

Debt and Personal Finance APPG hears from Housing Minister John Healey and FSA on a report on mortgage arrears and repossessions by Shelter, Citizens Advice and Advice UK

Concerted action from all sides has greatly restricted the level of repossessions during the current recession, which must continue, the Debt and Personal Finance APPG heard today.

The additional funding provided to court desks advising people facing repossession will be extended for the next financial year, the meeting also heard, whilst the FSA is seeking to outlaw mortgages which allow borrowers to self-certify their income.

The all-party group was holding a seminar on mortgage arrears and repossessions, based around a discussion of the newly released report "Turning the Tide? Evidence from the free advice sector on mortgage and secured loan possession actions in England in July 2009". The meeting was addressed by:

- John Healey MP, Minister for Housing, Department of Communities and Local Government;
- Terrie Alafat, Director (Housing and Homelessness), Department of Communities and Local Government;
- Lesley Titcomb, Director responsible for the Mortgage Sector, Financial Services Authority;
- Caroline Davey, Deputy Director of Communications, Policy and Campaigns, Shelter; and
- Peter Tutton, Social Policy Officer, Citizens Advice

Making an opening statement before leaving the meeting, the Housing Minister underlined the importance of the work undertaken by Shelter, Citizens Advice, and Advice UK, the three organisations involved in the report being discussed, over the last year.

The economy had shrunk by around five per cent, he outlined, compared to 1.5 per cent in the recession last decade, and yet concerted work by Government, advice organisations, the courts and the regulators had kept repossessions at half the rate they had been in that previous recession.

This report was yet further proof that coordinated, concerted action could make an important difference in controlling repossessions, Mr Healey asserted.

However, the report also showed where more action was needed, the Minister accepted. For example, he noted, it made clear that specialist lenders, such as those in the sub-prime market, were more likely to take repossession action. As a result of this, the Financial Services Authority (FSA) would be toughening regulations on these lenders and bringing their behaviour into line with the rest of the mortgage market, he said.

It was also clear how important court desks were in preventing repossessions, he continued, pointing to evidence in the report that they had given 36,000 people free advice on the last day of the repossession action, and through this prevented four fifths of repossessions from going ahead at the last minute.

As a result of this clear success, the Treasury had agreed to extend the additional funding that had been provided for court desks during the last year into the next, he announced. As

such, £4 million would be made available to directly support both debt advice and the organisations' work on court desks in 2010-11, he explained.

Concluding, Mr Healey set out where further action was needed. It had to be shown where a further tightening of legislation and regulation was needed, he said.

All involved also had to continue working together to show that joint action could directly prevent people from losing their homes and so blunt the impact of the recession, he added.

Finally, it was important that those at risk of repossession were always made aware what help was available, and did not feel that the system had failed them, he argued.

Speaking next, Caroline Davey of Shelter briefly outlined the methods and key findings of the report.

It was immediately clear from the work undertaken that the various schemes in place to prevent repossession were helping people and making a clear difference, she underlined.

However, this was not a time for complacency, she insisted, and this progress had to be built on both through additional short-term help and through wider, long-term systemic reform.

She explained that research had been undertaken into 450 detailed case-files of those facing repossession, as well as into the court lists themselves to allow identification of which lenders were more likely to pursue repossession.

This had indicated that people who had lost their job or source of income were by far the most likely to be at risk of repossession, she said, which was particularly important with unemployment expected to continue rising for some time.

Low-income households were overall more likely to be at threat of repossession, and also tended to experience the worst outcomes, she continued.

These findings indicated that, whilst the safety net had clearly been strengthened, there were still gaps in it, particularly for the most vulnerable and needy in society, she stated.

It had also been found that sub-prime lenders were more likely to pursue repossession than others, she outlined, with some of these firms in particular tending to move much more quickly than the rest of the market down this route. As such, the report called on the FSA to regulate them more strictly, she underlined.

Shelter wanted all lenders to meet the same standards that the best in the market reached, and for the same help to be offered to all borrowers, she said.

The report also looked at the effectiveness of the pre-action protocol introduced in the autumn of last year, Ms Davey continued. It had found that two thirds of cases looked at had been compliant with the protocol, which clearly meant there were gaps in its use, she said. In particular, many lenders were failing to offer alternative payment plans or other options to borrowers in difficulty, she outlined.

It had also been found that, of the 150 or so cases which were not compliant with the protocol, the judge had imposed sanctions on the lender in just six, suggesting that much more had to be done to encourage them to enforce its usage, she said. She recognised that a 'checklist' had been brought in for judges to more easily assess compliance since the research had been undertaken.

There had also been fewer claims than hoped of Support for Mortgage Interest, the Shelter spokesperson continued. Whilst she welcomed the extension of this scheme announced in

last week's Pre-Budget Report, she warned that much more needed to be done to raise awareness of its provision.

Court desk advice had been proven to be absolutely critical in providing last-minute assistance to those at the greatest risk, she said, expressing delight that funding for this vital service had been extended for another year.

Turning to the recommendations made in the report, Ms Davey explained that these were on both short-term and long-term factors.

In the short-term, she said, compliance with the pre-action protocol and use of sanctions had to be improved, people had to be better signposted to the Support for Mortgage Interest funding scheme, and court desks had to continue to receive funding.

On systemic, long-term change, she continued, the mortgage market review currently being undertaken by the FSA, which she noted was now in the consultation stage, was a good first step.

However there should also be a long-term review of the safety nets provided to borrowers, both by the state and the private sector, she argued. The private sector's safeguards in particular had been shown up as deficient in the recession, she asserted.

There also had to be a long-term review of mortgage law as a whole, Ms Davey said. The Law Commission had produced excellent, comprehensive recommendations on this last year, she noted, having concluded that this area of law was "hugely outdated".

During the discussion session at the end of the meeting, Ms Davey agreed that a significant proportion of repossessions now occurring were on sub-prime mortgages that had been taken out in the last three to four years, suggesting that the most extreme lending had taken place at the height of the market.

The basic question had to be confronted of what level of home-ownership was desirable for society, particularly at the lowest end of the market, she asserted. Too many people were automatically pushed towards buying a home even when it may not be suitable for them, and other options had to be made more readily available instead, she agreed with a questioner.

She also agreed that secondary debts were a significant concern, as people facing repossession tended to have such debts as well. There had to be better information sharing between primary and secondary charge lenders, although there were data protection issues involved, she suggested.

Asked about the changes being proposed to mortgage law, she said that the Law Commission had found that it had not been updated at all since the 1970s, and had felt that the significant changes in the market over the last decade in particular required a fundamental reappraisal of the approach taken.

Interest rates had an extremely important effect on mortgage provision and repossession rates and their impact had to be watched closely, she agreed with a comment from a CML representative.

Stronger regulation of the mortgage market as a whole was desirable, she also agreed.

Almost half of mortgages signed in 2006-07 had been self-certified, she said, which was far above what had been intended for a supposedly niche product. She supported the FSA's announced intention to ban these products.

Responding to a question about the effect on tenants when a buy-to-let mortgage was defaulted on, Ms Davey agreed that this was a significant gap in consumer protection that had to be filled. She asked all MPs attending to support Dr Brian Iddon's Protection for Tenants Bill on the issue, due to have a second reading in January, which sought to confront the problem.

Also speaking at the meeting was Lesley Titcomb, representing the FSA.

The regulator strongly welcomed this report, she informed the meeting. Whilst creating the pre-action protocol there had been concern over whether it would be possible to assess its impact and functioning, and it was extremely useful that such work had now been done, she explained.

It was very disappointing that some firms had been found to be ignoring the protocol, she said, and that judges were failing to enforce it fully, and the FSA would look at how to improve this.

Two of the report's recommendations directly called for action from the FSA, she noted, which were interlinked. These were both met to some extent by the mortgage market review that was now underway, she suggested.

The formal proposals resulting from this review would be published in January, she announced. These would call for the existing guidance for mortgage providers to be solidified into formal rules, and for the worst practices in the market to be made illegal, she explained, as well as for providers to be required to keep their telephone records for longer, as this had proved important in providing necessary information.

There had been little comment or response to the draft proposals during the current public consultation, she said, which was being interpreted as representing general acceptance of the need for the changes.

Findings in the report that sub-prime, or specialist, lenders were most likely to undertake unacceptable practices were shared by the FSA, she said.

She also agreed that consumer education on the help available and on what was allowed of lenders was crucial, and said that her organisation was working on ways to improve this.

On the FSA's role in supervision and enforcement of the existing rules, Ms Titcomb said that repeated close investigations of a large proportion of the market had shown encouraging improvements from many firms.

However, some enforcement had been required, she stated, pointing to the action taken against GMAC as a strong example of how prepared they were to enforce the rules.

A conduct risk division had also been established within the FSA, she added.

The future enforcement strategy would be focused on targeting firms with similar business models to those that had already been subject to enforcement, she outlined.

She stressed that enforcement was always a long process, and that rapid progress could not be expected as firms had a right to defend themselves, but assured the meeting that the FSA was committed to dealing strongly with any unacceptable behaviour.

Responding to questions, Ms Titcomb agreed that sub-prime, or specialist, lenders tended to be a significant problem, as there were several fundamental problems with the business model they adopted.

However, whilst regulations could look at the nature of this business model, and would continue to do so, the FSA was also now beginning to look at and regulate instead the actual financial products they were offering.

The mortgage market review under way was focusing on this approach, she said, by attempting to discern what typical mixture of circumstances of the borrower and structure of the loan tended to result in the greatest danger. The option to outlaw provision of products that matched these circumstances was being kept in hand, she underlined.

She agreed with questioners that secondary debts were a crucial part of the problem, pointing to statistics that actual house purchases had not increased significantly over the last few years, but that the rise in mortgage provision was largely down to buy-to-let schemes and to home-owners seeking to release equity.

The FSA had requested greater powers to regulate both of these practices, she said, to which the Treasury had responded positively.

She also agreed that self-certification of income by prospective borrowers was a significant problem, saying that it had been intended to be a niche product yet had grown out of all proportion. The mortgage market review included a call for these mortgages to be made illegal, she announced, which had already seen protests from the mortgage sector.

Mortgage fraud had also been a significant issue, she added, and seventy providers had been banned in the last few years. In order to combat this fraud the FSA would be calling for the creation of approved person's statements, essentially requiring each individual mortgage broker to be personally licensed, she announced. Fraud by consumers had to be fought through greater education, she suggested.

Responding to a further round of questions, she underlined that the FSA wanted to promote more responsible lending, but that it currently only had the power to regulate primary lenders. A proper affordability check had to be brought in for all mortgages to ensure this responsibility, she argued.

Outlawing mortgages that had a high value to loan, as some had called for, would be too blunt an instrument, she argued. The approach she had previously outlined of focusing on loans involving a particular mixture of borrower circumstances would be more effective, she insisted.

The meeting also heard from Terrie Alafat, Housing and Homelessness Director at the DCLG.

She underlined the strong commitment of all in her department to reduce homelessness, and said that preventing repossessions was clearly of great importance to this work and so central to their strategy. Repossession had only not a personal and social cost, but also directly damaged government finances, she added.

It was crucial in this work to understand what made people likely to face repossessions, she asserted, and the report produced by the three organisations was extremely useful in this. The Department was also undertaking further work on the issue in partnership with the Council of Mortgage Lenders and Citizens Advice, she informed the meeting.

Having confirmation of the effectiveness and importance of court desks was extremely useful, she said, whilst the finding that fifty per cent of people facing repossession had children also underlined how important it was to provide help as these were the most vulnerable people when made homeless.

Ms Alafat stressed the work that was underway across government, between her department, the Ministry of Justice and the Department of Work and Pensions amongst others. She pointed to the checklist that had been developed to help judges ensure compliance with the

pre-action protocol as an example of what this work could result in, expressing hope that it would help improve on the compliance levels found thus far.

The department was also working directly with lenders, through the CML and other organisations, to attempt to bring them 'into the tent' on forbearance practice, she said. Through these organisations around ninety per cent of providers now provided forbearance to at least the same standard as that in the Government's own Mortgage Rescue Scheme, she said, and they would continue to work to bring the rest into line.

Taking part in the discussion, Ms Alafat noted calls for more to be done to help people defaulting on their mortgages to stay in their homes as tenants. This was the purpose of the Government's Mortgage Rescue Scheme, she explained, which typically involved the house being bought by a Housing Association or similar organisation.

This scheme could have a significant impact if executed fully, but it was only helping around a thousand people so far, she outlined. Demand was clearly there, she argued, but more had to be done to make delivery quicker, and DCLG continued to work on this.

Local authorities had reported that people with multiple debts were having difficulties accessing the scheme, she noted as one example, and so they had been given access to a £20 million fund allowing them to provide small loans to help remedy this.

She agreed with comments that the level of owner-occupancy level most desirable for society had to be reappraised, and that other options should be provided. She pointed to the range of rent-to-buy schemes that had been developed as examples of these.

The wider question of what current government assistance and structures should remain in place in the long-term, particularly as interest rates began to rise, also had to be confronted, she asserted. The Department was undertaking this work, she assured the meeting.

She repeated Ms Davey's call for MPs to support Dr Brian Iddon's Bill to protect tenants when a buy-to-let mortgage was defaulted on.

Asked to respond to the speeches on behalf of Citizens Advice, Social Policy Officer Peter Tutton said that the report had been intended to learn the lessons from the large amount of action that the Government had taken to tackle repossession rates since 2005.

It was encouraging that the advice being provided to people at risk had been clearly shown to work, he said, and the finding that the earlier this was given the more effective it was had to be acted upon.

Whilst a lot had been done to strengthen safety nets and to tighten regulations, he added, more still had to be done, pointing to the need to improve compliance with the pre-action protocol as an example.

The mortgage law review under way should consider how courts can give more flexibility to people facing repossession, he argued. People in this situation often had to spend all of their resources fighting it, causing further damage, and ways had to be found to alleviate this, he suggested.

Whilst the CML's prediction of 70,000 repossessions had been revised down to 48,000, this was still far too many, and there remained much work to be done, he concluded.

Speaking in the discussion after the presentations, Labour MP Ian McCartney underlined the importance of addressing the provision of sub-prime mortgages. These people targeted the least well-off in society, who were always the least to receive help, and provision of these

mortgages had in fact increased during the recession, he asserted, asking what the FSA were doing to correct this.

Fellow Labour MP David Watts asked if research had been conducted into the level of other debts that those facing repossession tended to have. He argued that secondary loans were often the cause of problems, warning that there was not enough communication between these secondary lenders and providers of the original mortgage.

The meeting also heard from David Taylor, another Labour MP, who suggested that the assumption in recent decades that people should naturally aim to own their own home had caused many of the difficulties now faced. He asked what more could be done to help turn those defaulting on their mortgages into tenants, allowing them to stay in their own homes, as this was clearly preferable for society as a whole.

A representative from the Council of Mortgage Lenders also took part in the discussion. She warned that the lower than expected rate of repossessions was largely due to the extremely low interest rate currently in place, and that there were serious concerns a raising of the rate would cause significant damage.

She argued against any changes to mortgage law, as some had called for, insisting that the current structure had worked well for years.

However, she agreed that stronger, earlier regulation of this legislation would have helped to alleviate the current difficulties and so should be brought into force.

David Watkinson, representing the Civil Justice Council, explained that his organisation had originally drafted the pre-action protocol, and thanked the report-writers for conducting research into it that the Council could not afford. Judges had only questioned compliance with the protocol in a quarter of cases reviewed, he underlined, which had to be improved.

Whilst he agreed that reform of mortgage law would be useful, particularly to improve sanctions available during court cases, he warned that basing this on Law Commission recommendations may face difficulties, as Governments very rarely implemented the Commission's reports.

Ed Simpson of the Finance and Leasing Association called for changes in civil procedure rules, to force mortgage lenders to disclose any repossession actions they take from the very beginning.

A representative from Consumer Focus said that, whilst the research helped to confirm that sub-prime mortgages were at the heart of many of the problems, the recommendation in the report for the Ministry of Justice to publish court information on which lenders were pursuing repossession most often should be implemented to improve this knowledge.

The meeting was chaired by Labour MP Mark Lazarowicz, Chair of the APPG.