

Response to Consultation Document: Mortgage Market Review: Responsible Lending Consultation- interest-only mortgages (Qs 16-22)

Issued by the Financial Services Authority

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1.0 Background

1.1 Housing Rights Service was established in 1964 and is the leading provider of independent specialist housing advice services in Northern Ireland. We believe everyone has the right to a decent safe affordable home. Our services include:

- Providing a housing advice line
- Undertaking advocacy and legal representation on behalf of people with housing problems
- Providing a specialist Mortgage Advice Debt Advice Service pilot for people who face losing their homes through debt
- Providing online advice through our award winning website www.housingadviceNI.org and an email advice service
- Providing a specialist housing advice service within the prisons
- Delivering a skills and knowledge based training programme
- Producing information resources materials
- Supporting (In partnership with Citizens Advice and AdviceNI) generalist advice agencies to deliver high quality housing in their local communities
- Providing client based comment to influence the development of relevant public policy and legislation
- Providing practical advice and assistance at court for possession proceedings and undertaking preventative policy work through our Preventing Possession Initiative.

All our services are delivered throughout Northern Ireland and focus on the key areas of preventing homelessness; accessing accommodation; tackling poor housing conditions and affordability.

Funding for our work comes from a range of different sources. Our core services are funded by the Housing Division of the Department for Social Development NI.

- 1.2 The organisation first became involved in the provision of money advice and debt counselling in the early 1990s when interest rates, and the number of homes being repossessed, were at record levels. As the primary purpose of our organisation is preventing and alleviating homelessness, our debt advice is only available to clients who have a housing related debt (i.e. *mortgage/ rent or rate arrears*). The service provided is, however, holistic and takes into account all the client's outstanding debts.

In February 2009, Housing Rights Service launched its new "Preventing Possession Initiative." It adopts a twin track approach to preventing homelessness as a consequence of debt-related possession. Firstly an in-situ court representation service is available for owners and tenants facing possession. This seeks to make advice available, free of charge, to people facing the imminent threat of repossession, who do not have their own legal representation and who have not engaged with an advice agency prior to the court date. There is also a policy element to the project. Through engagement with government, lenders and landlords we aim to reduce the likelihood of possession actions being initiated in the first instance and to ensure that viable housing options are available for those at risk of losing their homes.

In May 2009, Housing Rights Service launched The Mortgage Debt Advice Service (MDAS) as a pilot initiative. MDAS has helped over 900 people since it began in May 2009. The aim of MDAS is to prevent people in Northern Ireland from becoming homeless as a result of housing debt. This aim is achieved through:

- Providing specialist debt advice and where necessary, representation to prevent repossession; and
- Assisting those who are not able to retain their home to find suitable alternative accommodation.

- 1.3 We welcome this opportunity to respond to this Consultation paper: The Mortgage Market Review: Responsible Lending. Housing Rights Service is supportive of the Financial Services Authority's (FSA) approach to combat irresponsible lending practices and encourage lenders to ensure that mortgage products sold to consumers must be appropriate and affordable.

2.0 General comments

Financial crisis and debt are important triggers to homelessness which has a devastating effect on families. Housing Rights Service statistics indicate that in 2008/09, there was more than a 500% increase in the number of clients our advisers represented at possession proceedings in court compared to the previous year. Regrettably, in our view, a significant number of these proceedings could have been avoided if a more effective regulatory framework had been in place to constrain risky lending and unaffordable borrowing.

Housing Rights Service has long advocated for better regulation of mortgage service providers, particularly sub prime lenders and intermediaries, to promote responsible lending and market practices. It is vital that mortgage market providers lend responsibly; ensuring consumers are borrowing in accordance with their income and ability to repay. Housing Rights Service believes that some of our clients would not be in the situation they are currently if responsible lending practice had been conducted from the outset.

In responding to this discussion paper, our comments are focused on consumer protection based on the experience of our clients. We have tailored our response to cover the issues we feel are within our scope and expertise to comment on. We welcome the proposal to ensure affordability assessments are normally based on a capital and interest basis, even for interest-only mortgages, and on a maximum

term of 25 years, even where the actual term is longer. On this basis we have responded to those questions which we believe are pertinent to consumer protection.

3.0 Specific responses

Repayment strategy

Housing Rights Service is in favour of a prescriptive approach to repayment methods; though we would stress the need for flexibility within this approach to allow for certain customer types. We support the FSA's proposal that affordability assessments must normally be based on a capital and interest basis, even for interest-only mortgages, and on a maximum term of 25 years, even where the actual term is longer. Housing Rights Service would welcome exploring conditions whereby interest-only mortgages can be used in specific cases, whilst ensuring that it is not open to exploitation and used by lenders to stretch affordability. However, these specific cases would have to be clearly defined to prevent exploitation.

Housing Rights Service believes that assessing a loan on a capital repayment basis is the most appropriate method of assessing the consumer's long term sustainability to maintain mortgage repayments. There must be a robust affordability assessment to ensure a mortgage is only deemed affordable if its level and terms allow the consumer to meet current and future payment obligations. We believe this is the right approach on the basis that a significant number of our clients were granted an interest only mortgage because they could not afford a repayment mortgage. Even a slight change in circumstances leaves such borrowers vulnerable to default and without the option of switching temporarily to a lower cost mortgage products.

Repayment method

Whilst Housing Rights Service believes it is imperative lenders check there is a valid repayment method in place at the outset of the mortgage, we also believe the onus to periodically check the repayment method should rest with the borrower. However, it is important that there is flexibility in this approach as the onus can vary widely over a twenty-five year period. Housing Rights Service believes it is vital that consumers are appropriately advised and educated in relation to their repayment method and fully aware of the consequences if these are not met. In our experience, some of our clients did not fully understand their repayment method e.g. were told by lenders they could use the equity in the home to cover capital payments, however, the clients did not understand this meant selling their home.

Housing Rights Service sees merit in a proactive approach to ensure consumers are fully aware, and committed to, the repayment method. However, if the FSA felt the lender should bear the onus of periodically checking the repayment method, we would ask the FSA to clarify how it intends to establish when a repayment method is no longer adequate and what the appropriate remedial action would be?

It is vital that mortgage market providers lend responsibly; ensuring consumers are borrowing in accordance with their ability to repay and this is facilitated through a valid repayment method. Many of our clients were given interest-only mortgages to extend affordability, with no firm plan in place to repay the capital. If proper checks and balances had been in place from the outset, a number of them would not have qualified for mortgages in the first place.

Housing Rights Service believes that to ensure borrowers are not adversely affected, it will be important when the rules are implemented they provide clarity for lenders and are enforced consistently across the market. In our experience,

there is a lack of consistency in relation to practice across the market, leaving consumers at considerable detriment.

Customer types

Housing Rights Service agrees that the customer types outlined in section 2.102 may benefit from an interest-only mortgage. However, careful consideration needs to be given to how this would be enforced. There is a need to define customer types and the conditions attached alongside this to ensure this type of mortgage product is not open to exploitation for all consumer groups.

Exploitation of interest-only mortgages, without any firm repayment vehicle in place, is one of the reasons so many consumers are struggling to maintain their mortgages. In order to prevent this happening again, there need to be safeguards to ensure interest-only products are only offered to specific customer types who have demonstrated affordability within specified conditions.

Interest-only products

Housing Rights Service sees merit in the proposal to allow a form of initial interest-only period with no repayment method, for a maximum period, for first time buyers. However, we would require further analysis and detail regarding this proposal.

Restrictive lending practices and large deposits are preventing first time buyers from obtaining an affordable mortgage and entering the housing market. Allowing an initial interest-only period may help first time buyers afford to take the first step on the housing ladder e.g. first time buyers can convert to repayment as their income increases. We believe that in order to prevent this product being “gamed” to stretch affordability, there must be a requirement on the lenders to assess

affordability on the capital and interest payment at the end of the interest-only period.

Housing Rights Service believes it is important that borrowers with an interest-only product on a temporary basis understand the importance of having a plan in place to repay their mortgage at the end of its term. It is imperative that lenders educate their clients and make them fully aware of their commitments once the interest-only period is over and to ensure sustainability

Impact on groups with protected characteristics

There may be some impact on older consumers in relation to lending into retirement age. It may be difficult for a retired consumer to verify income into retirement and to ascertain whether the mortgage is likely to be affordable. This could restrict access to interest-only products unless the consumer could clearly identify the means by which they would repay the mortgage.

Housing Rights Service feels that, in order to ascertain the possible impact of an interest-only product on specified groups, the FSA need to conduct an equality impact assessment.

Conclusion

We welcome the opportunity to submit a response to Qs16-22 of this consultation and would be happy to discuss this further if required. We look forward to providing comment on the remaining questions of the consultation in November 2010.

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