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18 November 2022

Andrew Griffith
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

**By email only:** Financial.Sec@hmtreasury.gov.uk
andrew.griffith.mp@parliament.uk

Dear Mr Griffith

**Open letter on behalf of mortgage prisoners**

Harcus Parker Limited acts for more than 4,000 mortgage prisoners in potential claims against various lenders. The claims arise out of what our clients say are unfair interest rates charged over a significant period of time, usually in the form of 'standard variable rates' or 'SVRs'. We work closely with UK Mortgage Prisoners who, in turn, work with the APPG on Mortgage Prisoners, and this letter is sent on behalf of our clients with the support of UK Mortgage Prisoners and the APPG.

On 27 October 2022 you answered a written question from Dame Angela Eagle regarding proposed protections for mortgage prisoners on behalf of the Treasury.[1] You made a number of points about the fairness or unfairness of proposed Government intervention. We have also seen a copy of your letter dated 1 November 2022 to UK Mortgage Prisoners which addresses the same issues. The purpose of this letter is to respond on behalf of our clients to a misconception, seemingly long held (or at least expressed) by the Treasury, as to the operation of the mortgage market which contributes to the significant harm suffered by mortgage prisoners.

Your written answer said:

> *"Any further work on this issue must consider the impact and practicality of solutions and their effects on the wider mortgage market, including the resilience of firms and fairness to other borrowers. There is no evidence, for instance, that consumers have experienced detriment that would be resolved by an extension of the regulatory perimeter. It is also worth noting that the Standard Variable Rates (SVRs) charged by inactive firms are in line with those paid by borrowers in the active market. The Government remains open to practical and proportionate solutions to help mortgage prisoners that do not pose unacceptable financial stability risks, and are not unfair to other borrowers in the mortgage market."*

The assumption that the SVRs paid by mortgage prisoners are fair because they are in line with those paid by customers with active lenders is mistaken.[2] The commercial reality is that 'active' mortgage

[1] Written questions and answers - Written questions, answers and statements - UK Parliament
[2] It is not necessarily accepted that the SVRs of active and inactive lenders are always comparable

lenders set SVRs at a rate which serves to encourage borrowers to switch to new products after the expiry of an initial fixed rate deal. Active lenders generate fees on such product switches and borrowers benefit by paying lower introductory fixed rates, usually, well below the SVR.[3] The FCA's Mortgage Market Review supports this assessment of the residential mortgage market, stating: "[*t*]*he UK mortgage market has evolved so that customers typically take out a long-term mortgage contract but then switch regularly to get the best short-term deal*"[4]. In circumstances where the loans of mortgage prisoners are acquired by inactive lenders who do not offer new products, however, the SVR cannot operate to incentivise switching to a better deal. Instead, the high SVR of inactive lenders operates either: i) to drive away customers in an attempt to 'wind down' the lender's mortgage book[5] or; ii) to exploit borrowers who are mortgage prisoners and thus unable to remortgage elsewhere.

Your written answer notes that "*the reason*[sic.] *mortgage prisoners are unable to switch are varied and complex*". Whilst it is true that no two borrowers are identical, it is simply not arguable that it is fair to charge mortgage prisoners high reversionary interest rates (which are typically used to incentivise switching) in circumstances in which they cannot switch.

Despite this, the mistaken assumption that it is fair for the SVRs of active and inactive lenders to be set at comparable levels has been adopted by successive governments, and appears to have informed various important policy decisions affecting mortgage prisoners. One notable example of this is the stated protections provided to mortgage prisoners when the nationalised mortgage books of Northern Rock and Bradford & Bingley were returned to private ownership. One protection apparently included in the sales, as explained by John Glen in a written answer dated 16 November 2020, was a requirement that purchasers of the mortgage books:

> '*set the SVR by reference to the SVRs charged by a basket of 15 active lenders, for the lifetime of customers' loans*'.[6]

We do not know the extent to which this purported protection was enshrined in the sale agreements, but in any event it must have been subject to lenders' compliance with their regulatory obligations to treat customers fairly. We argue that to charge a customer a high rate simply because the harsh irony of the affordability rules means that they are taken not to be able to afford to pay a lower rate to a new lender is obviously unfair.

Although it is reasonable to say, as you do, that any intervention in the mortgage market to help mortgage prisoners should be '*practical*' and '*proportionate*' and '*not unfair to other borrowers in the mortgage market*', it is difficult to have a productive debate about such important questions if the wrong assumptions form the premise.

In addition to the suitability of the SVRs of active and inactive lenders, we would also query the extent to which mortgage prisoners can be considered to form part of the same market as mortgage customers with active lenders, and therefore the extent to which intervention to help mortgage prisoners could be considered unfair to other, non-mortgage prisoner borrowers.

Our clients, the UK Mortgage Prisoners group and the APPG are of course grateful for all interventions made by the Government and regulators to try to resolve the mortgage prisoner problem; but, as you acknowledge in your letter to UK Mortgage Prisoners, '*it is clear that the total number who have benefitted from these interventions is small*'. While this remains the case, it is important to sustain the discussions

[3] This has been the case since 2010, though in recent weeks following certain economic shocks to the UK economy the differential between the introductory fixed rates and SVRs of some active lenders has narrowed.
[4] Financial Conduct Authority Mortgages Market Study Interim Report page 13
[5] As was the case with certain former Northern Rock PLC mortgages owned and administered by the Treasury for a time.
[6] https://questions-statements.parliament.uk/written-questions/detail/2020-11-10/113556

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and continue to explore the issue from new and fresh angles, abandoning past misconceptions. If we can be of any assistance in this effort, please let us know.

Yours faithfully

Harcus Parker

**Harcus Parker Limited**