



UK Mortgage Prisoner Action Group

Response to FCA Paper

Mortgage Prisoners Review: Terms of Reference

September 2021

Introduction

This paper has been produced in response to the FCA paper [Mortgage Prisoners Review: Terms of Reference](#) published on 20 July 2021, and to support UK Mortgage Prisoner Action Group (UKMP) during their stakeholder meeting with the FCA to be held on 16 August 2021.

Since the Mortgage Market Study, which was first published in December 2016, the FCA have maintained that there are 250,000 borrowers with 'inactive firms' but that "not all of these borrowers are mortgage prisoners".

UKMP have consistently challenged the age and accuracy of the FCA data reported to date. We have produced several reports and surveys that provide a more accurate reflection of the numbers of people involved and the harm and detriment caused to them and their families. These can all be accessed via the Reports page of our website here:

<https://www.ukmortgageprisoners.com/reports>

Background to FCA Review

On 26 April 2021, John Glen MP, the Economic Secretary to the Treasury (EST), announced in Parliament during his closing statement on the Financial Services Bill Amendment 8, which would have introduced a cap on the SVR within 'in-active' closed mortgage books, that the Treasury and FCA would work together to develop further detail, **using existing FCA data**, on the characteristics of mortgage prisoners. The EST also said the FCA would review the effectiveness of recent interventions designed to remove regulatory barriers to switching, namely the *modified affordability assessment* introduced in October 2019 and *intra-group switching rule change* introduced in October 2020.

During this statement the EST also said:

*"We must continue to be guided by the **facts and the evidence.**"*

The FCA state within their paper *Mortgage Prisoners Review: Terms of Reference*:

*"We believe that our July 2020 **assumptions** led to a low estimate of the number of customers who have mortgages with inactive firms and are unable to switch despite being up to date with payments. In the review **we will take a fresh look at all the assumptions we made** to establish the numbers of people who are able and unable to switch, including the criteria for whether an individual can switch. We will test different assumptions and clarify how they affect the results, providing ranges where appropriate."*

UKMP cannot allow the FCA to produce yet another report based on **assumptions**.

The July 2020 FCA report was used by the EST as **the basis for the Government's rejection** of all mortgage prisoner related amendments to the Financial Services Bill that were put forward, claiming the numbers of homeowners affected were too low to justify any Government intervention. The SVR cap amendment would have removed immense financial pressure for a significant proportion of mortgage prisoners who have been left by the Government in 'closed' mortgage books since their lenders collapsed and during the Global Financial Crisis (GFC) almost 14 years ago.

The majority of mortgage prisoners saw the SVR cap amendment as their **only** hope of financial relief. The rejection of amendment 8 caused extreme upset, stress and constant worry amongst our Facebook group members and we have had to provide mental health support to many, and sadly, we have even had some deaths as a result of the stress and harm caused. We hold the FCA, the Treasury and John Glen, EST, responsible for those lost lives.

We will be calling for John Glen MP, EST, to do the honourable thing and put the mortgage prisoner amendment to cap the SVR back before Parliament and admit to MPs and Lords that they were deceived by biased, outdated broad FCA assumptions.

UKMP have the following initial concerns with the FCA conducting another review of their data:

- The existing data (250,000) is based on **assumptions** and not an accurate reflection of the current number of 'inactive' mortgage prisoners.
- There are other cohorts of mortgage prisoners within the 'active' market that are being excluded from any FCA data analysis and yet they are just as, if not more, important.
- The FCA do not collect any data on second charge mortgages, those taken prior to 2016 have been left without any FCA protection and as a result there is no monitoring of consumer harm and no redress for wrong doing.
- Following relationship breakdowns many, especially women, find it difficult to remove their ex-partners from the mortgage, remortgaging becomes impossible and there's no route to redress or compensation for being held in this position for many years.
- There is no consistency in the treatment of benefit payments when mortgage providers are looking at affordability making it almost impossible to know which lender to approach.
- Identifying and grouping mortgage prisoners into different borrower (**risk!**) characteristics serves only one purpose, to shift blame from the Government by branding the borrowers high-risk and withholding help.
- It is not appropriate for the FCA to make comparisons between the characteristics of mortgage prisoners with borrowers displaying similar characteristics in the active mortgage market. The characteristics may be the same but the causes are very different, e.g. for mortgage prisoners the impact of paying high interest rates for a decade as opposed to financial complacency.
- For borrowers who now find themselves in arrears and / or with bad credit histories, it is more important for the FCA to understand how and why this happened and do all they can to help them move forward, not leave them as they are, trapped and vulnerable.

We expect these items to be covered in the mortgage prisoners review when it is published in November 2021 along with a list of tangible, workable solutions so the issue can be resolved without any further delays.

FCA Programme of Work

1. Data review

FCA Objective: We will review and update our data to consider the demographic and loan characteristics of mortgage prisoners.

FCA Expected Outcomes and Work Products: We expect that the change in economic conditions, more recent data and updated assumptions are likely to lead to an increase in the estimated number of mortgage

prisoners. We expect it will also lead to an improved understanding of the current mortgage prisoner population.

UKMPs Expectations: In order to provide Parliament with the information they require to make informed decisions and develop tangible solutions for mortgage prisoners, the FCA **must** provide current, accurate data, broken down into the following data sets:

- The numbers of mortgage prisoners within both 'active' and 'inactive' firms,
- The number of second charge mortgage prisoners,
- The number of new mortgage prisoners created as a result of the pandemic,
- The number of cladding mortgage prisoners since Grenfell,
- The number of leasehold mortgage prisoners,

Each data set must be further analysed into:

- when the fixed term ended,
- SVR since 2006 by firm across whole mortgage market, annual BoE base rates since 2006, margin above BoE base rate by firm, average SVRs and to include annual comparison between SVRs paid by mortgage prisoners and the 'open' mortgage market,
- arrears, first missed payment, how many missed payments, current arrears total,
- previous credit issues, dates of first and latest adverse entry, current status, i.e. are debts settled and regular payments resumed or is the situation continuing or getting worse,
- what is preventing them from switching in today's mortgage market.

Given that this data will be used in Parliament to make life-changing decisions for large numbers of mortgage holders it is imperative that it is accurate and cannot be based on wide-ranging, mis-leading assumptions.

It is our opinion that the previous estimate of the mortgage prisoner population vastly understated the true position and is directly responsible for the amendment to the Financial Service Bill to cap the SVR being rejected during the Bill's final reading in The House of Commons. Had the true scale of the problem been presented to MPs we believe they would have voted to keep this pivotal amendment.

We feel strongly that the amendment to cap the SVR at 2% above the Bank of England base rate in 'inactive' closed mortgage books **must** be put back before Parliament when the FCA review is published in November 2021.

We welcome the transparent approach by the FCA and appreciate the effort they are making in taking a fresh look at the numbers of, and criteria for, whether an individual can switch or not. We are looking forward to seeing these results.

2. Interventions review

FCA Objective: We will also review the effect of recent interventions to remove regulatory barriers to switching. We will explore how firms have used the flexibility provided by our rules to ensure borrowers who have mortgages with inactive lenders benefit from switching options and whether any barriers remain. We will consider:

a. What effect our modified affordability assessment and the lender switching options prompted by this, had on borrowers with inactive firms:

- i. being able to switch
- ii. receiving other support e.g. referrals to debt advice

b. The effect of our intra-group switching rule change. This is intended to make it easier for borrowers in closed books – where the firm is no longer lending – to switch to a mortgage with an active lender within the same financial group.

FCA Work Programme: To review the effect of our modified affordability assessment, we will use data on take-up of the targeted resources and support provided by the Money and Pensions Service, FCA Product Sales Data, and data from mortgage brokers who have agreed to provide advice to mortgage prisoners. We will also engage with industry and other stakeholders on the effect of our modified affordability assessment. We will use this engagement to review the effect of our intra-group switching rule change, as well as looking at the extent of borrowers switching within lending groups through sources such as FCA regulatory data.

UKMPs Expectations: Based on survey results from UKMP Facebook group from February 2021 numbers who have successfully switched are disappointingly low (see previous UKMP report [Setting the Record Straight](#)). As a result, we welcome this new analysis from the FCA on the wider mortgage prisoner population and are extremely interested in seeing these results.

In August 2021 we conducted a further survey of our Facebook group members to gain an understanding of the experiences when people are trying to remortgage. A selection of the results from this survey have been included in the Appendices 1 to 4 at the end of this report.

Specific areas we would like to see covered in the interventions review are:

- How many have switched under each criteria?
- How many applied but were refused and on what grounds?
- How many switched using the mortgage prisoner letter from their current mortgage provider?
- How many have switched through the Money Helper website brokers?
- How many applied through Money Helper brokers but were refused and on what grounds?
- How many have Money Helper referred to debt advice and why?
- How many have switched under the intra-group switching rule?
- How many applied to switch under intra-group switching rule but were refused and why?
- What action is the FCA able to take against firms who refuse switching under the intra-group switching rule? What about those who charge higher interest rates to those switching from a closed company within the group? Is the FCA monitoring this type of behaviour?
- When will more mortgage providers come onboard with their own modified affordability mortgage prisoner products? What is the delay?
- Why have the 4 current mortgage prisoner providers got different eligibility criteria? Why was it not a generic requirement?
- Why are mortgage prisoner letters still required by some firms when the deadline imposed on existing mortgage providers to issue them has long passed? What if your provider refuses to issue you a letter because the deadline is passed and the new lender insists on you having it? Will the FCA intervene?

- How many have switched because of the positive effect the pandemic has had on house prices?
- How many have been refused a switch because of Covid, e.g. furlough, payment holidays, unemployment, sickness, reduced earnings, etc?

Conclusion

UKMP have very high expectations of this report and we anticipate it to mark the start of significant change for the future of mortgage prisoners. The EST has used all previous FCA reports and data to derogate the scale of the mortgage prisoner problem and the harm being caused to the families caught up in this Government-made scandal. No more kicking the can down the road. We expect this report to identify tangible solutions that can be implemented extremely quickly.

In particular, we expect the final report to address the following:

- First and foremost, the SVR cap **must** be put back before Parliament because the previous debate was based on biased, outdated broad FCA assumptions and not fact.
- Put to bed the derogatory underlying narrative that all mortgage prisoners are high risk irresponsible borrowers.
- The affordability criteria must be revisited.
- Implement the LSE recommendation to introduce a Government backed equity scheme so people can at least remortgage away from their closed book.
- Introduce a Government backed mortgage product specifically for mortgage prisoners so if the open mortgage market doesn't come forward with help, mortgage prisoners will still be able to remortgage and transition to the mainstream.
- Identify a solution for those on Interest Only mortgages whose mortgages will be reaching maturity in the next 5 years.
- Identify a solution for Retirement Interest Only mortgages as many are now reaching retirement age.
- Credit mortgage balances with the overpayments that mortgage prisoners have been paying for the past decade.
- Stop firms overcharging for arrears management fees, enforce non-compliance and introduce a route to redress for those affected.
- Adjust credit files that have been impacted from years of overcharged interest.
- FCA to conduct a review of active books to ensure they are following guidelines on “outlier” interest rates.

We would like to take the opportunity to thank the FCA for providing us the opportunity to feed our requirements as a key stakeholder into their *Mortgage Prisoners Review: Terms of Reference* and we look forward to reading the finished report.

Appendices

Appendix 1

UK Mortgage Prisoner Facebook group survey results on remortgaging, August 2021.

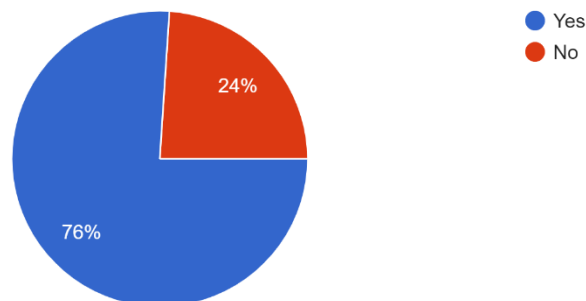
What the results are telling us		
188	people responded	
142	have tried to remortgage	76%
46	have not tried to remortgage	24%
142	that have tried to remortgage	
36	were successful	25%
106	were refused	75%
36	that were successful	
25	used a broker	69%
11	went direct to the lender	31%
106	that were refused	
67	used a broker	63%
33	went direct to lender	31%
6	tried both	6%

Appendix 2

UK Mortgage Prisoner Facebook group survey results on remortgaging, August 2021.

Have you tried to remortgage over the last 12 months?

192 responses

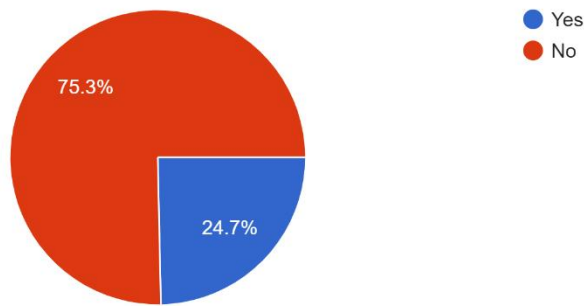


Appendix 3

UK Mortgage Prisoner Facebook group survey results on remortgaging, August 2021.

Was your remortgage successful?

146 responses



Appendix 4

UK Mortgage Prisoner Facebook group survey results on remortgaging, August 2021.

Reasons Mortgage Was Refused		
Number	Percentage	Reason
40	38%	Affordability
26	25%	Credit History
12	11%	Other Debt
9	8%	LTV
6	6%	Not told
6	6%	Age
3	3%	Arrears
2	2%	Location
1	1%	Ex-Partner still on mortgage
1	1%	Balance too low / Time remaining too short
106	100%	