

There was a further promise made by the Minister,

"I am also committing today to write to active Lenders to urge them and the wider industry to go even further and look at what more they can do to ensure as many borrowers as possible benefit from these options"[4]

The debate took place as stated in April 2021 and thus the background of the Pandemic can be no excuse for the fact that the Minister and the Government, despite their assurances that this is a priority, have done absolutely **nothing** to our knowledge since publication of the Review some seven months after the debate, to bring forward any solution to this issue which is more than a decade old.

Given that part of the Conclusion in the Review contains a similar plea to the promise above for Lenders to consider adapting their criteria to assist and given that no further products have been introduced, and only a handful of Lenders have stepped up, we are left to conclude that either the Minister did not write as and when promised in April 2021 or did not receive any positive response.

This is far from the urgency that was promised and against the current background of the cost of living crisis and three rises in the base rate immediately passed on to these borrowers, has left many in dire circumstances which are of great concern. We continue in the meantime as an unfunded Campaign Group and, via HOPE, our social enterprise, to be the sole assistance for many in desperation.

3 https://hansard.parliament.uk/commons/2021-04-26/debates/799687B0-470D-4E86-A522-54FA8D15DBE6/FinancialServicesBill#contribution-B330231B-C0CD-4041-A025-430A441A04FC

4 https://hansard.parliament.uk/commons/2021-04-26/debates/799687B0-470D-4E86-A522-54FA8D15DBE6/FinancialServicesBill#contribution-B330231B-C0CD-4041-A025-430A441A04FC

Scope of the Review

We have already touched upon the restricted terms of reference of the review, more of which later. However, immediately it should be noted that buy to let, second charge and lifetime mortgages are **excluded.** Equally anyone trapped with an active lender and unable to product switch is, likewise, left out of consideration. We know there are mortgage prisoners within these borrower groups.

After stating commitment for Government and industry to work together to look for practical and proportionate solutions, such **solutions** seem to be **restricted** solely **to** the idea of the **ability to switch** to an active lender and thus limiting, by its nature, those to whom help might be available as there are those for whom active Lenders will have no lending appetite.
Instead of considering what might be done to help these borrowers they are simply deleted from the numbers considered as mortgage prisoners at the outset and the Review considers no other options.

This turns on its head the very commitment stated as it once again entirely fails to consider any other measures than switching Lender and/or product.

How the mortgage market works

It is accepted that it can be in a customer's best interests to switch to a new deal when introductory rates end as reversion rates generally mean an increase in interest rate. The review states that existing borrowers trying to switch can find that their characteristics can fall outside Lender risk appetite.
It is acknowledged in the Review that due to the Financial Crash in 2008 many of those who took out their mortgages before this, found that their loan and borrower characteristics changed such that, despite being up to date with payments, they could not product or Lender switch. This is not news, this has been a long established fact and yet absolutely no new proposed measures are even mentioned.

While it is stated that post 2018 most active Lenders committed to allowing existing customers to product switch, this again is limited in nature and does not take any account of those pre 2008 borrowers who, having been trapped for years on SVRs at margins far outstripping pre crash levels, during periods of historically low borrowing rates, have found themselves in arrears due to the rates on which they have been trapped for sustained periods.

Additionally, those sold interest only mortgages on terms which would not be acceptable under current lending criteria, having been trapped for at least a decade on their lender's svr, have missed many years of opportunity to switch to a repayment mortgage and pay down their capital and are now approaching end of term.
There is no requirement imposed to help any of these borrowers and what limited help there is is based upon Guidelines only and not mandatory.

Worse still is the situation of those held in closed books with inactive Lenders, who were the focus of the proposed amendments, given that they have no new products to offer existing borrowers.
These mortgages were sold with no protections in place for the customers who, as detailed in Setting The Record Straight, in good faith, took mortgages advocated to them, from High Street Lenders who were protected in the Financial Crash and thereafter, while the mortgages were sold off, to effectively administrators, who offer no alternative products or rate switches to the borrowers whose accounts they hold.

The introduction of modified affordability and intra-group switching to deal with these mortgage prisoners has, as admitted in the findings of the Review, had extremely limited success in helping trapped borrowers. In particular those in closed books in similar circumstances to those referred to above with active lenders ie the most vulnerable.
Modified Affordability is by its very nature not going to resolve the problem for the wider group of mortgage prisoners.

There should be a duty to existing pre MMR customers that even should, and perhaps particularly if, their circumstances change, they should be supported by having access to competitive fixed rates or short term assist rates for vulnerable customers so they can be helped to maintain payments. Can't afford to pay less should no longer be the mantra of mortgage prisoners. Post 2014 affordability criteria is not and has not been appropriate for pre crash mortgages.

The LSE report published in November 2020, considered a number of possible interventions outside of or alongside modified affordability but the Government has not brought forward to date any proposals of the nature suggested.

If numbers of closed book borrowers continue to be unable to access new products or rate switches then, in the absence of other interventions or resolutions, consideration must again urgently be given to the **introduction of a rate cap** and the further measures sought in the previously proposed amendment debated in April 2021. This however in itself would not be the end of the issue but is the only method of immediate relief.

Who is a mortgage prisoner?

The review, rather than looking at the entire mortgage prisoner community and extending potential solutions or considering where they might be failing, seeks instead to redefine who is a mortgage prisoner in what we can only assume to be a cynical effort to reduce numbers on paper and downplay the real extent of the problem and to evade the need to address the difficult issue of resolution for all.

To "qualify" as a mortgage prisoner in the figures produced in the Review one now needs to be

a) up to date with payments
b) unable to switch to a new deal and
c) a borrower who could potentially benefit from switching depending on their loan and borrower risk characteristics

Suddenly another differentiation has been created and those who are paying "low rates for their circumstances" are no longer classified as mortgage prisoners, even though those circumstances were perfectly acceptable at the time these customers were sold the loans in which they are now trapped at at least svr equivalent rates, in a changed market due to new rules imposed by a Financial Crash and resultant consequences, none of which were of their making.

This is not to address the real truth of the numbers of these mortgage prisoners but to turn a blind eye to the consequences of what has happened to these borrowers.

Further, this definition **excludes** anyone in any amount or period of **arrears** whatsoever, howsoever caused, and in addition, in the sweep of a pen, also excludes from the definition of mortgage prisoner anyone who is "**near the end of their mortgage**" i.e. within 24 months of term end. This abandons hope for and recognition of these groups, and can only be seen in the context of the only narrow and inadequate solution being offered by this Government and FCA in the form of a product switch to an active Lender.

How is this fair? Particularly when, had there been help and intervention a decade ago, many would neither be in arrears or near term end, yet they are now omitted from the numbers of mortgage prisoners and failed again and missing from those numbers because Government and industry and regulators **failed to act in time**.

In summary, this definition fails to count interest only customers, older borrowers, those nearing end of term, those with past or present arrears, those trapped with a non paying ex on the account or those interest only customers who might be better off on repayment mortgages even though they may cost more.

This definition **fails** and is **not accepted** by UK Mortgage Prisoners. It is set specifically to suit the switching model and is unrepresentative and calculated to evade the much wider work of resolution that has been called for and laid out in the previous reports referred to.

Mortgage Prisoners are most likely to have a mortgage with an inactive firm

This may be true to a limited extent in the context of post 2018 in a firm that has committed to allowing existing borrowers to product switch without affordability assessment but again absolutely fails to recognise the total lack of solutions for those mortgage prisoners whom it is accepted do exist within active Lenders eg. those in arrears and/or nearing end of terms, interest only.
It assumes that because mortgages with active Lenders are more likely to have been taken out after lender risk appetites were tightened that the majority can switch on the open market or can internally product switch based on industry **voluntary** agreement.
However whilst a majority of active lender borrowing will naturally be post MMR the Review then states that 19% of active lender mortgages are **pre 2008.** That is a significant number and our experience is that within that number are desperately struggling mortgage prisoners for whom there is no mandated help and which are disregarded in passing.

The Review focuses on those prisoners in closed books and cites modified affordability and intra group switching as the solutions in place.

Findings

It is stated that based on revised methodology for collecting the data, "there are 195,000 mortgages in the population of closed books with inactive firms" the vast majority of which originated pre 2008.

While stating only 19% of active lender mortgages are pre 2008 this equates to roughly 1.6 million borrowers and is not insignificant.

94% of the inactives mortgages, again the vast majority, are on variable rates. Even accepting the figures in the Review, 50% of these are on a variable rate comparable to that which 82% of the borrowers on svrs in the active market are on. 0.8% of actives pay in excess of 5% compared to 3.3% of inactives.

The Findings then, by reference to "higher risk characteristics" go on to fuel the ugly rhetoric of borrower blaming which is a tactic we are familiar with and which does not take account of the acknowledged prevailing market sales or conditions which were wholly accepted by their predecessor high street Lenders at time of drawdown.

Further, the finding that there is no link between the interest rate paid and the incidence of payment shortfall is not our experience as reported by the many people who seek our help on a daily basis. Indeed we find that customers prioritise their mortgages and consequently sacrifice in every other aspect of their day to day living until they cannot cut back anymore and may surrender to inability to meet mortgage payments even for short periods which adversely further affects their ability to access the narrow interventions available.

We find it totally unacceptable that this Review counts and defines as mortgage prisoners only those it considers within the restrictive switching criteria.
It systematically reduces the prisoner community by exclusion of actual mortgage prisoners:
34,000 in payment shortfall
18,000 "near term"
66,000 FCA regard as should be "able to switch" yet don't.
This leaves 77,000 who the Review by it's narrow terms considers mortgage prisoners, but it isn't finished there and excludes 30,000 of that number who would be "unlikely to save money" by switching without regard to why a wider ability to switch for reasons other than saving money might be desired, eg changing from interest only to capital and interest repayment.

The Review then admits that the intervention offered to date, modified affordability switching, has had very limited impact even among the redefined numbers it considers as mortgage prisoners. It accepts Lender risk appetite is the primary barrier to this and that only around 6000 of even the group of 47000 it names as prisoners might meet lender risk appetite.

Conclusions

We consider it an exercise in evasion of consideration of any real resolution for mortgage prisoners to redefine which customers fall within the description by reference to ability to switch and by excising large and often most vulnerable groupings.

There is nothing new on offer to attempt to resolve the issue of mortgage prisoners.

Despite the rhetoric it is our view that there is a lack of will on the part of the Government to come up with solutions.

There is an acceptance by FCA of the narrow ambit of modified affordability which we and LSE have long since stated needs to exist **alongside** other, broader measures.

Intervention to date has been slow, inadequate and ignores the spectrum of actions required which could have been taken and which have failed to be considered in favour of the narrow focus on switching which, even if FCA figures are accepted, is potentially available to a maximum of 6000 mortgage prisoners who are already in fact a limited proportion of the total mortgage prisoner community.

In light of this failure we call for **reintroduction of the measures proposed in the April 2021 debate.**

Further, we are disappointed that industry is largely unwilling to step up to assist and that existing FCA intervention is and always has been based around guidelines. We are disappointed that this Government have not investigated the many other suggestions outlined by LSE and UK Mortgage Prisoners including,

- Government equity loans
- Partial loan write offs
- **Effective** Mortgage Rescue Schemes not narrowly limited in nature
- Bringing all closed books within Regulatory perimeter

As LSE suggested, the "goals of intervention should be to focus on reducing customer harm with the ultimate aim of keeping people in their homes"[5]
Their report suggested that further work would need to be done by the Treasury towards developing the "suite of solutions" needed.
In almost a year since the debate took place, we, at the coalface, are not aware of any further work or any other solution, never mind a suite of the same.

Mortgage Prisoners, inactive and some active, particularly in vulnerable categories, have continually been failed and untold harm, financial, practical and emotional, continues unabated.
It is long past time for real solutions.
It is long past time for a line to be drawn to effectively settle the pain of the mortgage prisoner community and to address the legacies of those with mortgage problems born from the Financial Crisis more than a decade ago in the midst of a current one.

[5] https://blogsmedia.lse.ac.uk/blogs.dir/119/files/2020/11/Releasing-the-Mortgage-Prisoners.pdf