

# Strategies when Mortgages are Unaffordable

This chart illustrates options when there is not enough money to pay the mortgage. Many of these options can be used in a combined approach to tackle mortgage debt. It is a basic guide and more detailed references should always be checked.

**Abbreviations:** CCA – Consumer Credit Act, CMI – current monthly instalment, FOS – Financial Ombudsman Service, FCA – Financial Conduct Authority, LA – Local Authority, MRS – Mortgage Rescue Scheme, SRB – Sale and Rent back, UC – Universal Credit.

## First mortgages and secured loans

Actions or options to consider in all cases

- Check for mortgage payment protection insurance. Consider a complaint to FOS if claim is unsuccessful.
- Check ability to pay CMI plus something off arrears. Negotiate reduced payments with any unsecured creditors.
- Pay as much as possible towards the CMI.
- Help with housing costs – if eligible for a qualifying means-tested benefit and loan is eligible for help. **WARNING:** only the original house purchase and home improvements covered unless in receipt of UC. This means most secured loans will not be eligible for help unless in receipt of UC.
- Maximise income – benefit entitlement check and ‘rent a room scheme’ – where some income from lodgers or a rented room is tax-free. **WARNING:** check the impact of this on means-tested benefits. If in receipt of UC, rent from a lodger is not treated as income. Watch out for the impact of the spare room subsidy. Beware non-dependant deductions unless on UC and make sure the non-dependant is contributing to the household.
- Is the lender following the mortgage pre-action protocol?
- Can you complain about irresponsible lending, terms of loan, post-contract conduct of lender or challenge enforceability? Complain to FOS or consider court action.  
**Note:** unenforceability issues are more likely to occur with secured loans.
- Consider flexible tenure options such as asking your lender if they will consider part-rent and part-buy or sale and rent back schemes. Watch out for private companies offering sale and rent back schemes.
- Is there an Unfair Relationship? (This only applies to secured loans taken out under the CCA before 21 March 2016).
- If client does not want to stay in property (even if affordable), consider voluntary sale or downsizing. Check if lender offers an assisted voluntary sale scheme. If there is equity in property, check impact of capital from the sale on means-tested benefits and tax.

## Lender forbearance options

**Note:** if arrangement in place, check that all arrears, default and late payment penalties have stopped. Consider a complaint to FOS if lender continues to charge.

Payment of CMI plus regular amount for arrears.	Reduce or waive arrears charges.	Payment holiday.
Short-term reduction in payments.	Allow time to sell using assisted voluntary sale schemes. (Bear in mind intentional homelessness).	Lengthen term of loan to reduce monthly payments. Capitalisation of arrears will usually be a last resort for the lender under MCOB 13.3.4.
Convert to interest-only repayments (but consider repayment vehicle in the long-term).	Formal loan modification (usually temporary).	Check with lender for their own in-house forbearance schemes.

## Options



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## Options

### Equity in property

#### Inability to pay full CMI expected to be temporary

- Some LAs will offer a small loan to prevent repossession.
- Is there scope to re-mortgage on better terms or to find a cheaper mortgage deal elsewhere?
- Consider a re-mortgage with first lender to include any secured loan.
- Time order if a regulated mortgage contract under FSMA (Regulated Activities) Order 2001.

#### Inability to pay full CMI expected to be long-term

- There are some mortgage rescue or SRB schemes operating in England and Wales through local authorities and housing associations. Schemes either allow you to stay in your home as a tenant or allow you to stay in your home by sharing ownership with a housing association. Each scheme is different and will have different eligibility rules.
- Is there scope to re-mortgage on better terms?
- Consider a re-mortgage with first lender to include any secured loan.
- Time order if a regulated mortgage contract under FSMA (Regulated Activities) Order 2001. **WARNING:** if inability to pay is permanent, a time order may be turned down.
- Consider equity release but it is vital to obtain specialist advice about how appropriate this is for each client.
- Commercial SRB. A last resort and a good option in very few cases. Ensure SRB firm is FCA authorised as the FCA closed many firms down for widespread bad practice. Beware of companies offering quick house sales at less than market value which are not regulated by the FCA. They may undervalue homes and include very high fees.

### No equity in property

#### Inability to pay full CMI expected to be temporary

- Is there scope to re-mortgage on better terms or to find a cheaper mortgage deal elsewhere? This might help if there is an expensive secured loan and the reduction in the CMI would make a remortgage affordable. This would be dependent upon the total cost of all lending compared to the lack of equity in the property.
- Some LAs will help with a small loan to assist with a MRS application or prevent repossession.
- Time order if a regulated mortgage contract under FSMA (Regulated Activities) Order 2001.

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- Although unlikely, is there scope to re-mortgage on better terms that will make the CMI affordable?
- Voluntary sale, or if lender has an assisted voluntary sale scheme there may be an element of ‘write-off’ on shortfall.
- Hand back the keys – rarely a good option as any shortfall will follow the borrower, so this would usually be combined with a debtor bankruptcy petition.
- Time order if a regulated mortgage contract under FSMA (Regulated Activities) Order 2001. **WARNING:** if inability to pay is permanent, a time order may be turned down.