Research Report

# Exiting Unsustainable Homeownership: Understanding current practice and the potential of Assisted Voluntary Sales

## Final Report

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**September 2011**

## Acknowledgements

The authors are grateful to the borrowers and former borrowers who were willing to share their experiences of leaving homeownership with the research team. The research team is appreciative of the time taken by various lenders in completing the online survey and are thankful to the advisers, local authority staff, lenders and asset managers who gave up their time to be interviewed for this project. In addition, the support of advisers, on-line forum moderators, lenders and local authority staff in identifying borrowers and former borrower to participate in this research is also gratefully acknowledged. The help of Catherine Davie and Carolyn Howell at Shelter and the members of the advisory group – Nick Wood of the Council of Mortgage Lenders, Victoria Barnard of the Building Societies Association, Martin Goodsell of Shelter and Ruth Bamford of Citizen's Advice – who provided support throughout the fieldwork and commented on earlier drafts of the report, was very welcome.

# Contents

# Tables and figures

# Executive summary

**Exiting Unsustainable Homeownership: understanding current practice and the potential of 'Assisted Voluntary Sales'**

## Background

1. With the onset of the housing market downturn in 2008, mortgage lenders increased the extent of their forbearance towards borrowers in arrears. These changes were underpinned by a number of influences including: Government interventions; regulatory pressures; business considerations and low interest rates. As a consequence mortgage arrears and possessions during this market downturn have, in comparison to the 1990s, been limited, with efforts directed towards retaining people in their homes wherever possible. Three years on, with the labour market and housing market remaining slow, and with some reduction in state support for home owners, regulatory and business pressures now mean lenders are, to a degree, reassessing their forbearance policies and practices. There is a growing concern that a significant number of borrowers with entrenched mortgage arrears will be at risk of possession as lenders reassess the sustainability of some mortgages.

2. There is an emerging debate about the ways in which borrowers with unsustainable mortgages can be helped to make the transition from ownership to renting, including help with selling their property on a voluntary basis. There is an assumption that, for borrowers, the emotional and financial distress typically associated with possession is likely to be lessened by an assisted sale and exit. There may also be reputational and business benefits for lenders in supporting sales, particularly in minimising the losses arising from negative equity.

3. Little is known of the extent to which support with voluntary sales is available, the form such support takes or the outcomes of sales for borrowers and lenders. The objectives of the research were to consider the content of the schemes, commonly termed *Assisted Voluntary Sales*, the extent of their use in the market, various parties' experiences of the schemes and the outcomes achieved.

4. The study comprised in depth qualitative interviews with :
    - 44 borrowers or former borrowers who had exited (or were in the process of exiting) home ownership in a range of ways( including via Assisted Voluntary Sale)
    - Eight advisers and staff responsible for homelessness in 11 local authorities
    - 10 lenders drawn from across the mortgage market
    - Four asset managers who operate some of the lenders' AVS schemes
    - And an on-line survey of residential mortgage lenders.

## Research Findings

### *The decision to leave home ownership*

5. The decision to exit homeownership is a complex one, in large part influenced by affordability considerations, but also dependent on the type of forbearance measures offered, the borrower's family situation, health and other factors such as previous experience of homeownership and renting. Borrowers can, and often do, take the initiative about exiting, but it may also be brought about by lenders ceasing to forbear and/or pursuing compulsory possession, or articulating their willingness to allow time for a sale. Housing and debt advisers also often play a role in setting out the range of options available to borrowers in serious debt, including, where necessary, helping a client to recognise that their position is unsustainable.

6. Once borrowers have recognised the likelihood of having to exit, they may try a number of different ways to achieve this. The interviews make clear that there is no one route to a voluntary sale, assisted or otherwise, or to a possession, either compulsory or voluntary. Consequently, and irrespective of the final exit route, households seeking to exit have far more characteristics in common than differences between them. The research confirmed that the identification of suitable, alternative housing is a key factor that can affect the implementation or acceptance of a particular route out.

### *Assisted voluntary sales*

7. Lenders have always been able to support an exit by giving a borrower time to sell their property rather than face possession. The online-survey shows that additional support with the selling process is now sometimes offered. There is a range of support and no one industry model but the term 'Assisted' or 'Supported' voluntary sales has emerged from within the industry to signify this development. The 'schemes' remain poorly defined and currently indicate a range of lender behaviour in the market. Nonetheless, these new approaches are designed to provide a more structured or planned transition between owning and renting than offered by possession.

8. The range of support offered by lenders is illustrated in Table 1. Support ranges from simply being given time to sell through to the provision of additional support (for example, with agents' fees) to an approach that provides support within a more formal process involving the use of an asset manager to co-ordinate and progress the sale. The emerging consensus is that AVS denotes something more than 'just time to sell' but beyond that there is a wide range of practice under the umbrella of AVS.

**Table 1 Spectrum of support currently offered to borrowers who opt to sell to avoid possession**

<table>
<tr><th>Not AVS</th><th colspan="2">Some consider to be AVS</th><th colspan="3">More widely considered to be AVS</th></tr>
<tr><td>Agree sale of property with negative equity only (short sale)</td><td>Time to sell/ Withhold litigation/ Agree concessionary payments</td><td>Actively monitor progress of sale through borrower or agents /Check valuations</td><td>Offer fee assistance estate agents/ solicitors. Negotiate lower fees with providers. Fees may/may not be taken from settlement figure</td><td>Appoint estate agents/solicitors. Monitor sale own staff</td><td>Refer to Asset Manager. Full services. RICS valuations, market appraisals, appoint agents, solicitors, actively progress sales</td></tr>
<tr><td colspan="3"></td><td colspan="3">Additional services: rent deposits, waive charges, case worker, debt advice</td></tr>
<tr><td></td><td colspan="5">Informal … Formal agreements and entry criteria</td></tr>
</table>

9. There are no consistent criteria for entry on to lenders' AVS type schemes, but typically lenders look for one or more of: evidence that borrowers have co-operated with lenders, have arrears, that forbearance has been exhausted and so selling is a last resort (short of possession) and that third parties with interests in the property agree to a sale.

10. Lenders' rationale for pursuing a sale rather than possession was that losses arising from negative equity can be minimised by selling the property with the borrower in occupation (rather than selling an empty property following possession); the process was thought to be less traumatic for borrowers providing them with an organised exit; and that offering borrowers support met regulatory demands to Treat Customers Fairly.

11. Twelve of the 27 lenders who responded to the survey offered some form of AVS scheme, and represent 20 per cent of the mortgage market. One lender did not classify the assistance they offered to borrowers in negative equity to sell their home as an AVS scheme, but many other lenders would. Were we to include this lender, then the proportion of the market potentially covered by an AVS type scheme would be a third. Lenders with a high incidence of mortgage arrears were more inclined to offer AVS. Several lenders and asset managers were enthusiastic about AVS and saw a wider role for it in the market to limit possessions, but lenders who did not operate AVS were unsure of its merits, did not recognise a demand for such an approach or thought it was too problematic to be effective. Some lenders who offered forms of AVS nevertheless had some reservations about the approach. A number of other lenders may consider offering some support, but much work is needed within the industry to demonstrate the benefits of assisted or supported sales.

12. Borrowers overall were positive about the merits of AVS schemes. Many valued the provision of estate agent's fees as the inability to meet this cost had previously blocked their wish to sell voluntarily. They saw AVS as helping them avoid the stress and stigma associated with possession, providing a breathing space to organise alternative housing and avoid litigation.

Borrowers who were supported by their lenders reported stress related illness less frequently than the borrowers interviewed who used other exit routes.

13. Borrowers seeking voluntary exits from homeownership (including AVS) were often deterred from applying for social housing by their perception that they would not be eligible for consideration as homeless by local authority staff. Amongst borrowers who did approach the local authority for rehousing as homeless some were accepted as such and rehoused but others were not recognised as homeless, even if their continued occupation of an unaffordable home was unreasonable, or they were considered to have too much equity, or were deemed to be responsible for their own circumstances. The study suggested that the use of lenders' AVS schemes sometimes validated a borrower's application for social housing and helped local authorities recognise the situation as unsustainable.

14. Borrowers who used AVS schemes anticipated reduced shortfall debts (and this sometimes made the schemes attractive to them) but it was beyond this study to substantiate this. There are several issues that act to limit the effectiveness of AVS. There are no established routes into AVS and no single information source, with borrowers being advised, often late in the day, about the various schemes equally by local authorities, advisers, as well as lenders. There are issues about the limited information lenders offer about schemes- to borrowers and those advising them- and a lack of trust from borrowers in the process, as AVS has yet to establish itself as a legitimate exit route from ownership. The take up of AVS is very low. There is a significant drop out rate (up to 90 per cent amongst some lenders) amongst those who do opt for AVS. Borrowers can be un-reconciled to losing their home, and lenders identify a lack of borrower commitment and cooperation with the sale process as a major hurdle. Valuations can prove an obstacle as borrowers perceive their homes to be worth more than can be achieved currently.

15. A key reason why borrowers dropped out of the AVS sale process was that opportunities to secure alternative accommodation arose that they felt could not be refused. Potentially, borrowers might be more willing to stay and complete the sales if lenders' AVS offers were dovetailed with rehousing options, for example, through lenders providing deposits and rent in advance to facilitate moves to the private rented sector; or schemes being closely linked into local authority 'Housing Options' services. Borrowers could also be incentivised to complete the sale during negotiations around potential shortfall debts.

## *Conclusion*

16. The research suggests that Assisted Voluntary Sales schemes can, potentially, be effective in delivering better outcomes for borrowers and lenders than possessions, but that significant obstacles need to be overcome for these schemes to be more widely adopted and to fulfil their potential. There is a role for lenders to demonstrate the merits of AVS approaches within the industry, to provide borrowers and advisers with sufficient information to legitimise AVS as an exit route and for lenders to work with advisers and local authorities to smooth borrower transitions into alternative housing.

# Chapter 1
# Background to the study

## Introduction

The case for securing better outcomes for defaulting mortgage borrowers- made very strongly by many parties in 2007/8 - has not diminished, not least because the economic recovery in the UK remains weak. The focus of this report is a cluster of approaches, variously described as 'assisted' or 'supported' voluntary sales, set up by some mortgage lenders to provide support to borrowers in unsustainable mortgage debt to sell their homes to avoid repossession. For ease of reference, we have termed this range of approaches *Assisted Voluntary Sales* (AVS), but the term is ill defined and currently represents a range of lender behaviour in the market. Nonetheless, these new approaches to supporting borrowers out of homeownership have been mooted as a way of providing a more structured or planned transition between owning and renting than is offered by possession. The report is the result of research into the nature and operation of these schemes. This first chapter outlines the policy context to the study as well as the aims and methods of the research.

## Policy context

Arrears and possessions began to rise from 2003/4 onwards and their growth accelerated as the recession emerged. During this early period, lenders adopted a 'pay or possess' approach to borrowers in mortgage arrears, often using the court process to discipline borrowers but, if unsuccessful, moving rapidly to possession (Ford and Wallace, 2009). However, as the housing market fell further from 2008 onwards, the Government co-ordinated a range of measures to prevent possessions. Government initiatives included amendments to Support for Mortgage Interest (SMI), the main form of support for some borrowers on qualifying benefits, to offer more and earlier help, reversing some changes made in 1995 (Munro et al., 2010). A Mortgage Rescue Scheme (MRS) was introduced to allow vulnerable households to avoid possession by remaining in their home as a tenant or on a shared equity basis, and the Homeowners Mortgage Support initiative provided support to lenders to offer forbearance to borrowers unable to access SMI (Wilcox et al., 2010). The advice sector received greater resources (Shelter, 2010) and the Civil Justice Council instituted a pre-action protocol in the county courts to ensure possession is the last resort (Whitehouse, 2009). The Financial Services Authority increased their scrutiny of lenders and proposed tighter regulation of mortgage lending and arrears management (Financial Services Authority (FSA), 2009).

During this period, lenders also implemented a 'cultural change' in their approach to managing arrears and moved to a 'managed forbearance' approach, introducing a range of measures to support borrowers as both a social and balance sheet response (Ford and Wallace, 2009). Lenders amended their management of arrears and possessions in response to this downturn from 2008, as market pressures, government initiatives, regulatory scrutiny and the characteristics of their individual mortgage books led to a greater willingness to forbear. Together with low base rates, lower than expected unemployment and Government promotion of the advice available from lenders, advisers and through local authorities with the Mortgage Rescue Scheme, forbearance has meant that arrears and possessions have been lower than anticipated during this recession, and significantly lower than experienced in the early 1990s.

However, as the economy, housing and mortgage markets remain depressed there are concerns about the desirability and ultimate effectiveness of extended forbearance, if lenders have not ensured that borrowers have the ability or prospects to resolve their accounts, and whether any impairment and risks to those financial institutions are concealed by forbearance practices (FSA, 2011a; BoE, 2011). Lenders express anxiety about a growing ‘pipeline’ of borrowers with longer term entrenched arrears. Until now, some of these mortgage accounts may have been stable or ‘curing’, a term describing the reduction in arrears on mortgage accounts; however, a cutback in state support through Support for Mortgage Interest in October 2010, and an anticipated increase in unemployment and bank base rates during the next year, prompts concerns that a greater number of people will develop arrears or be unable to maintain current agreements (Ford et al., 2011). The Mortgage Rescue Scheme was also an important policy tool for vulnerable households but changes to that scheme suggest its role will be limited, as it is less attractive to lenders and borrowers and funding is only secure until 2013.

Financial Services Authority statistics provide evidence of these changed approaches to forbearance. Indeed, the number of mortgage accounts in arrears that have a formal repayment or concessionary agreement to pay increased from 23 per cent Q1-2007 to 36 per cent by Q2-2010, but has since fallen back to 32 per cent by Q4-2010 (FSA, 2011b). As the market downturn persists longer than originally anticipated, the decline in the rates of forbearance reflects new regulatory and business pressures on lenders resulting in their willingness to forbear being reconsidered or exhausted. The Council of Mortgage Lenders therefore anticipates higher possessions during 2011 (CML, 2010).

However, on possession, lenders incur financial costs and penalties, especially when the homes are in negative equity. The last estimate of the incidence of negative equity in the UK housing market suggested that 827,000 households, just below 8% of those with a mortgage, had homes valued below that of their mortgage by Q1-2011 (Purdey, 2011). Northern Ireland and regions of the North of England have above-average rates of negative equity. The costs lenders incur are associated with: the legal expenses; maintaining the property and marketing it for sale; a lower sale price as it is an empty, repossessed, property and sometimes sold through auction; as well as shortfall debts with often limited prospects of repayment (Ford and Wallace, 2009). Similarly, there are psycho-social and financial costs of possession for borrowers, with poor physical and mental health outcomes, debt burdens, and dislocation for family members including children (Nettleton et al., 1999; Pevalin, 2009).

In this context, Assisted Voluntary Sales (AVS) type schemes are emerging as a new strategic response amongst lenders to the losses arising from the process of compulsory legal possession. By supporting the borrower to sell their home rather than face compulsory possession, lenders’ schemes are thought to provide borrowers with a ‘softer’ exit from homeownership when the mortgage is considered unsustainable. This has the potential for borrowers to avoid the costs, increased debt and trauma associated with possession. Moreover, when weighed against the lenders’ potential losses, and the disadvantages of some of the other alternative forms of exit, the additional time and costs associated with AVS may be attractive.

However, there are concerns that different exit routes from homeownership attract different eligibility for local authority rehousing even if former borrowers are in very similar circumstances

(Ford et al., 2010). This may act as a deterrent to some borrowers considering such schemes. Recent guidance suggests that there should be no general presumption of intentional homelessness in the case of struggling borrowers, even if they have acted imprudently or foolishly, for example, by not seeking the appropriate advice at the appropriate time (CLG, 2009). However, it is unclear how this guidance has been implemented. In addition, the Local Government Ombudsman (2011) notes other ways local authorities fail to support homeless households by prioritising prevention and failing to make relevant enquiries or accept applications.

Little is known about the extent of use and the operation of AVS or the outcomes achieved for borrowers or lenders. In the context of a potentially worsening market and weakening state support to borrowers, examining how borrowers can be supported out of unsustainable homeownership via these schemes is therefore timely. This research focuses on AVS but other forms of exit provide the broad context in which the development and use of AVS can be understood.

## Aims of the research

The main aims of the research project were to:

1. Identify the circumstances in which borrowers opt for AVS, the other options that were presented to them that they considered, and the circumstances in which borrowers are most likely to benefit from AVS;

2. Describe borrowers' experiences of considering and opting for AVS, their perceptions of the service received from their lender or any advisory service;

3. Identify borrowers' intended housing tenure following AVS and their outcomes;

4. Identify to what extent lenders and advisers offer AVS schemes, or more informal approaches and advice;

5. Describe the nature of the schemes offered, including those operated by intermediary organisations, and the costs involved;

6. Identify the circumstances in which lenders and advisers suggest AVS and the arrangements made in circumstances in which borrowers have a second charge on their property;

7. Identify lenders' and advisers' perceptions of when and how forms of AVS should be used, particularly in relation to meeting lenders' requirements to forbear under the pre-action protocol;

8. Assess local authority and advisers' knowledge and awareness of AVS schemes and identify how they support households that are considering, or have opted for, AVS;

9. Assess how Housing Options teams in local authorities handle enquiries from these households (for whom AVS may be a viable option), particularly in relation to access to rent deposit bonds/loans to secure affordable rented accommodation in the private rented sector before completion of the sale, and identify good practice;

10. Assess how local authorities handle homeless applications from households that have opted for AVS, particularly in relation to intentional homelessness assessments, and identify good practice;

11. Identify the barriers that prevent households (for whom AVS may be a viable option), taking up AVS, and;

12. Contrast the experiences and outcomes of former borrowers who left homeownership via other exit routes with those who used a lenders' AVS scheme.

## Research Methods

A range of methods and data sources were used in this research which took place between April and June 2011. A total of 77 interviews were conducted with borrowers, advisers, local authority representatives, lenders and asset managers (see Table 1.1). All interviews were conducted on the telephone and notes or recordings made. Interviews with professionals were between 45-60 minutes and between 30-45 minutes with borrowers or former borrowers. All information was obtained on an anonymised basis. A short survey of lenders was also undertaken (Table 1.1).

**Table 1.1 Summary of research methods**

| | |
|---|---|
| ***Part One – Interviews*** | |
| Borrowers/ former borrowers (in negative equity, positive equity, during process of and after completing an Assisted Voluntary Sale, after voluntary sale, voluntary possession, Mortgage Rescue and compulsory possession) | 44 |
| Advisers | 8 |
| Local authority 'Housing Options' staff | 11 |
| Lenders (Mainstream prime, subprime/specialists and building societies) | 10 |
| Asset managers | 4 |
| Total no. of interviews | 77 |
| ***Part Two – Lender Survey*** | |
| Online survey with lenders who retain a residential mortgage book | 27 |

The study was primarily a qualitative one. We can be confident that the research reflects a range of experiences across the market with lenders, advisers, local authorities and borrowers chosen on a selection of attributes. However, the data generated does not come from a representative sample of borrowers, lenders or advisers. Qualitative data can though indicate the range of experiences, and reveal key aspects of processes, experiences and decision making. There are potential limitations to this approach that should be acknowledged however and findings are, therefore, inevitably symptomatic and cannot confirm the scale of any trends found.

The focus of the report is on England, as although financial regulation and lenders serve markets across the UK, policy responses have differed between the devolved nations and England. Interview participants were, wherever possible therefore, drawn from various regions of England.

### *Borrower interviews*

A total of 44 qualitative in-depth interviews were undertaken with borrowers and former borrowers:

- 11 borrowers were currently selling their homes to avoid possession using a lenders' AVS scheme
- 3 former borrowers had sold their homes using an AVS scheme
- 7 former borrowers had given voluntarily possession of their home
- 10 former borrowers had voluntarily sold their property without any assistance
- 6 former borrowers' homes were subject to compulsory possession
- 7 former borrowers who became housing association tenants under the Mortgage Rescue Scheme.

The borrowers and former borrowers were accessed using a variety of methods, which included lenders, advice agencies and local authorities identifying and distributing invitations to participate in the study to potential candidates. In addition, on-line requests to participate in the research were posted on professional forums, debt advice forums, Twitter, Facebook and a popular weekly email relating to consumer advice. The lenders' assistance, the responses from advisers and local authorities and the weekly email were most lucrative in obtaining borrowers and former borrowers to interview, but interviews were gained from all sources. A £30 high street shopping voucher was offered as an incentive and 'thank-you' for borrowers' and former borrowers' participation.

These interviews examined borrowers' and former borrowers' perceptions of the circumstances of their mortgage arrears; their decision making processes and advice received prior to any exit from homeownership; what assistance and support was offered to an exit from homeownership; their experiences of the process and the outcomes achieved as a result of their particular exit route.

Borrowers interviewed came from across England: six from the North East, seven from the North West, five from Yorkshire and Humberside, six from the West Midlands, two from the East Midlands, two from London, nine from the South East, three from the South West and four from Scotland. The borrowers' experiences from Scotland differed really only in terms of the 'offers over' system of selling property and were included as in practice these participants raised common themes[1].

The values of the homes occupied by the respondents ranged from £35,000 to £365,000, and were predominantly mid-range homes. Thirteen borrowers had homes worth less than £100,000, 23 had homes worth between £100,000 and £199,999 and three borrowers' homes were worth more than £200,000. Borrowers interviewed had held loans with a range of different lenders.

### *Local authority interviews*

Eleven interviews were undertaken with local authority staff who worked in 'Housing Options' teams/ housing departments. The staff held a variety of roles from debt advice, home ownership specialists to generic housing options advisers. Five of these interviews were in the North West of England, two in Yorkshire and Humberside, two in the North East, one in London and one in the West

[1] The Homeowner and Protection (Scotland) Act 2010 attempted to bring possession action in Scotland nearer to the discretionary system operating in the English County Courts. The RBS vs Wilson judgement on 24 November 2010 has disrupted mortgage possession litigation in Scotland at the time of writing, but these events had no bearing on the experiences of the Scottish borrowers interviewed for this study.

Midlands. These interviews were conducted in regions that broadly reflect the localities with a higher than average incidence of mortgage possessions.[2]

These interviews were used to gauge local authority responses to borrowers seeking housing advice and support having undertaken voluntary exits from homeownership.

### *Adviser interviews*

Eight advisers from not for profit advice agencies were interviewed. The sample was drawn from all over England and many of the advisers had a wide geographical remit.

The discussions with advice workers considered the decision making associated with identifying a loan as unsustainable; how exit options are explored with borrowers; the range and effectiveness of the various forms of support commonly offered by lenders under the Assisted Voluntary Sales schemes; and their perceptions of the outcomes for former borrowers who have pursued different routes out of homeownership, particularly in relation to borrowers' access to housing assistance from the local authorities.

### *Lender interviews*

Interviews were held with 10 lenders who operated an AVS type scheme. They represented banks, building societies and specialist lenders across the mortgage market, held a mixture of prime and subprime loans and, in total, represented 30 per cent of outstanding balances in the mortgage market[3]. The sample included independent lenders and those in which the government holds equity stakes.

Lender interviews encompassed how lenders identify mortgage accounts as unsustainable, how they advise borrowers on various exits including AVS; the structure and operation of their individual AVS scheme; and the perceptions of outcomes achieved for lenders and borrowers.

### *Online lender survey*

A short online survey of all mortgage lenders with a residential mortgage book was undertaken using an email list drawn up in conjunction with the Council of Mortgage Lenders and the Buildings Societies Association. A total of 70 lenders were invited to complete the survey with 27 completing the online form, a response rate of 39 per cent. However, the lenders who responded to the survey represented 80 per cent of the outstanding balances in the mortgage market.

The survey included questions relating to the nature of lender's mortgage book and the incidence of arrears, whether the lender operated an Assisted Voluntary Sales scheme; the content of their AVS type scheme, criteria for entry to the scheme and perceptions of the merits or otherwise of AVS (Appendix 1).

[2] http://england.shelter.org.uk/news/june_2011/repossession_hotspots_revealed

[3] [3] CML Statistics Table MM10 or publicly accessible via TheData http://www.thedata.co.uk/mortgagedata/top30lendershtml.html

### *Asset manager interviews*

Asset management companies are used by lenders, but not all, to dispose of stock taken into possession. They are responsible for coordinating a range of services from physically securing vacant properties, arranging their valuation and marketing, through surveyors and estate agents, and progressing any sales. In addition, on behalf of some lenders, they also facilitate sales of homes with the residents in occupation. Interviews were held with four asset management companies providing services involving the disposal of assets to lenders. These ranged from large corporate organisations to independents who undertook Assisted Voluntary Sales and possessions work on behalf of a range of lenders across the market.

These interviews discussed the origins of the AVS approach to property disposal, an appraisal of the disposal of repossessions, the content of various AVS schemes and experiences of working with lenders and borrowers in this area, and perceptions of the potential of AVS in the future.

## Structure of the report

The report continues by first examining how mortgage arrears situations are first considered to be unsustainable and the existing pattern and extent of exit routes (Chapter 2). Chapter 3 outlines the nature and extent of the use of Assisted Voluntary Sales schemes by lenders within the current mortgage market. This in then followed is Chapter 4 by an assessment of borrowers' and lenders' experiences of AVS schemes. Chapter 5 considers the outcomes achieved from AVS in the context of other exit routes. Chapter 6 explores the role of the advice services in relation to AVS. The final chapter concludes with a discussion of the merits of AVS and the obstacles that would need to be overcome should AVS be more widely used to affect better outcomes to unsustainable mortgage debt (for borrowers and lenders) when compared to possessions.

# Chapter 2
# Unsustainable homeownership? Making the decision and finding a route out

## Introduction

This chapter examines the decision making involved in identifying when homeownership is unsustainable for individual borrowers. Despite the presumption to date that borrowers wherever possible should be assisted to keep their homes, with lender forbearance playing a significant part in this, Chapter 1 noted some reassessment of this presumption. There is growing recognition that for a portion of defaulting borrowers their best interests may not be served by keeping them in their homes at all costs, and that a planned transition from owning to renting may overall, in what is recognised as an unpalatable and adverse situation, nonetheless secure better outcomes. Thus the question of how unsustainability is identified and acknowledged comes to the fore.

In practice, borrowers have always been able to give up homeownership because they have judged that they cannot continue to meet its financial demands. Lenders too have always been able to reach a similar view. This is often the trigger for compulsory possession but lenders too have been able to encourage voluntary sales as an option before seeking possession. Chapter 2 looks at the recent balance and use of routes out of homeownership where the mortgage has become unsustainable. This is the context in which the new option of Assisted Voluntary Sales is being offered. Chapter 2 therefore provides essential context for the core of the report which focuses on AVS.

## Is the mortgage unsustainable? A difficult call

The research clearly demonstrated that deciding when homeownership is unsustainable is not an exact science. It implies a consideration of the future position of a borrower, assessed on available current evidence. It is also a judgement which is implicitly and explicitly informed by a range of factors that might be related to lender and/or borrower considerations (as well as other wider factors). In the main, decisions are qualitative ones and are open to negotiation and challenge. It may be useful to consider how 'tipping points' may be identified which move a borrower from a position of arrears to unsustainable homeownership.

It is not always straightforward as to who makes the decision as to whether a mortgage is unsustainable. As one would expect, lenders were most likely to be in control of the decision over whether the mortgage was unsustainable as they could decide which forbearance options, if any, were suitable. Quite a few borrowers remarked that their lenders had been very helpful, for example, allowing them to pay reduced payments for a period of two years, or go onto interest only mortgages, take a short payment holiday etc. Some, however, did feel that few options were offered, for example not allowing capitalisation of arrears[4], or not being able to convert to an interest only mortgage as they required two signatures (and this was not always possible after

[4] The FSA (2010) reminded lenders that they expect capitalisation to be undertaken only as a last resort and when wholly appropriate for the borrowers circumstances.

relationship breakdown). Whilst the lender was most likely to tell the borrower when forbearance measures had run their course, occasionally a borrower felt that they had been the first to realise that the mortgage was unsustainable:

> *"*[The lender] *was fantastic – they tried everything to see if I could manage to pay, but in the end I told them that I could not afford it anymore."* Borrower, AVS

Whilst conflicts of view about whether a mortgage was sustainable or not were quite common, independent advisers in particular remarked that people often knew when their situation was unsustainable, even if they were reluctant to accept this. Advice (see section below) could be central to clarifying a borrower's position:

> *"They know really. They say I know you're right I just don't want to face reality. Tenants who did the right to buy, they've been there 20 years, brought up their family there. It's a huge thing to have to contemplate, shocking news to hear. But people know without you telling them."* Adviser

> "[The advice agency confirmed] *what I already knew but didn't want to hear – that I was in a deep hole and that my income was about £200 less than the minimum expenditure on debts/repayments."* Borrower, voluntary possession

## *Lender considerations*

Most key players agreed that lenders had become much more likely to consider forbearance/ hardship options than they had been before the economic downturn. Lenders explained that their forbearance policies had been shaped by Treating Customers Fairly (TCF) and that they aimed to provide an individualised response to borrower's arrears problems. A number of lenders explained that they had changed their forbearance strategies two to three years ago. Most continued to operate these although a few lenders mentioned that they had become a little more cautious recently, for example in drawing back from capitalising arrears where this might make mortgage payments unsustainable in the future (something also supported by a couple of advisers). The predominately individualised approach was recognised by advisers and local authority representatives but they felt that this often also led to different outcomes for different borrowers in similar circumstances across lenders (and sometimes between prime and sub-prime lenders with the latter more likely to wait before repossessing).

> *"My experience from housing advice and mortgage advice* [on lender forbearance] *is currently better than it's ever been. In part* [I]*always find that trying to get concessions, forbearance for 12 months, dealing with lenders* [is] *much better. They're prepared to consider* [these things] *but it depends on the lenders as they're all different."* Adviser

Lenders explained that they would take a number of factors into account in making forbearance decisions. This included reviewing income and expenditure, levels of equity and future repayment possibilities (for example, if someone may regain work versus long term disability). One lender explained that forbearing over a long period may not actually be 'fair' to customers, and could be 'cruel' when they were never likely to be able to sustain the mortgage. This same lender operated a ‘decision matrix’ to assess whether a mortgage was unsustainable and which options might be most suitable. This placed the customer’s ability to afford the mortgage on one axis and the customer’s desire to stay in the property on the other axis. For example, a customer that did not want to stay in the property but affordability was not too severe, might be channelled to a supported sale. The level of engagement of a customer was also important – those that did not engage being more likely to end up being repossessed. Other lenders confirmed that they took account of customer preferences in terms of whether borrowers were hoping to stay or sell their home, alongside affordability issues and the willingness to engage with the lender.

> *“It’s very simple. We have a personal budget questionnaire and it asks about the willingness of customers to work with us and see if the amounts are sustainable and affordable. If they cannot afford it, it’s not a rule of thumb, but often we might give them three opportunities to pay. If there’s no affordability it’s a matter of trying to re-educate them, they’ve suggested £500 but there is no affordability we’ll be putting it to the sols* [litigation]*”.* Lender

However, other lenders noted that identifying individual loans as unsustainable was a challenge and “*a judgement at the end of the day”.*

There were reports of quite differing overall approaches to forbearance and the point when arrears were regarded as unsustainable. Recent research (FSA, 2011a) recognised that some lenders are forbearing but not adequately taking account of borrowers’ circumstances and ability to pay now or in future. In this current research it appeared that there were instances where advisers felt that some borrowers had entered into unsustainable agreements with lenders. Similarly there were cases of reported forbearance strategies being exhausted but lenders still not taking action. Advisers suggested that this could actually make borrowers feel quite ‘uneasy’, not knowing when the account may eventually be called in. In some cases, it was thought that lenders might be waiting for the market to pick up to avoid situations of negative equity, or even may think that the market may fall further and need to repossess quickly:

> “[the lenders see] *no point taking action on negative equity anyway. But say further down the line there is a further drop in house prices? There could be a surge in repossessions. The difficulty for borrowers is that they’re left in a state of unease for quite a long time.”* Adviser

In contrast, one lender explicitly stated that they raised the issue of exiting homeownership quite early even if people want to avail themselves of forbearance measures:

> *“As a responsible lender, the longer someone is on reduced payments, the higher* [the debt] *and the harder it is for customers to recover.”* Lender

Lenders did not tend to highlight the business case with respect to pursing forbearance or litigation, rather stressing that the key imperative was to treat customers fairly. Notwithstanding this, it must be recognised that lenders are a business and were likely to be influenced at some level by business considerations.

More generally, many players pointed to a number of external factors likely to be placing pressure on lenders to increase litigation proceedings due to sustainability being undermined by reductions in the SMI rate in October 2010, the contraction of Mortgage Rescue as well as continuing poor employment opportunities.

> *"To be fair lenders have been very forbearant and we've done everything, given people 3 or 4 failed arrangements and so had to move people to litigation which in turn will lead to some more repossessions. We've got job losses, possible increased interest rates, we've had the issue with the DWP reducing the rates to borrowers. This year will be quite critical. Even last year, we see from last year's figures that we moved more people through the litigation process. Doesn't mean they all moved into possession but it puts pressure on to make an arrangement to pay".* Lender

### *Adviser considerations*

The starting point for independent advisers in considering sustainability is undertaking a detailed financial statement with borrowers. This outlines all current income and expenditure including other secured and non-secured loans and provides a basis for discussion with borrowers as to what extent they can meet the mortgage payment, following any re-prioritising of their expenditure away from non-priority debts as well as other non-essential consumptions goods (e.g. satellite television). They will also help the borrower to maximise any benefits that they may be entitled to, as well as other possible income sources such as renting out a room.

> *"Some people don't know where their money goes, so we try and maximise their income and reduce expenditure. Are they not prioritising priority debts, paying credit cards as they're the ones who shout the loudest. We have a good talk with the client, look at their finances and get them to understand the situation..."* Adviser

Advisers will also consider any possible future changes in levels of income or expenditure, including the extent to which people are able to pursue job opportunities and/or health factors that might limit income generation in the foreseeable future. Once an understanding is reached as to the current and likely future *affordability* of the mortgage (setting these into short and long term options), advisers will generally then run through the full range of options that may be available to borrowers. In order to be able to do this, they will typically call the lender and establish the possible options available for the borrower.

> *"Our job isn't to tell clients what to do, but to develop a range of options. We work with some clients for some months, but it depends on the reasons why they have difficulties in the first place, if they lost their job but are avidly job hunting then that is a different scenario for other reasons."* Adviser

> *"Making decisions is a process of elimination."* Adviser

In this way, most advisers stated that they left the decision making to the borrower, but attempted to outline the advantages and disadvantages of each option.  However, some explained that they would rarely advise on some options, for example, voluntarily handing in the keys as there were few if any advantages to this way of exiting home-ownership. (Although at least one of the voluntary possession interviewees stated that they had been given this advice.) Crucially some also explained that whilst they would always look at the possibilities of forbearance[5], not least because this was usually the preference of clients, they would also advise when they thought a client's mortgage might not be sustainable.

> *"Advisers are realistic and many advise that people can't afford the mortgage, they add it all up, and it's a really useful exercise to go through the process, as people kid themselves, they might spend £90 a month on SKY, which is ok if they can afford it, but if they want to save their house we need to talk to them about that, talk to them open and honestly get them to better understand the process. Then they'd be motivated for a sale and have gone through the options. It's a reality check."* Adviser

Advisers also stressed a range of other factors that would influence borrowers' positions and choices. Some advisers felt that it was not in people's psychological interest to continue to pursue forbearance for as long as a lender might offer. One adviser was concerned at the number of people who were now expressing suicidal thoughts, more than at any other time in her experience, and this made them cautious about pursuing forbearance at all costs.

> *"I'll often say about leaving as the situation is unsustainable…I say 'I think my main concern for you is that you can tighten your belt for a time but that you can't do that long term' and you also have to include health factors...'can you cope, can you sustain carrying this debt load and living on a tightrope like you have been doing?' "*Adviser

Sometimes there was a tension between the borrower's best interests and the need for time to arrange alternative options. So in some cases, an adviser might explain that forbearance (including via AVS) might buy the borrower time even though the mortgage is clearly unaffordable and their situation is highly unlikely to change.

> *"I suppose where there is no improvement in income it may not be in their best interests. I would advise them, instruct* [agents], *buy time with the lender to sort out alternative options... What I'd probably be saying to them is long term options not sustainable, but forbearance in the short term can be used for marketing the property, sell the property, consider alternative housing options as at some point lenders will begin* [litigation]*".* Adviser

In short, advisers were keen to ensure that all options had been explored for each borrower.

### *Borrower considerations*

The first consideration for most borrowers in the early stages of arrears was, understandably, whether they could do anything to make their mortgage payments more affordable, either by

[5] In the case of housing option advisers, at least one representative explained that they had to ensure that forbearance options were investigated thoroughly otherwise the borrowers may run the risk of being considered intentionally homeless. Another independent adviser commented that it was 'hard for housing options to suggest selling the house as it's all about trying to prevent homelessness'.

increasing their income or, more commonly and realistically, via reduced payments for a period of time. Lenders and advisers also approached early arrears by examining the range of forbearance measures to try and keep a person in their home.

> *"*[we are] *always advising about forbearance if there is any option…looking at a sale if they've exhausted it. If people want to stay, forbearance is always looked at first."* Adviser

Most borrowers tended to describe a process, taking varying lengths of time depending on their circumstances, where they slowly realised that homeownership was no longer sustainable for them.

> *"Originally I kept thinking I'll get back to work and pay it off, but it just never happened....It was a slow realisation, always think of the best, that we'd come out of this next month...The lender never said that it [the loan] was unsustainable, never said we'd gone too far, just kept asking us for money all the time, never had any ideas to* [resolve situation]*, that all came from ourselves*". Borrower, Mortgage Rescue

The majority of borrowers described a situation where the lender tended to forbear over quite a lengthy period of time. Sometimes it took an event for borrowers to realise that they were now at the end of the line, for example illness or accepting a new job that was much lower paid. In other cases, it just became evident that they were never going to get out of their situation. Sometimes it took the intervention of an adviser for them to realise their situation, and occasionally, borrowers wished the lenders had been more upfront about their prospects.

> *"Then the shocking realisation that engineering was dead. I was never going to get a job again that would cover our debts, couldn't get a job that would cover our lifestyle. Something had to give and homeownership was the only chip I had to bargain with..."* Borrower, Mortgage Rescue

> *"It really helped for us for her* [Adviser] *to be really straight with us, say, 'You've got to put the house on the market', I think we've had our head in the sand. If* [the lender] *could've told us, but we just thought this repossession isn't going to happen to people like us. If* [lender] *had made it clear, really feel they could have told us sooner, but instead we're homeless."* Borrower, repossession

In contrast, in a minority of cases, the lenders appeared very proactive in asking for mortgage payments to be met in full, for example in one case after three months reduced payments (and in another case verging on being perceived as aggressive). This led to the borrowers realising quite early on that they would not be able to sustain homeownership. This was often very difficult to accept.

It was recognised by all parties that a multitude of factors could affect borrowers' views of sustainability. Whilst most borrowers are understandably resistant to the idea of giving up their home in early situations of arrears, some households were much more committed to remaining a home owner and/or had a much more pronounced attachment to their home. Those who had experienced relationship breakdown or were single might have a lower attachment to their home, but some families also assessed that it was more important to move on and provide a new stable home for their family rather than face longer periods of stress in their present position.

> *"Sometimes it varies. Some* [borrowers] *are so sick of the process, sick of struggling and some see us and want to know if we can resolve something... we suggest that one option is that they should think about selling, some resigned to this, but others are desperate to cling on, even if only on interest only and have no way of repaying their loan."* Adviser

Whilst some borrowers themselves recognised that they had 'put their heads in the sand', overall the majority of borrowers were quite reflective – and often realistic – about their position and whether homeownership would be sustainable over the longer term. This was particularly the case for those people who had decided to try and voluntarily sell their house in the hope of avoiding a situation of mounting arrears (a position obviously easier for those with some equity). Whilst everyone's position and reactions differed, many households attempted to exercise their own agency in the process. Overall, there appeared to be room for more effective communication between lenders and borrowers as in many cases the two parties appeared to arrive at an understanding that the mortgage was unsustainable at different points, as well as room for a greater involvement of independent advisers and local authorities.

## How do borrowers currently exit homeownership?

Borrowers have always left unsustainable homeownership in a variety of ways. Voluntary possessions - where a borrower hands back the keys to the lender rather than be subject to a warrant for eviction by a bailiff under a compulsory possession - accounted for 16 per cent of all possessions in Q2-2008, rising to a peak of nearly 29 per cent by Q2-2010, although this figure fell back to 23 per cent by Q1-2011[6]. Borrowers can also voluntarily sell their homes to avoid possession. Analysis of the Survey of English Housing data between 2005-2008 reveals that within the estimated average stock of 381,000 households in England, 246,000 households contained someone who had sold their home due to financial pressures, 80,000 households included someone who had given voluntary possession and a further 55,000 households included a member who had experienced compulsory possession at some point, suggesting that a focus on arrears and possessions may not represent the whole picture of unaffordable homeownership (Ford et al., 2010).

### *Routes out of homeownership*

The interviews with former borrowers allowed us to identify their final exit routes from homeownership but also the pathways they took to their final departure from the tenure. A key finding from the former borrower interviews is the extent to which a significant proportion of borrowers do not follow a linear pathway out of ownership, but often switch between exit routes as opportunities arise, exits are closed off or borrowers' priorities develop. For example, in the space of one month one former borrower had put her house on the market to sell, switched to a lenders' Assisted Voluntary Sales scheme and then handed her keys back to the lender.

[6] CML Statistics Table AP4 www.cml.org.uk

*"I'd wasted people's time, the estate agents,* [the lender's]*, but I thought what do I do?"*
Borrower, voluntary possession

Obviously the interviews do not form a representative sample, but they illustrate the complexity of exit pathways well (Table 2.1). It is clear that many borrowers actively seek out alternatives to possession. Further almost half of the borrowers interviewed had attempted another exit route from homeownership to the one that finally occurred. Borrowers however, were not always aware of, or able to access, the full range of possibilities available.

**Table 2.1 Former borrowers' previous attempts to exit homeownership by final exit route**

| **n=44** | **Voluntary Sale** | **Voluntary Possession** | **Mortgage Rescue Scheme** | **Repossession** | **Assisted Voluntary Sales*** |
|---|---|---|---|---|---|
| Attempted voluntary sale | - | 2 | 1 | 1 | 4 |
| Attempted voluntary possession | | - | | 1 | |
| Attempted Mortgage Rescue Scheme | 3 | | - | 1 | 1 |
| Attempted Assisted Voluntary Sale | 1 | 2 | | 2 | - |
| **Total attempted alternative to final exit** | **4** | **4** | **1** | **5** | **5** |
| **Total Sample** | **10** | **7** | **7** | **6** | **14** |

*Source: (Former) Borrower interviews*

** Former borrowers who exited or planned to exit through an Assisted Voluntary Sale scheme are included in this chapter's analysis for comparison but are discussed more fully in Chapter 4.*

## *Circumstances of former borrowers*

Analysis of the Survey of English Housing shows that there are few differences in the types of current households where at least one member has experienced voluntary sales, voluntary possession or possession (Ford et al., 2010). The former borrower interviews, although not a statistically representative sample, similarly show only limited differences between the types of households who exit in various ways (Table 2.2). The most frequently reported reason for mortgage arrears among those former borrowers who had voluntarily sold their home (with or without assistance of the lender) or had been repossessed was labour market disruption, which includes loss of job, hours or wages or the failure of self-employment. In contrast, ill-health was the main reason behind arrears for those who exited homeownership by the Mortgage Rescue Scheme or who handed their keys back to the lender. (It should also be noted that in many cases additional reasons compounded the borrowers' original problem that prompted mortgage arrears, such as ill health or a new baby following redundancy or the presence of underlying affordability and debt problems.)

**Table 2.2 Circumstances of former borrowers by exit route**

| n=43 | Voluntary Sale | Voluntary Possession | Mortgage Rescue Scheme | Repossession | Assisted Voluntary Sales |
|---|---|---|---|---|---|
| Single/Couples | 6 | 3 | 2 | 3 | 10 |
| Family | 4 | 4 | 5 | 3 | 3 |
| *Arrears trigger** | | | | | |
| - Labour market | 6 | 2 | 1 | 5 | 7 |
| - Relationship breakdown | 2 | 3 | | | 3 |
| - Ill-health | 2 | 2 | 6 | | 2 |
| - Unaffordable | - | | | | 1 |
| Sought advice | 5 | 1 | 7 | 5 | 8 |
| **Total Cases** | **10** | **7** | **7** | **6** | **13** |

*Source: (Former) Borrower interviews*
**The self-reported primary reason why borrowers fell into arrears.*
*NB: data missing from one AVS case.*

Almost all of the former borrowers who experienced possession sought independent advice, compared to around half who exited through voluntary sales or Assisted Voluntary Sales schemes, and only one out of the seven former borrowers who gave voluntary possession.

## *Voluntary Sales*

Interviewees who exited homeownership through voluntary sales had been struggling with mortgage debt for long periods, as with other former borrowers. Borrowers who sold their homes recognised their inability to maintain the mortgage and saw selling as the principle method of avoiding possession. A minority had applied and/or enquired about Mortgage Rescue but this route out of ownership was not available to them.

> *"The likelihood of getting employment was minimal for quite a period of time…Didn't want to* [sell] *but know I have to. I've been depressed, head in the sand and ignoring it, but it makes it worse."* Borrower, voluntary sale

> "*For some people voluntary sales reduces their anxieties. Ultimately if they're repossessed, they get in court and they're in trouble and they've never been in trouble, they're not criminals, but there is a stigma, the thought of bailiffs coming around is too much."* Adviser

Two of the ten households sold their home quickly expressly to minimise rising debts, although they were unsuccessful in this ambition.

> *"As soon as he knew he was going to lose his job we decided to put the flat on the market, he was scared and absolutely terrified. So we decided to get it valued and see if we could get any equity to tide us over."* Borrower, voluntary sale

Former borrowers frequently contemplated undertaking a voluntary sale but decided against this option for a variety of reasons:

- House in poor repair
- Could not afford selling costs (energy certificate, agent and solicitor fees)
- Sale would not cover mortgage
- Ill health and/or inability to cope with sale process
- Unaware they could sell house when in mortgage arrears
- Length of time and ability to sell in current market
- Uncertainty about council rehousing if sold

### *Voluntary Possessions*

As shown in Table 2.1 above, four of the seven former borrowers who voluntarily had given possession of their properties had also tried to sell their homes, with or without the help of their lender. They did not see these sales through to completion through a calculated decision to avoid further stress and its impacts on their physical and mental health and a desire to escape pressure from the lender. These issues were combined with opportunities for alternative housing that arose during the sale process that former borrowers felt could not be declined. Two of the former borrowers who gave voluntary possession were advised to do so.

> *"*[Advice centre] *said if I got the chance of social housing grab it, and somewhere came up four weeks after I applied…said if I can do voluntary possession and come out of it with a little bit it's better than being repossessed, and the lender went for it."* Borrower, voluntary possession

> *"That period once the house is sold, there's still a short period of time to find somewhere else. It was a relief* [the lender] *taking over, but I wanted to take control over where I was living. The amount of debt I was in, I thought it's not going to make a scrap of difference. I wanted to control where, and when, I was going to live and with their scheme I didn't have any control."* Borrower, voluntary possession

Two former borrowers had difficulties trying to relinquish possession to their lenders, in one case the lender was not offering any assistance or incentive to pursue the voluntary sale, while the other one had but the borrower felt unable to carry on with the sale as they wished to bring the uncertainty to an end.

### *Government Mortgage Rescue Scheme*

Mortgage Rescue offered former borrowers the opportunity of stability in the same home and location so existing social, school and family networks could be maintained, which was important for those households with children or who suffered ill-health.

> *"I knew I couldn't afford it* [the property] *and knew I wouldn't afford it in the future. I have an adult son who is unemployed and an older one with mental health problems…didn't want to move and lose the support for the sons. Mortgage Rescue seemed more secure and less expensive than* [private] *rent. "* Borrower, Mortgage Rescue

From June 2011, the sale price for properties purchased by housing associations under the Mortgage Rescue Scheme has reduced from 97 per cent to 90 per cent, and funding is now limited. These changes are likely to render the intervention less effective going forward as it will become more narrowly targeted on the most needy and unproblematic cases, i.e. with disabled adaptations, with few repair costs, no second charge lenders, strictly within property and negative equity parameters. Seven former borrowers had enquired about MRS but been turned down at the enquiry stages, either because they were not in priority need, or more frequently, because these more *"stringent criteria"* were now in operation. Advisers no longer considered Mortgage Rescue as a serious option for all but a small minority of clients.

> *"Our circumstances were the same but* [during long waiting period] *Mortgage Rescue had tightened and we went from good candidates to bad candidates."* Borrower, AVS

> *"It didn't happen as government money has been withdrawn."* Borrower, AVS

> *"People are telling us even the district judges are saying there is not much hope for your cases going through so will only adjourn for two weeks* [to enquire about MRS]…*where it used to be 2-3 months."* Adviser

While three lenders signalled that the changes to MRS would not affect their participation in the scheme, five other lenders suggested they would exercise greater caution when considering future MRS sales, as the shortfall losses incurred were likely to be greater. Lenders may be less likely to consent to Mortgage Rescue cases with uncooperative second charge lenders or with large negative equity. One lender noted that MRS is also likely to be less advantageous to borrowers, in terms of their shortfall debts, as they may receive more money for the property following possession. Possession may have other adverse consequences, but in comparison to MRS, could limit their shortfall debts. Another lender, however, was pragmatic about the likelihood that shortfall debts would be repaid anyway.

> *"We may not allow as many MRS cases through as other options because of the cost. We're still assessing what MRS now means for us, it will have to be at the right time and with the right customer."* Lender

> *"Still open to work with Mortgage Rescue companies, still agreeing to sales…never expect them to repay all* [of their shortfall debt]*, say 10/20/30 per cent extra, so seven per cent on top of debt…haven't rejected them and working closely with applicants."* Lender

## *Possession*

Of the seven former borrowers interviewed who had experienced compulsory possession all bar one had tried to avoid possession by attempting to exit via other routes. These initiatives had failed as the housing market was slow and their house did not sell, a lender had deterred them from selling in negative equity, a former partner would not consent to any form of sale, or in two cases the borrowers had been informed that their chances of getting rehoused by the local authority would be enhanced if they saw the possession process through to the end. Former borrowers whose lenders had taken possession of their home were also the exit group most likely to have sought independent advice, but often too late to affect a better outcome.

## Conclusion

This chapter identified how the decision to exit homeownership is a complex one, in large part influenced by affordability considerations, but also dependent on the type of forbearance measures offered, the borrower's family situation, health and other factors such as previous experience of homeownership and renting. Typically, advisers provide an opportunity for borrowers to consider their full range of options and for the borrower to make an informed decision. Lenders also review a range of options but, by the nature of their role, are more likely to control the options available to borrowers. In addition, it is apparent that several lenders are reconsidering a number of forbearance options offered and the period in which they are willing to offer concessions. Borrowers, whilst constrained by the relative powerlessness of their role, nonetheless do exercise agency in many cases, sometimes without reference to their lender, but often making their views clear to them, particularly on their preference or otherwise for remaining a homeowner, which are taken into account by both lenders and advisers.

Once borrowers have recognised the likelihood of having to exit, they may try a number of different ways to achieve this. The interviews make clear that there is no one route to a voluntary sale or to an Assisted Voluntary Sale or to a possession, either compulsory or voluntary. Similarly, households seeking to exit have far more characteristics in common than differences between them. What is clear is that the need to achieve alternative housing is one key factor that can affect the implementation or acceptance of a particular route out, and the issue of outcomes from different exit routes is considered later in the report.

# Chapter 3
# What are Assisted Voluntary Sales and how often are they used?

## Introduction

It is clear from the previous chapter that borrowers already take different pathways out of unsustainable homeownership. It is also apparent that the boundaries between different exit routes are often permeable, with borrowers in very similar circumstances switching between different exits with different outcomes.

As identified earlier, AVS has emerged during this recession as an alternative exit route out of unsustainable homeownership for borrowers who opt to sell their home to avoid possession. Borrowers and some lenders find merit in such schemes. Although lenders continue to develop the use of AVS, there is, as yet, no consistent market model. Moreover, despite the idea being talked up quite widely, the extent to which lenders are actively supporting borrowers to sell to avoid possession is limited.

This chapter considers the forms of support lenders' offer borrowers to sell their homes, examines the extent of use and take up of such schemes within the market and the rationale behind adopting supported approaches to voluntary sales. This chapter draws primarily on the online survey of lenders and interviews with 10 lenders offering AVS and four asset managers.

## Spectrum of support for borrowers

Formal definitions of AVS or supported sale schemes are yet to emerge within the industry, but AVS may be considered to denote a particular part of the spectrum of support offered to borrowers who opt to sell their home to avoid possession. At one end of the collection of approaches to facilitate sales are passive practices, where lenders support borrowers in the decision to sell, provide time for them to do so and monitor the sale but do not actively intervene in the process. Some lenders might consider this an Assisted Voluntary Sale but most lenders would not and would only identify a scheme as AVS if it included more tangible forms of support such as fee assistance for solicitors and/or estate agents. Lenders may offer permission to sell and some fee assistance in negative equity cases, or 'short sales'[7], which may also be situated beneath an AVS banner. At the furthest developed or most active end of the spectrum are AVS type schemes where lenders appoint a third party asset manager to manage the sales process in conjunction with the borrower. These fully fledged AVS schemes may have tight entry criteria, an asset manager that can undertake all processes involved in valuing, marketing, and progressing sales on behalf of the borrower and include time to sell, fee assistance, concessionary payments and the with-holding of litigation.

Table 3.1 illustrates the range of additional services that lenders currently offer between merely giving permission to sell when in negative equity to full asset manager based services.

[7] 'Short sales' are sales of property where the proceeds fall short of the mortgage balance. In these circumstances, borrowers require the lenders permission to release their charge on the property and lenders are within their rights to refuse to release the charge.

**Table 3.1 Spectrum of support currently offered to borrowers who opt to sell to avoid possession**

<table>
<tr><td>Not AVS</td><td colspan="2">Some consider to be AVS</td><td colspan="3">More widely considered to be AVS</td></tr>
<tr><td>Agree sale of property with negative equity only (short sale)</td><td>Time to sell/ withhold litigation/ concessionary payments</td><td>Actively monitor progress of sale through borrower or agents /Check valuations</td><td>Offer fee assistance estate agents/ solicitors. Negotiate lower fees with providers. Fees may/may not be taken from settlement figure</td><td>Appoint estate agents/solicitors. Monitor sale by own staff</td><td>Refer to Asset Manager. Full services. RICS valuations, market appraisals, appoint agents, solicitors, actively progress sales</td></tr>
<tr><td colspan="3"></td><td colspan="3">Additional services: rent deposits, waive charges, case worker, debt advice</td></tr>
<tr><td></td><td colspan="5">Informal ⟷ Formal agreements and entry criteria</td></tr>
</table>

A further illustration of the lack of consensus and definition in this area is provided by the lender survey, where occasionally lenders who said they did not operate AVS schemes had similar policies and practice in this area to those who said they did and operated in the second and third medium toned column of the above table.

Appendix 2 provides (with permission) an example of a formal assisted voluntary sale scheme.

## *Content of AVS type offer*

Findings from the lender survey suggested that the most common forms of assistance within lenders' AVS type schemes was a dedicated case officer, debt advice, and help with legal and estate agency fees (Table 3.2).

**Table 3.2 Content of lenders' AVS type schemes**

| n=27 | Count |
|---|---|
| Debt advice | 7 |
| Provision case officer | 7 |
| Legal fees | 6 |
| Estate agent fees | 6 |
| Advice on valuation | 5 |
| Referral to LA housing dept. | 5 |
| Advice on marketing | 4 |
| Rental deposit | 3 |
| Negotiating with second charge lenders | 2 |
| Other | 2 |
| Removal costs | 1 |
| Finding alternative accommodation | 1 |
| Negotiating unsecured creditors | 1 |

*Source: Lender Survey*

It is notable from the survey that there is not one item that all twelve of the lenders who said they offer an AVS scheme universally offer. Indeed, three of the twelve lenders who said they offered an AVS type scheme did not provide any of the forms of assistance included in Table 3.2, possibly as their activities were confined to giving borrowers' permission to sell, monitoring the sales and withholding litigation.

Frequently the schemes were flexible and responsive to the borrowers' circumstances. For example, lenders also stated that on occasions they may waive any early redemption charges on accounts, provide debt advice through a third party or negotiate with estate agents to keep their fees low.

> *"Above is indicative of what we may offer, we don't have a blanket approach. Our aim is to remove barriers to sale which vary by customer".* Lender Survey

However, the lender interviews were important in distinguishing different types of support. The most common form of support offered to borrowers wishing to sell to avoid possession was actually providing them with time to do so by withholding litigation, agreeing to concessionary repayments in the meantime and, in some instances, monitoring the progress of these sales through the borrower, directly with the estate agents or by using asset managers.

There was no consistent pattern regarding the length of time lenders gave borrowers to sell in the first instance. Some lenders stated that they assessed the length of time for each case on its merits or that the length of time to sell was dependent on the level of participation the borrower offered. Other lenders gave periods of time that ranged between 3 and 12 months. Interviews revealed that lenders would agree to extend the period permitted for a sale depending on the merits of each case. For example, if the borrower had co-operated throughout the process, the price had been reduced appropriately and that in liaison with the estate agents and/or asset managers there was the prospect of a sale being achieved then lenders would permit the borrower a longer period to sell.

### *Criteria for entry on to the scheme*

Interviews with lenders suggested that lenders operated their AVS schemes with a range of formality. As Table 3.2 suggests, some lenders offer consent to the borrowers own voluntary sale while others got progressively more involved and contractual. Several more formal schemes required borrowers to meet certain criteria to be entered onto the scheme and borrowers were required to sign documents to ensure they understood the process and the obligations of all parties involved. In addition, several lenders had recently formalised their schemes to overcome barriers to the effectiveness of AVS, and so targeting the schemes on those borrowers likely to see the sales through to completion.

As mentioned, some lenders' support to borrowers was flexible and dependent on negotiations with borrowers. For example, one lender stated that borrowers were not selected as such: *"What's the way forward? If we know they can afford it, then stay, then if not* [sell]*, but it's not imposed."*

However, the majority of lenders had formal criteria that the borrower must meet to receive the lenders' assistance to sell. Practices, however, varied and were not consistent. Most lenders offered their AVS type scheme to borrowers in both positive equity (nine out of 12) or negative equity (eight out of 12). Five lenders offering AVS type scheme did not permit borrowers with second charge loans onto the scheme, while eight lenders stated that borrowers could be in any situation.

Lender interviews further illuminated the entrance criteria to lender AVS schemes. More formally, common entrance criteria to lenders' AVS schemes included:

- The borrower being in arrears
- Having exhausted all other options
- All parties agree to the sale (which may therefore exclude arrears cases prompted by relationship breakdown)
- Negative equity
- No second charges secured on the property
- Customer co-operation.

Customer co-operation with the lender and the sale process was perhaps the principal entrance criteria and is discussed further in Chapter 4.

Some lenders, however, operated their schemes informally, offering forms of support tailored to that individual borrower.

## Extent of the use of Assisted Voluntary Sales in the market

The twenty seven lenders that responded to the survey are responsible for 80 per cent of the mortgage market[8]. Of these lenders, 11 were building societies, 10 were banks, three were centralised or other specialist lenders, and a further three were other institutions that included nationalised banks.

Twelve out of the 27 lenders who responded to the survey offered some form of assistance to facilitate borrowers selling their home to avoid possession. Of the 12 lenders who indicated they provided an AVS type scheme, three reported they were building societies, five were banks, two were specialist lenders and two identified themselves as nationalised banks. Lenders who indicated they offered borrowers support to sell hold a fifth of outstanding mortgage balances. One lender did not classify the assistance they offered to borrowers in negative equity to sell their home as an AVS scheme, but many other lenders would. Were we to include this lender, then the proportion of the market potentially covered by an AVS type scheme would be almost a third.

However, this is not to say all borrowers with loans from these lenders are able to access the schemes. As discussed, several lenders have introduced criteria for entrance on to their AVS scheme and few lenders currently publicise that they offer these forms of support. The lender survey asked the lenders how many borrowers they had actively on their AVS schemes on the 31 December 2010. The 11 lenders who answered this question had only a total of 345 borrowers placed on AVS schemes at that date. Lenders declined to tell us the number of possessions they had in 2010. However, for contextual purposes, the proportion of borrowers on AVS schemes compared to the number of borrowers on these individual lenders' books who were six months or more in arrears ranged from 0.35 per cent to 11.43 per cent, with an average of 5.77 per cent. Whereas, the total number of all possessions in 2010 was equivalent to 27 per cent of lenders' loan accounts that are six

[8] CML Statistics Table MM10 or publicly accessible via TheData http://www.thedata.co.uk/mortgagedata/top30lendershtml.html

months or more in arrears[9]. The use of AVS is therefore not widespread and significantly lower than the use of possession.

Of the 15 lenders who reported that they did not currently offer an AVS type scheme, one said they had plans to introduce such a scheme in the coming 12 months, eight had no plans and six were unsure whether they would adopt an AVS type scheme. The one lender who was sure that they will introduce AVS had only a small market share. However, should some of the uncertain larger lenders adopt an AVS scheme, then the proportion of the market where borrowers' could potentially receive support to sell their home to avoid possession would be greatly enhanced. Thirteen of the 15 lenders who said they do not currently operate an AVS scheme said that they would consider *ad hoc* requests for assistance to sell a borrowers' home.

Of the twelve lenders who operated an AVS type scheme, nine were handled by their own in-house staff and three had appointed a third party asset management company to oversee the property sales, and these lenders were some of the largest. Asset managers reported that they were in discussions with lender clients about the possibility of introducing new or more formalised AVS services into the market.

Lenders were also asked about the trends in various exit routes out of homeownership between July to December 2010 and January to June 2011. There was a consensus that the proportions of various exit routes will be little changed between the last half of 2010 to the first half of 2011, which may indicate the requested time period to consider was too short. Nevertheless, slightly more lenders reported that they anticipated that the use of AVS and compulsory possessions would increase in 2011, the use of MRS would decrease and other voluntary exits would remain the same.

In interviews several lenders and asset managers were enthusiastic about the potential for AVS to grow as a proportion of all exits "[the potential] *is huge if handled correctly. There is absolutely no reason why any property needs to be repossessed."* Other industry professionals (lenders and asset managers) were more ambivalent. Unsurprisingly, lenders who operate an AVS type scheme view AVS as advantageous for borrowers and lenders, but lenders who have not adopted an AVS type approach are less convinced of its merits (Table 3.3).

[9] CML Statistics AP4/AP1 or publicly available at Department of Communities and Local Government Housing statistics site http://www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/repossessions/livetablesrepossession/

**Table 3.3 Number of lenders agreeing with statement on use of Assisted Voluntary Sales type schemes by whether they operate an Assisted Voluntary sales scheme**

| n=27 | **Operate AVS type scheme** | **Do no operate AVS type scheme** |
|---|---|---|
| AVS reduces costs/losses for the lender | 9 | 4 |
| AVS offers more choice about the sale to borrowers | 9 | 3 |
| AVS provides a better return than selling the property at auction post repossession | 9 | 6 |
| AVS lowers debts for borrowers | 8 | 6 |
| AVS provides less stress for borrowers | 8 | 6 |
| The property sale is faster through AVS | 5 | 0 |
| AVS provides borrowers with debt advice | 4 | 2 |
| AVS is only useful in some local housing markets | 4 | 1 |
| AVS works well when there are second charges on the property | 0 | 1 |

*Source: Lender Survey*

**Ordered by number of responses from lenders operating AVS scheme.*

## *Take up rate of AVS*

Large numbers of borrowers who are offered AVS decline the invitation. Lenders and asset managers noted that the drop off rate of borrowers on AVS schemes was high, ranging between 30-90 per cent. Borrowers can drop out of the process at numerous points: when the lender first offers AVS, when they are required to sign the terms and conditions, when the valuation is conducted, or once the property has been on the market. Several lenders and asset managers noted that a great volume of borrowers decline the schemes at the outset. For example, some lenders and asset managers noted that between 50-60 per cent of borrowers invited to consider AVS declined, while others reported that as many as 90-98 per cent of borrowers dropped out at some point between referral and prior to completion of a sale. One lender noted that only 30 per cent of customers offered AVS go onto the scheme, and that in one month alone they had 13 customers fail AVS, either because the borrowers had left the scheme or been taken off the scheme by the lender, compared to 30 new customers that had joined the scheme that same month, suggesting the drop off rate was substantial.

Lenders and asset managers poorly understood the reasons why borrowers declined a seemingly attractive offer but advanced various reasons. These ranged from some lenders' ambivalence to the schemes in practice, resulting in poorly communicated and implemented schemes, through the adverse circumstances of some borrowers rendering the process challenging because former partners or second charge lenders were uncommitted to the sales, to the basic fact that some borrowers were not reconciled to losing their homes and were considered to be uncooperative with the process.

> "[AVS] *works really well with genuine people in arrears, but there are very few* [of these] *in real life. Five per cent of repossessed are hardship cases, the rest played the game year in year out. Find people in that five per cent who understand they'll save money, don't have issues with other people on mortgage, so many caveats to fulfilling that criteria: Genuine people, consent of husband and wife, no subsequent charges, clear away*

> *charges, co-operation. It's like finding Willy Wonka's chocolate bar, not going to find that every day of the week."* Asset Manager
>
> *"The reasons for that are a bit puzzling. Whether again the reality of their situation they're in hasn't quite registered, but with some customers we've gone through the scheme and explained the positives for the customer and they still don't think it's the best option…If being cynical, some of the reasons they choose not to go down the route is that its formal and requires commitment, and customers know that they can bounce around the* [litigation] *process, which is certainly a more protracted process [than AVS]"* Lender

The lenders' approach to AVS can influence the take up. There are instances where lenders provide insufficient information to the borrowers, or were perceived as having poorly trained front line staff who were unable to explain what AVS means and were unable to support these discussions with written information for the borrower to consider in their own time. Few lenders' include information about AVS on their websites and advisers cannot obtain a list of which lenders offer the schemes. Asset managers reported that some lenders who offer AVS schemes were nevertheless 'lukewarm' about the schemes, and one asset manager interpreted the failure of lenders to operate agreed systems to make referrals as a marker of the lenders' lack of commitment to the scheme.

Borrowers were not always fully appraised of the AVS intervention and lenders' information was not always adequate. Indeed one former borrowers' interpretation of her lenders' AVS scheme was incorrect, and several were unclear about what might happen to the shortfall debt once any sale was complete. One borrower who declined a lenders' support to sell did not trust his lender.

### *Incentivising borrowers*

An AVS scheme represents an incentivised voluntary sale, where the borrower is typically provided with support to sell by the provision of time, avoidance of litigation and fee assistance. However, a minority of lenders had introduced additional incentives to strengthen borrower commitment to the sale process, centring on reductions in the shortfall debts at completion. Asset managers thought lenders could go further to engage borrowers with AVS in this way.

Lenders handle shortfall debts resulting from sales where negative equity exists in various ways. Generally these debts are converted to unsecured loans and lenders routinely accept repayments at a level that borrowers can afford. However, some lenders write debts off, either partially or in their entirety depending on the sums involved "*if it's less than £10,000 it costs us more to collect"*. Other lenders insist no debts are ever written off. One lender waived any early redemption charges to "*see that we were being fair".* Another lender had a policy of freezing the anticipated shortfall debt at the outset of the process when the property was first valued, so any price reduction during the marketing period has no impact on the shortfall debt that borrowers must repay. Others leave any discussions relating to the shortfall entirely until after completion, while others leave discussions to the end but request a signed repayment agreement to release the charge so the sale can complete.

Asset managers, however, thought that lenders could go further to incentivise borrowers to see AVS through to completion by being upfront that they do not anticipate getting these shortfall debts repaid. In this way, overall losses can be minimised, if for example, the lenders suggested that the debt will be halved or substantially reduced if they sell via an AVS rather than possession, as lenders' overall losses are still likely to be lower.

> *"Lenders' policies on shortfall debts are different. Some will write off some or all, and this creates a motivation for the borrower to engage. With negative equity there is nothing in it for the borrower; it's the least favourable scenario."* Asset Manager

## Rationale for Assisted Voluntary Sales

Asset managers were reportedly offering lenders AVS services over ten years ago, but have found greater traction with the idea more recently. Almost all lenders responding to the survey who indicated that they operated a form of AVS had introduced the schemes recently, four in 2008 itself, three in 2009 and four in 2010. One additional lender suggested that a less formal scheme had been used for longer in some cases. However, this recession precipitated the greater use and advocacy of an AVS type approach to avoid possessions, alongside various innovative ways of managing arrears and possession.

The interviews with lenders identified that the motivations for lenders' current interest in, and adoption of, such approaches to supporting sales to avert possession were varied but included the need to:

- Satisfy regulatory inspection
- Reduce shortfall debts and costs for lenders
- Facilitate better (financial and emotional) outcomes for borrowers than were associated with possession

Lenders and asset managers were implicit that reputational risk and regulatory scrutiny were prompts for lenders adopting AVS type schemes. Doing *"the right thing"* by borrowers and *"Treating Customers Fairly"* were frequently cited. However, asset managers suggested, perhaps cynically, that lenders who had adopted schemes were sometimes, but by no means universally, *"lukewarm"* and had adopted AVS as another option in their toolkits to satisfy regulatory requirements but were uncommitted in practice. However, one asset manager reported that lenders considered the risk that the FSA might consider they were pressurising borrowers on to an AVS scheme as a barrier to AVS being more widely adopted.

The potential to achieve a higher sale price for the property when occupied compared to an empty possession property was a prime motivation for AVS as there was the potential to provide additional equity for borrowers, reduce shortfall debts for borrowers, and subsequently losses for lenders. Qualitatively, almost universally, respondents held that a repossessed property is "*tainted*" and commands a lower sale price in the market.

> *"Possession sales are often of vacant property, often boarded up, gardens overgrown, they look run down and in some cases they have been gutted. Bidders often smell blood and take advantage."* Lender

However, quantitatively lenders and asset managers found this hard to verify as valuations on properties are required to be made objectively based on the property and locational attributes regardless of occupation. Typically, analysis will compare prices achieved against the original valuations and some asset managers were claiming sales at 103/104 per cent of valuation for possessions. These sales of repossessed homes were 'normal' private treaty sales and were not sold at auction, despite the perception of borrowers and professionals outside of the mortgage industry. Asset managers reported that repossessed properties are very rarely disposed of through auction houses, as new forms of lending had led lenders to mimimise any losses made on disposing of assets.

> *"Industry never recovered from that,* [volume of possessions in 1990s]*, there is a stigma. Stopped using auctions routinely from 95/6 onwards. We got a lot more players in the lending markets, the subprime players entered the market and had people all over their policies and procedures. They had high LTVs lending, so taking losses on all* [repossessed] *cases, whereas historically lenders had* [had] *equity so* [they] *still got excess at auctions. As soon as subprime people got 100 per cent plus a loan they needed to sell for every last penny they could."* Asset Manager

However, some lenders and advisers cast doubt on the ability of a repossessed home to achieve the same value as an occupied sale. Asset managers did agree that repossessed properties were often easily identifiable in the street due to their poor condition, which may materially impact upon the valuation as well as the sale price. Nonetheless, the perception, whether borne out in analysis or not, that better returns were possible through selling with the borrower in occupation remains a powerful incentive to operate AVS type schemes by both borrowers and lenders.

Almost all participants were convinced of the merits of selling property occupied but recognised that borrowers with no equity have limited funds to pay agents and solicitors. Overcoming this hurdle to a sale was also an important driver for AVS.

> *"One reason borrowers don't try and sell is that they know they don't have equity, so they don't have the means to pay the estate agents' fees, solicitors' fees. A responsible lender would look at the property shortfall and see its smaller if they pay the fees now, than if repossession occurs later."* Asset Manager

Lenders also claimed that an important motivation for them adopting AVS was the potential for better outcomes for borrowers. Possession is a very public process, with notices of possession placed in the property's window to alert former borrowers where they can access any remaining possessions in the property. The ability to sell the home and move, and outwardly appear *"normal"* as one borrower described it, through a voluntary sale is significantly less stigmatising than possession and important to many borrowers.

The retention of equity or a reduction in shortfall debts is also beneficial for borrowers but the costs of possession, borne initially by the lender but passed on to the borrower, are also averted. Furthermore, some borrowers are unable to manage or fund the sales process due to stress or ill-health, which AVS, particularly through asset management companies, seeks to overcome.

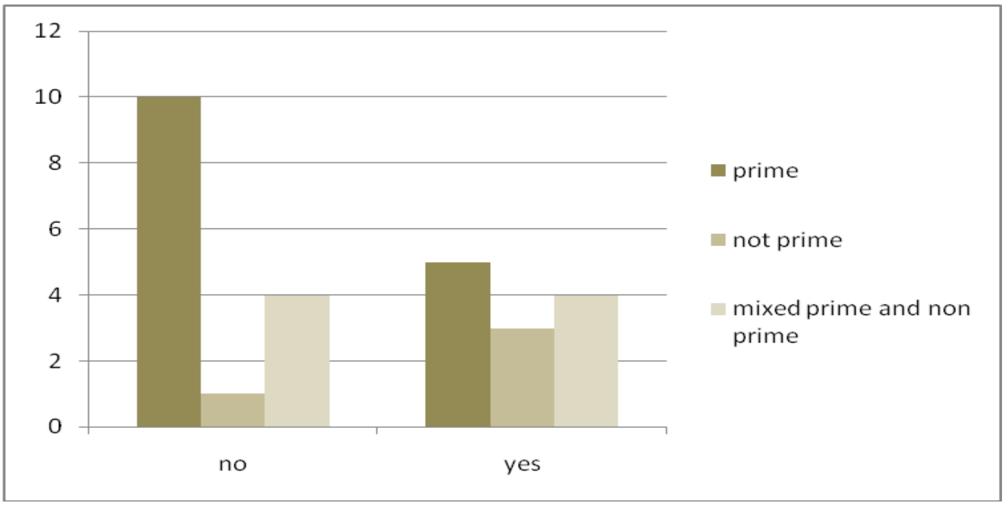
*"The biggest selling point is that all cases are managed for the customer and us by* [asset manager]*. A little bit of the burden is lifted from the customer and they don't have to go off and find estate agents. We can do that for them and not charge them any fees. Adding shortfall problem, that's also a big thing."* Lender

To what extent this is surpassed by the potential to reduce balance sheet losses for lenders is uncertain. However, lenders' pursuing better outcomes for borrowers through AVS can satisfy regulatory requirements and produce a mutually beneficial arrangement for lenders and borrowers.

*"They get assistance, freezing shortfalls, payment arrangement levels are at affordable levels, there is less stigma than repossession and they have the assistance of the asset manager holding their hand through the sale. For the lender the biggest* [benefit]*, although the asset manager would never really commit to this, is that we're looking at a reduced shortfall selling the house with the customer in it rather when the property is vacant. It's more about managing difficult cases off the books."* Lender

Picking up on this last point about managing defaulting accounts out of the market, the survey allowed any association between risk and the adoption of AVS to be identified. Lenders characterised their residential mortgage book as predominantly 'prime', 'non-prime' or 'mixed'. Figure 3.1 shows the type of loans on lenders' books by their adoption of an AVS scheme. The categories imprecisely reflect the level of risk on lenders books, but greater proportions of lenders who identified their institutions as non-prime or mixed reported that they had adopted an AVS type scheme.

**Figure 3.1 Number of lenders that operate an AVS scheme by type of residential mortgage book**




*Source: Lender survey*

However, further analysis was facilitated by the 17 lenders who provided details of the size of their residential loan book and the numbers of accounts that were in arrears. Figure 3.2 shows the range of the mean percentage of loan accounts with any arrears (not just three months or more) on their mortgage books for lenders reporting that they did or did not operate an AVS type scheme. From these data it is clear that the adoption of an AVS scheme is associated with lenders who have the greatest proportion of mortgage accounts in arrears. Of those lenders who supplied arrears information, the mean proportion of accounts with arrears for lenders who had *not* adopted an AVS scheme was 4.5 per cent (within a range of 1.8 per cent to 8.0 per cent). For lenders who *had* adopted an AVS scheme, the mean proportion of accounts in arrears was 19.8 per cent (within a much wider range of 1.32 per cent to 64.4 per cent).

**Figure 3.2 Percentage of mortgage loan accounts in arrears by lenders' adoption of an AVS type scheme**


*Source: Lender Survey (error bars represent the range of 95% of results)*

Only lenders who operated a form of AVS were interviewed. However, the lender survey asked all other lenders an open question regarding their reasons for not currently operating an AVS type scheme. Many cited low demand, as they had a small residential book or low arrears. Other lenders suggested that they already provided the small numbers of borrowers who wish to sell voluntarily time to do so, or agreed to short sales, and did not recognise much demand for additional services in this area. One lender cited that borrowers were unrealistic about the price and time it takes for the property to sell. These issues are discussed further in Chapter 4.

## Conclusion

This chapter has outlined the content of lenders' varied AVS type schemes, the extent of the use of these schemes in the market and the rationale behind lenders adopting AVS type schemes to affect potentially mutually beneficial outcomes for borrowers and lenders. However, the lender survey suggests that only between a fifth and a third of mortgages are held by lenders that operate some form of AVS scheme and lenders that operate such schemes have only a small proportion of defaulting borrowers enrolled in such schemes. The survey also reported that the majority of lenders responding to the survey did not anticipate the use of AVS rising between the latter half of 2010 and the first half of 2011, but interviews suggest that lenders are revising their processes and discussing introducing schemes with asset managers. The potential for an increased number of assisted sales to avoid possession may, therefore, be greater in the long term. Lenders benefit from using schemes to demonstrate that they are meeting regulatory requirements to Treat Customers Fairly and potentially avert losses arising from lower sale prices of repossessed property and the costs of litigation and handling the property while in their possession. Borrowers are relieved of the stigma and, in some instances, the burden and costs of selling the property, and can retain greater equity or reduce their shortfall debts if they have negative equity.

# Chapter 4
# The experiences and outcomes of Assisted Voluntary Sales

## Introduction

This chapter leads on from the discussion of the potential of AVS, and considers the experience of AVS, initially from the borrowers' point of view. The interviews with borrowers who had some involvement with AVS (applying, rejecting, in process or completed) suggest that other than an inability to pay the mortgage there was no one set of circumstances nor a single sequence of events by which they became involved with AVS. Interviews with borrowers (and lenders) also showed that a key aspect of the likely success of AVS was the extent to which borrowers accepted that their homeownership was unsustainable. Borrowers also provided evidence of a range of issues with the AVS process (for example, around the provision of information, second charges, valuations etc) as well as identifying some strengths and benefits (for example, shortfall certainty, controlled exit etc). This chapter elaborates these points. It also considers lenders' and advisers' experiences with AVS. Here there is a range of experience but lenders clearly face some issues including a concern that some borrowers can use the scheme to 'buy time' in the hope of being able to remain as owners.

## Borrowers' experiences of Assisted Voluntary Sales

### *Routes on to AVS*

As noted in Chapter 2 borrowers switched between various exit pathways. Borrowers arrived at an AVS in different ways too, some in a very straightforward manner and others by more complex routes. The examples below illustrate the range of routes.

> **Case 1 Forbearance to AVS via an adviser**
> A married couple paid their mortgage without difficulty for a number of years only defaulting when one partner became ill and the other had to provide care. They experienced arrears due to the 39 week SMI wait period. The lender accepted reduced payments and tolerated erratic payments. Once SMI was payable they continued to have a shortfall due to a second mortgage. The borrowers judged that their position would not change and they sought advice about exiting. After considering the options, the advice agency contacted the lender on their behalf about an assisted sale. They received a leaflet from the lender and then had more detailed discussions and agreed to the AVS scheme.
>
> **Case 2 AVS after other exit routes have been tried**
> A couple with three children divorced with the wife remaining in the property. Her ex-husband agreed to meet the mortgage payments. After a time the payments stopped and arrears are around £10k. The couple decided to put the house on the market themselves but there were no takers. The woman also considered Mortgage Rescue and approached the local authority but was told that the property was too large and too expensive for them to consider. The lender instituted compulsory possession proceedings and at the first hearing the judge gave them a further four weeks in which

to try and sell the property. After the court hearing the lender suggested that they could offer them the AVS scheme. The property is on the market under the scheme but as yet unsold.

**Case 3 AVS after other exit routes have been tried**

A couple who divorced three years ago experienced arrears on the property they still jointly own. An attempt in 2009 to sell voluntarily failed- even though they had some offers on the property-because one or both of them thought they were too low. In June 2010, their lender started possession proceedings which were adjourned at the hearing because the house was on the market. The lender objected to the adjournment; as the borrower noted *'they just decided that it's been long enough'*. Sometime following the adjournment the lender notified them about their AVS scheme: *'they told me what would happen, they'd take it off the market with the people we've got it with now and send someone round to value it ..and put it on with new agents'.* Some problems ensued with getting both parties to the mortgage to sign the forms required for AVS and the lender withdrew the offer of AVS on the grounds of a lack of trust. The AVS scheme has now been reinstated and the house is on the market with new agents.

In half of the cases using the AVS route, court proceedings had started but been adjourned. As seen in Table 2.1, a significant minority had tried other exit routes first, such as Mortgage Rescue and/or voluntary sale, and several other borrowers had considered but rejected these routes. For most borrowers a consideration of AVS came later rather than sooner (see below). Further the interviews with borrowers show that while in some cases lenders initiated the discussion about AVS, in other cases, borrowers approached lenders about the scheme, having been alerted to it by advisers or in one case having read about it on the internet. In four cases borrowers had approached lenders for help with an AVS but had been initially rejected before then being accepted onto the schemes. Some lenders had specific criteria, others considered supporting a sale on a case by case basis, but even when formal criteria existed it was difficult for some borrowers to access AVS.

*"...I had a person where there was nothing for this person but Assisted Voluntary Sale. I was speaking to one representative of the lender who said, 'No we can't consider that', I said , 'Why not?', and he said, 'Well, he has to maintain his payments', I said. 'Is Assisted Voluntary Sale a hardship option?', he said, 'Yes', I said, 'Well, he is in hardship, he can't afford to pay the mortgage so I'm having a hard time trying to understand why a hardship option is not available to someone who is in financial hardship', 'Well he has made no contribution to the mortgage', 'That's because he can't afford to because he is on JSA on £65 a week', I said, 'I've shown you the income and expenditure'... I phoned the same organisation the next day about the same person, got to speak to a different representative who said, 'mmm, yeah we can look at Assisted Voluntary Sale!'*. " Local authority representative

## Key issues in the implementation of AVS

Borrowers, lenders and advisers raised a number of issues that arose in implementing AVS and these are discussed below. In some cases all parties had a common view of the problems but in other cases their views diverged. The exploration of these issues below forms the basis for a later consideration of what might need to be addressed if AVS is to become more widely available and used.

### *The timing of AVS*

Evidence from the borrower interviews indicated that they often became aware of AVS quite late in the arrears process.

In one case arrears had been growing for three years and the respondent noted '*I think I would have done it* [AVS] *6- 12 months after arrears started'.* In another case, the borrower's arrears started in 2009 and in 2011 they went to an advice centre because they recognised the mortgage was unsustainable, despite some assistance via SMI. The lender who had an AVS scheme had not approached them about it so they took the initiative. In a third instance, a borrower's payment problems had started 14 months before AVS was suggested.

> *"I only wish they'd mentioned it last October. If it* [had been] *offered in the first couple of months it might have been too much to consider but 6 months down the line ...it could have been something I'd have been interested in at an earlier date".* Borrower, AVS

These comments align with information from lenders where the balance of their opinion was that AVS was a 'last resort', and some lenders were explicit about this in the criteria borrowers must satisfy for entry on the schemes (see Chapter 4). The lenders' survey showed that typically they offered AVS if the borrowers owed between 3 to 6 months payments. However, given partial payments and payment holidays negotiated under forbearance arrangements borrowers are likely to have been experiencing difficulties and trying to resolve them for a much longer period than six months. One lender did routinely inform early arrears cases that AVS was an option on the understanding that few at this stage were likely to take up the offer, but when the situation was identified as unsustainable the option of selling was not a great surprise.

### *Information on AVS*

Some borrowers found the information provided by lenders about AVS to be limited or primarily provided over the phone rather than in written form. In one case the borrowers noted:

> *"They didn't send me a pack, they just did it over the phone, but if someone tells you on the phone you forget the odd thing and if they put it in writing you can go over it".* Borrower, AVS

Even where lenders had made written information available there remained instances of aspects of the process being poorly understood, and borrowers with the same lender often had a different view of what the process entailed. Further, borrowers with detailed questions have reported finding it hard to receive satisfactory answers with some evidence that the AVS process is not yet well embedded in routine arrears management. For example, the interviews show some uncertainty amongst borrowers with the same lender about the treatment of shortfall debts and particularly the point at which they are frozen with some borrowers believing they were frozen at the level implied by the property valuation and other believing that the shortfall would be determined by the sale price. Some borrowers were also confused about the point at which interest charges were frozen while another noted that the lender had *"not spoken to me about the shortfall debts, I assume they'll be put in both our names".* Another borrower said of the shortfall liability: *'That's the only thing I'm not sure of'.* She had not been asked to sign up for repayments in advance of the sale or given any indication of the possible level of repayment. Others were unclear about which fees if any they had to meet (particularly the solicitor's fee).

In a small number of the interviews with lenders they acknowledged that the information they provided was not as good as it could be. One said:

> *"The negative aspect of the scheme is the customer understanding of the scheme. We're working internally on that as it's not the customers fault, but our staff communicating to them".* Lender

And an asset manager said of lenders in general*:*

> *"Anecdotally in the past, collections* [staff] *just offered, 'Do you want to go on AVS?', but the borrower does not know what is meant, but if it is explained to them properly it becomes more of an option. Nothing will work if people don't understand what is trying to be achieved".* Asset Manager

Few lenders provide information about AVS on their websites and to date advisers have not been able to obtain a list of all the lenders offering the scheme.

### *Communications between borrowers and lenders and agents acting for lenders*

The interviews with borrowers noted that once the AVS process was underway, communication between the borrower, estate agent, lender (or lenders asset manager) could be limited. In some cases the borrower simply accepted that was how it would be but in other cases they felt they were not being kept informed and were losing some control by not being a central part of key decisions. This could occur over the valuation and/or the selling price that the lender proposed to accept. In one case, a borrower had withdrawn from the AVS process because of a disagreement over the valuation (and inability to change the lender's proposal). In one case the borrower said:

> *"It didn't feel like it was my house anymore and I was not able to influence or control the process".* Borrower, AVS

In a number of other cases borrowers said that their lender had placed the management of the AVS process with an asset manager. Interviews with asset managers stressed the importance of good communications and full information. For example, two different asset managers said:

> *"First thing we do when we get a referral is a good half an hour, or hour conversations to get the trust, to make them understand that just because we're talking it doesn't mean the lender is going to leave them alone. We have to work together, we make it clear we all have to work together and that in that conversation we get to know what they want and what we can help with."* Asset Manager

> *"*[AVS] *only works if it's a transparent process; all stakeholders know what's going to happen and are committed."* Asset Manager

There were borrowers interviewed who were dealing with asset managers rather than their lender who had a different perspective. In one case the asset manager had phoned her to assure her that she would be kept informed. This did not happen and the borrower ended up dealing directly with the estate agent. She described the asset manager as:

> *"a waste of space and the lender's money..I did not feel assisted during the process."'*
> Borrower, AVS

In another case the borrower said:

> *"...not had much dealings with [asset management company], not met anyone from there…Not sure what their job is, what they can offer, they've not said what they can do or what they can't do."* Borrower, AVS

From the lenders' perspective there may be good reasons to contract out the delivery of AVS, either because the numbers are substantial and/or because property management and sales are not their core business. However, one asset manager suggested that while they have the expertise regarding selling and disposing of properties they are usually a *"business to business service"* dealing predominantly with possessions alone and that a different set of skills were required to manage the relationship with a resident borrower. Another asset manager noted that they had conducted extensive training of their front line staff and other borrowers reported good relations with their asset manager:

> "*They listened to me when I told them about local estate agents and were very happy to go with this valuation…really so far they've been very helpful'* . Borrower, AVS

Lenders also talked of having extensive information and training of staff but in practice not all borrowers received information packs and were unclear of what they had been told on the phone. A number of borrowers also noted that although they had signed the agreement to proceed with AVS this had not been incorporated with the arrears management information systems and processes. As a result they were still frequently contacted by their lender's call centres about keeping up their payments. They found this both unpleasant and unnecessary.

## *Property valuations*

The valuation is often a point of contention between the lender and/or asset manager and the borrower. All lenders and asset managers reported that borrowers tend to over value their homes, believing them to be closer to the values at the height of the boom rather than after three years of faltering markets.

> *"Main one is human nature as we think our house is worth more than it is."* Lender

> *"Human nature always wants highest price to clear the balance and selling relatively quick time. But we leave it up to* [asset manager], *they know the market, all down to the local markets and it's better having distance [between borrower and lender]."* Lender

Lenders and asset managers sometimes reported that borrowers not accepting the valuation was one reason why some borrows decline AVS. For one borrower interviewed this was the case and he achieved a private voluntary sale in excess of the valuation the asset manager and lender had proposed. Other former borrowers were unhappy with the valuations of their property and the final price achieved but did not have the energy to contest this issue with the lender or asset manager.

The inclusion of RICS valuations[10] to provide a foundation for decisions about the sale price, in addition to the market appraisals conducted by estate agents and online data regarding the attributes of the local housing market, are considered to be best practice by asset managers, and provide a challengeable basis for decision making about a property's worth. One lender that rarely met any upfront costs but paid fees for short sales, asked that borrowers met the cost of the RICS valuation themselves. Inclusion of the RICS valuation gives independent authority to decisions about the sale prices, but asking borrowers to meet upfront costs such as this, or energy performance certificates that are required to market a property, can deter borrowers from selling to avoid possession.

### *Managing second charge loans*

A crucial aspect of an AVS agreement is the resolution of the treatment of any second charges. Lenders in particular provided evidence that the negotiations required to release second charges from the property were problematic, despite the fact that the second charge lender is likely to receive nothing if the property goes to possession. Consequently, some lenders do not accept borrowers onto AVS where second charges on a property exist, while other lenders will allow AVS if the borrower has the consent of the second charge lender.

> *"It's an absolute nightmare at the moment. We have some* [second charge lenders] *that refuse point blank to remove their charge, so the property can't be sold. It's getting more prevalent in this market; we assure them we're marketing the property at current values."* Lender

[10] The RICS Valuation Standards use the international definition of valuation as "Market value is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion." RICS recognise that conducting valuations in declining markets poses a challenge but sets out standards by which valuations are undertaken in its Red Book. In asset manager based AVS schemes, the valuations are often conducted by RICS valuers and take into account the value that can be obtained in a reasonable period, say 12 weeks. This is in contrast to an estate agents' market appraisal which may be testing the market, and has no legal foundation.

### *AVS and relationship breakdown*

As with uncooperative second charge lenders not agreeing to a sale, former partners in relationship breakdown cases can also frustrate AVS by withholding consent to any sale. Some lenders found these cases problematic to manage and sometimes refused entry to any AVS scheme on this basis. Interviews with former borrowers and borrowers pursuing a range of voluntary exits, including AVS, illustrated these issues as the house became another source of conflict between former couples.

> *"At the time I didn't realise they mentioned it, but it had been my ex who had asked about it. They were after handing the keys back* [though]*, but I didn't want to hand the keys back as I want to come out of it as debt free as possible."* Borrower, voluntary sale

> "[Lender] *said they'd pay all the costs and put the house on the market and if it was sold any money that was left over I'd get. Basically they've been really, really good, bless them, they've tried everything. Well it's a good idea as the house isn't repossessed, but still it doesn't fix your housing needs, but it was the best they could do as I couldn't live here indefinitely not paying anything. But my husband refused to sign, so there was nothing* [the lender] *could do but go for repossession."* Borrower, repossession

### *Commitment to exiting per se and exiting by the AVS route*

A number of borrowers now exiting by the AVS route expressed the view that their preference would have been to sell themselves, usually because they believed they would have achieved a better price than under AVS. This of course cannot be substantiated but is one part of the explanation of why a number of borrowers try a voluntary sale before considering AVS late in the day and only then with some reluctance. For many, only when a voluntary sale failed (or MRS failed) were they attracted to AVS. By this stage most realised that they had no other option if they were to avoid possession.

> '*What other options have I got?* [I] *keep paying half but they're not satisfied with that'* and '*I don't want to sell, but I don't feel I've any other option I can go down at this stage'.* Borrower, AVS

Interviews with lenders and asset managers sometimes raised the issue that borrowers were willing to consider AVS only because it staved off possession action and 'bought them time', in the hope that they would be able to recover from their debts and continue as owner occupiers. In this respect, lenders and asset managers sometimes expressed some cynicism about borrowers' take up of the scheme, often drawing on previous experience of borrowers who said they were trying to sell. One lender said:

> '*You do wonder if they are really trying to sell it or whether it's a smokescreen to stay in the property, we like to see the contract and consider if it's genuine or an attempt to stave off the inevitable'.* Lender

While an asset manager noted:

> ' [There has been a] *problem with a lot of lenders in the past... Mrs Smith has said she's going to sell her house and usually it's a sop to the bank to keep them off her back'.*
> Asset Manager

However, interviews with borrowers offer very little support for this view, there only being two cases where a borrower and an adviser made this argument.

> *"Do still regard it as an absolute last resort, a good way to buy time. I have one or two clients in the property for 12 months without paying their mortgage. There has been no conclusion with some lenders, but I do warn people that in 6/7/12 months they will pull the rug."* Adviser

> *"Gives me six months grace, breathing space. Hopefully someone's not going to come along and buy it really quickly, as then I'd have to find somewhere really quickly."* Borrower, AVS

This is not to say that other borrowers relished AVS and the loss of their home but rather that in most instances there was a realisation that they could not continue as owners and then made a judgement about the best way to exit. One lender recognised the mindset of many borrowers noting that it could be difficult to 'volunteer' to give up your home and so the understandable reticence to marketing the property for sale even when it was to the borrowers best advantage.

> *"If someone is thinking about selling we try to get through to them that it'll be their best bet, but they don't want to lose it, don't want to move to another tenure. It's a difficult thing to get your head around, to do something positive to not let the axe fall…*[AVS offers] *a better price for the house than if it was sold by possession, so with the arrears as not as bad, they get more equity and lower shortfalls. But people think 'I'll be ok, something will happen'".* Lender

Lenders' reservation about borrowers' commitment to the scheme, is perhaps supported by the relatively low take up rates of AVS (amongst those offered it) and the drop-out rate amongst those who start the process but this needs to be framed more widely than just a poor commitment to exiting and is considered further below.

## *Opting out of AVS*

A number of borrowers who had started on AVS had not completed the process and had brought it to a close by giving voluntary possession. Typically this occurred when a borrower found alternative accommodation which they did not want to lose, particularly if they knew or believed they had no eligibility for re-housing via the local authority or wanted to exercise some choice over where they lived.

In one example, a borrower first put her house on the market when both she and her lender agreed that the mortgage was unsustainable. She failed to sell and was then accepted onto an AVS scheme. Shortly afterwards*:*

> *"A rented property came up and that were it. There was no point, the housing market was poor and I was still going to end up in debt…and I thought what was more important was me and my baby and where we'd be living. I didn't want to move to any old place. I wanted somewhere nice. I was aware housing associations might put you anywhere and I wanted to choose where I lived'*. Borrower, voluntary possession

Further, amongst those moving through the process, a small number said that, should they find accommodation before a sale had been agreed, they would hand back the keys rather than lose the alternative accommodation.

> "*Tomorrow I'm going to sign the form and pay the deposit* [on PRS accommodation]. *If the house is not sold* [by the time the tenancy was due to start] *I'll probably give it back to the lender"'.* Borrower, AVS

## *Maximising the chances of a successful AVS*

Whether operated in-house or through asset managers, borrowers' compliance with the sale process was closely monitored. This was to ensure that borrowers' commitment to the sale as a resolution to their mortgage debt was maintained and that they were not using the process to purely 'buy time'. Lenders and asset managers identified that borrowers' non-cooperation with the sale process was the biggest obstacle to the effective use of AVS.

Full co-operation with a lender over AVS requires a borrower to:

- Be reconciled to losing their home
- See the AVS process as in their best interests
- Understand the process and their obligations until completion
- Keep the home in reasonable order and facilitate viewings
- Work with their lender and/or asset managers to achieve the sale
- Provide documentation and respond to phone calls from agents, asset managers etc.
- Stay in the home until completion
- Maintain agreed payments to their lender.

The majority of lenders and asset managers perceived that if borrowers did lack adequate commitment to the sale it was shown by a lack of cooperation with the sales process. Examples of uncooperative behaviour given by lenders and asset managers included: not returning necessary documentation to lenders, asset managers, estate agents or solicitors; being unavailable to arrange viewings; providing negative feedback about property at viewings; or not agreeing to the original valuation or reductions in sale price, after negotiation, to achieve a sale. Lenders had instituted more formal criteria for entry on to their schemes to overcome these obstacles, trying to identify at the outset borrowers whose commitment was weaker. Asset managers reported that this had improved the retention rate of borrowers on the schemes, but they were constantly alert to signals from borrowers that might indicate that their resolve to sell the home had waned. Many of these problems were overcome through negotiation with the asset manager and in the last instance the lender but some lenders' consent to pursue AVS or a voluntary sale were occasionally withdrawn. One borrower reported that this had happened to him when an agreement to the sale price had stalled because of poor relations between him and his ex wife.

> *"Our experience is where it works best is where there is the fullest possible engagement with the lender and asset manager...there is a window to sell, but there is no real efforts to sell. But if they use it to stay in property and put people off, the motivation is not right, so it's not working. If the defaulting borrower is engaged, incentivised and want property to be sold then that's fine."* Asset Manager

> *"We'll discuss it, it could be 'I don't know what you're on about, we are cooperating' and we go back to the agent, there are two sides to every story…On an occasion to speak to the customer we do hear of agents complaining that customers are refusing to reduce the price, and when we talk to the customer we discover they'd only reduced the price three weeks ago. Some agents can be a bit more aggressive."* Lender

> *"We've had two occurrences where the customer was negative during the viewings, pointing out faults of the property, so we challenged that customer and explained 'we're taking a step back here from what we could be doing* [repossession] *to allow you to do this and it's not benefiting either people'. The arrears are going up, so we need an alternative strategy."* Lender

Not surprisingly, few of the borrowers interviewed indicated that they acted to reduce the likelihood of a sale. Two AVS borrowers indicated that their property was in poor condition or the external grounds not maintained and that the property looked shabby. Both argued there was little they could or should do about this. One of these borrowers was also looking at a relaxed interpretation of the agreement to remain in the house until a sale. Having secured an offer of suitable alternative accommodation she raised with the asset manager the possibility of taking the place while ensuring the impression that someone was still living in the property being sold.

Thus, the interviews showed a range of constraints on the AVS process: inadequate information and poor communication; second charge loans; former partners not agreeing to the sale; borrowers commitment to giving up their homes, but also the need to secure appropriate accommodation that leads some to terminate the AVS process and the failure to meet all the conditions associated with access to AVS. A number of these factors come together to make the process more difficult than it might be and help explain why some people do not accept AVS or opt out of the process part way through. However, respondents also spoke of the considerable advantages of AVS and the next section considers the benefits, primarily from the borrowers' perspective.

## The benefits of AVS

Borrowers who had joined lenders' AVS schemes were positive overall about the support they had received. In no particular order, lenders had provided borrowers with, or an expectation of, one or more of the following:

- The provision of upfront sale costs and other costs of selling
- Clarity about the shortfall and repayment arrangements
- Less stigma
- Less damage to credit rating
- Reduced stress
- Continuation of concessionary mortgage payments until completion
- Time to secure alternative accommodation arrangements
- Help with rental deposits (very infrequently) and
- Potentially, a better sale price.

Not all of these advantages adhere to every lender's scheme but the majority do. Even borrowers joining the scheme reluctantly, or feeling critical about certain aspects still identified the overall advantage of the scheme.

> *"AVS has given me and my family our life back. We could not have sold on our own as we had no money for the upfront fees."* Borrower, AVS
>
> *''Their offer includes paying the related sales fees, valuations, energy performance certificates, solicitors, estate agents costs. They paid the solicitors fee when I had the document witnessed, they're paying for everything although it's not free. It comes out of the mortgage balance. But I wouldn't have been able to meet these upfront fees as my income is so low.''* Borrower, AVS
>
> *"I felt like they had shown a real interest, but it felt like we'd been looked after. They have helped with the fees. It's just meant that we've been able to on the surface look like regular people who sell. There is not notice on the door saying repossession, it saves the embarrassment."* Borrower, AVS
>
> *"I think it's quite good in some ways that they deal with it and take the pressure off you."* Borrower, AVS

A borrower who had agreed a valuation price of £X with the estate agent and lender said: '*If they don't sell for X and only get X minus- something my shortfall will be the same.'* He had been told that the estate agent would lower the price every two weeks until there was a buyer but he is not bothered by this '*as the valuation rate is guaranteed on my account'.*

A borrower who had once considered handing the keys in highlighted the advantages of not doing so and of accepting AVS instead:

> '*It would go down as repossession and I would incur all the court costs...but I'm happy to stay in the house and not have repossession against my name on the records'*
> Borrower, AVS

## Conclusions

Borrowers reported significant benefits from being involved in the AVS process including support with fees for the selling process, the transfer of responsibility to professionals for the sale, certainty over shortfall arrangements and the likelihood of a higher sale price if they avoided a possession sale. They also noted some issues with the process. In particular that it was offered too late in their arrears history, that the information provided by some lenders was poor and that valuations were too low. Most borrowers were committed to the process but lenders had some reservations believing that borrowers could use the process to delay exit and noting that they could fail to co-operate fully with a sale.

# Chapter 5
# Housing, emotional and financial outcomes of leaving homeownership

## Introduction

This chapter considers a range of outcomes that result from an exit from homeownership because the mortgage was unsustainable. It focuses on all the forms of exit identified in Chapter 2 (voluntary possession, voluntary sale, Mortgage Rescue and Assisted Voluntary Sale). Because the number of cases in any one category is small and the research qualitative, the purpose is to explore the range of issues former borrowers faced. A key issue is whether or not, and how, a 'voluntary exit' affects acceptance for re-housing under the homelessness guidance. Other factors relate to the desirability of different forms of accommodation and the ease and speed of access. Some judgement of whether AVS appears to confer any particular advantages or difficulties in respect of housing options and outcomes is also considered. The chapter also examines the other financial and emotional outcomes of exiting homeownership by various routes.

## Housing outcomes

### *Tenure outcomes*

Table 5.1 sets out the final or anticipated tenure destinations of borrowers who have pursued different exits from homeownership.

Of the 24 interviewees who exited via a voluntary sale, voluntary possession or possession and whose tenure destinations were known, 12 entered the private rented sector, the seven Mortgage Rescue applicants naturally became social housing tenants, while six other former borrowers who exited homeownership via sales or possession moved to social housing. Four went to stay with family and friends (Table 5.1). Seven borrowers interviewed who exited by an AVS type scheme reported that they had moved to, or had been accepted for social housing, four to private rented housing, two planned to stay with family and friends and one was uncertain of their final tenure destination. Borrowers exiting by any of these routes showed a range of housing outcomes with no tenure 'barred' to any one exit route.

**Table 5.1 Known tenure destinations of former homeowners by exit routes**

| N=44 | Voluntary Sale | Voluntary Possession | Repossession | Mortgage Rescue Scheme | Assisted Voluntary Sale* |
|---|---|---|---|---|---|
| Social Housing | 3 | 2 | 1 | 7 | 7 |
| Private housing | 5 | 4 | 3 | - | 4 |
| Family and friends | 1 | 1 | 2 | - | 2 |
| Uncertain | 1 | - | 1 | - | 1 |
| Total | 10 | 7 | 7 | 7 | 14 |

*Source: Borrower interviews *Ten of the 14 borrowers enrolled on Assisted Voluntary Sales schemes had not completed a sale but anticipated the tenure of their next homes.*

Of the 12 households leaving via a voluntary sale, compulsory or voluntary possession that entered the private rented sector, eight were likely to have been in priority need due to the presence of dependent children or household members with ill-health or disability. Eight of these 12 households had approached the local authority for support with rehousing, although other borrowers expressly did not want social housing due to concerns about property type and/or location.

Of the three borrowers who had completed sales through AVS schemes, two had been offered social housing (the third did not apply). One subsequently rejected the offer of temporary housing as it was in an undesirable area. None of these former borrowers looked for housing until the sale had been agreed, which then entitled them to social housing, but the rapid speed at which the sale went through caused great stress for one client, principally because she remained un-reconciled to losing her home. Of those in the process of AVS, six had applied to, or been accepted for rehousing by, their local authority.

### *Issues in securing accommodation*

Several of the borrowers pursuing an Assisted Voluntary Sale who had made applications for local authority housing were advised to approach the local authority once the sale had been agreed, but the conversations with the housing departments suggested that their acceptance was generally unproblematic.

> *"*[The sale was] *not really 'voluntary' as I took them* [the local authority] *the court letter saying the house was being repossessed."* Borrower, AVS

> *"Pretty sure that with a scheme like this* [the borrowers] *do still qualify as priority need, its voluntary but not really. But as part of the scheme we do encourage them to seek money advice and to discuss their circumstances with the LA."* Lender

> "*I'd heard from the client that the council were not going to treat them as intentionally homeless, not to say* [the origins of the] *arrears maybe* [render them intentionally homeless]*, but not AVS".* Adviser

> *"Selling voluntarily is not a panacea, people are not wanting to be made homeless. But I'm not sure how the government housing works…AVS is an alternative to possession, so the outcome is the same as possession, certainly in the majority of cases repossession would be the next option."* Lender

Although reports that local authorities may negatively influence borrowers decisions with regard to AVS did exist.

> *"The client said her lender had already suggested* [AVS] *and she thought it sounded like the better option, but she was worried as the local authority had said she would be intentionally homeless, which added to the stress and anxiety. It's standard gate keeping."* Adviser

However, in contrast, borrowers exiting via the other routes noted a greater range of problems they had faced.

> *"If we were out of the property and we were homeless they would have a responsibility to find us a bed and breakfast or something, but as we were selling it, the case was downgraded as it was our responsibility. We had to stay in the property until we were evicted. Only if we were evicted would they be interested, as they don't have enough property."* Borrower, voluntary sale

> *"Because I get money when I sell this place, I will have to pay my own rent, so I won't be homeless. I sent in some evidence and the doctor got me a bit more priority and I've gone up two bands. But the* [adviser] *says they will appeal the decision further, but not until the house is sold."* Borrower, voluntary sale

> *"If I tried to sell the property and had nowhere else to go I was making myself homeless and I wouldn't be able to get help in those circumstances.* [Advice centre] *supported that decision, so they advised me to hand the keys back."* Borrower, voluntary possession

One lender noted in respect of compulsory possessions:

> *"A lot of the time, we have to do legal proceedings, customers ask us for evictions via the solicitors as we need to legally take possession to allow customers to get housing. Customers ask us for letters to the council, so they then can get rehoused. Sometimes we coordinate the repossession with when they are able to get a place."* Lender

## *Local authority responses to unsustainable homeownership*

The proportion of households that local authorities in England accepted as homeless because they lost their last settled home due to mortgage arrears has steadily declined from 4,880 households (five per cent of all acceptances) in 1999 to 1,050 households (two per cent) by 2010 (CLG Housing Statistics Live Table 774). There are no statistics available for the number of mortgage possessions in England alone, but these figures do suggest that the proportion of borrowers who experience possession that local authorities accept as homeless is likely to be very small. However, we know from the interviews that some former borrowers who left their home due to mortgage arrears entered social housing via the waiting list rather than the homelessness route. CORE data for 2010, collected by housing associations and local authorities for each new let, records that the previous tenure of 16,416 new general needs social housing tenants was homeownership, of which 3,801 households experienced possession or could not afford their mortgage. A further 2989 households moved from homeownership to social housing due to relationship breakdown and domestic violence and it is plausible that the circumstances of a portion of these included mortgage debt. Therefore social housing is a destination for a much greater volume of exiting homeowners than suggested by the homelessness statistics alone.

Local authority decision making in relation to access to housing is complex, based on legislation, guidance and case law. In these circumstances it was difficult to interpret the basis of local authority responses reported by borrowers and former borrowers. It appears that the predominant issue that prevented many former owners receiving assistance from the local authority was that they were not considered to be homeless or to be threatened with homelessness within 28 days, although this issue was intertwined with problems relating to the voluntary nature of some exits rendering borrowers responsible for their own situation and also the level of equity in the property. Supplementary Guidance to the Homelessness Code of Guidance was issued to local authorities regarding intentionality decisions and homeowners in mortgage arrears (CLG, 2009). This guidance specifically states that there should be no presumption of intentionality should a borrower in mortgage arrears voluntarily sell, voluntarily give possession, or refuse an offer under the Mortgage Rescue Scheme or Homeowner Mortgage Support scheme. Furthermore, a person can only be deemed intentionally homeless if:

- they deliberately did or failed to do anything in consequence of which the person ceases to occupy accommodation (or the likely result of which is that the person will be forced to leave accommodation);
- the accommodation is available for the person's occupation; and
- it would have been reasonable for the person to continue to occupy the accommodation.

Actions or failing to act in good faith because someone was unaware of the facts does not render a person intentionally homeless, neither does acting foolishly, imprudently or unreasonably, as long as these actions were also in good faith, as decision makers in local authorities are required to examine the underlying cause of the homelessness.

Local authorities reported that the question of intentionality for defaulting homeowners was rarely an issue, but would be considered if the person had, for example, been dismissed from their employment for misconduct. According to local authorities, voluntarily selling a home would not render a formal intentionality decision:

> *"...we have actually never found anybody intentionally homeless on a mortgage, it's not even considered to be honest... there may be the exceptional circumstance where you ask why on earth did you do that, but generally as the rule is people will have done that because they are in difficulty, we couldn't rule out that somebody had just decided to sell"* Local authority representative

However, as seen in the quotes above, some borrowers noted that they had received advice contrary to this.

Preventing homelessness is the primary duty of local authorities and most reported successful interventions to provide housing and debt advice and maintain people in homes by maximising income, reducing outgoings and lender forbearance. However, a tension exists between this prevention duty and the recognition that a situation is unsustainable. For example, authorities noted cases where they could not advise people to sell as they had to prevent homelessness or where a borrower could not relinquish the home until all avenues had been explored.

> *"We do get some who they may come to housing options thinking, 'Oh well, if the property gets repossessed, then I'd be interviewed for homelessness'…we have to make*

*them aware that, to be responsible, we have to be seen to be doing everything we can to prevent the homelessness in the first place- and that means trying to stop the repossession if possible…sometimes people have given up already, have to accept that, but* [they] *do run the risk of being considered intentionally homeless."* Local authority representative

Advisers had few cases relating specifically to the issue that a voluntary sale compromised borrowers' claims to be unintentionally homeless but it remained a live concern, and it was apparent that several borrowers had been advised that they would be deemed responsible for their own homelessness. In these instances the underlying cause of their impending homelessness or whether it was reasonable for the borrower to continue to occupy the home did not appear to have been investigated as borrowers were deterred from taking their enquiries further by making a formal application for assistance. Several advisers had, however, either challenged local authorities initial advice to borrowers, reminding them that each case was to be considered on its own merits as there should be no presumption of intentionality if someone surrendered or sold their home prior to any possession. They had sought written confirmation from local councils that any voluntary sale would not induce an intentionally homeless decision alone, although advisers accepted that the origins of the arrears could separately lead local authorities considering borrowers have contributed to their own predicament by over-borrowing, for example.

*"We set out all figures and options to them, but some people have struggled for so long they want to get out,* [but] *they wait to be repossessed as people are advised by the local authority that they would be found intentionally homeless if they were to sell the home."* Adviser

The intentionality guidance does also suggest however, that local authority decisions on homelessness should be made immediately prior to the surrender or sale of the property. The situation therefore, could be clearly unsustainable to all parties concerned, but the local authorities frequently require external validation that the situation is untenable, which consequently can lead lenders to incur more costs and borrowers more anguish and debt.  For example, one local authority in the North East suggested that:

*"We would consider at risk of homelessness as those where possession proceedings had commenced but before an order had been made by the court. We would accept someone as homeless or at risk of homelessness once the court had granted possession and all forbearance had been exhausted."* Local authority representative

Alternative forms of verification of the situation could be organised. One adviser in particular found borrowers trying to affect a resolution to their problems in advance of possession, to preserve their health and finances, was more problematic as it fell foul of this 'threatened within 28 days' rule under the homelessness legislation. Borrowers' experiences also reflected this predicament as they reported that they needed to have been evicted or close to eviction, or have sold or be close to completion, to be considered for rehousing by the local authorities. The adviser was seeking some preliminary assessments of cases locally to give some certainty for borrowers so they could make informed choices.

*"They shouldn't leave this volume of clients right to the wire, it creates more stress and prevents people utilising their own planning abilities to manage their own exit. We need clear and earlier decisions so clients can make controlled exits."* Adviser

Local authority responses had impacted upon some borrowers' decisions about their exit from homeownership, which may not necessarily have been to their advantage by being unable to limit their shortfall debts or not helping them obtain the optimum housing for their needs.

A minority of former borrowers had not sought assistance from the local authority as they were not interested in social housing and wanted more choice over the property and location of their next home. Local authorities recognised that the areas and stigma attached to some of their stock means not all borrowers would want social housing and that some will choose private renting.

On the basis of the information available to us, it is apparent that borrowers pursuing a sale though an Assisted Voluntary Sale scheme have been comparatively more successful in getting positive responses from local authorities than borrowers pursuing other exits. Indeed, one local authority housing options staff member did suggest that borrowers who voluntarily sell their home to avoid arrears were more likely to receive a positive reception if they are part of a lenders formal scheme or had been through an advice centre, but that unsupported borrowers selling independently may find it harder to demonstrate that they had no other alternatives and that possession was inevitable. AVS can help demonstrate to local authorities that the borrower has acted in *"good faith".*

*"..Because we can show that we took all reasonable measures to get to the assisted voluntary sale and that the assisted voluntary sale was the only option…but it doesn't put a negative turn on any future housing they might need, if anything it backs them up."* Local authority representative

This might suggest that local authorities and advisers could assist by advising borrowers whose mortgage looked unsustainable to approach their lenders if they ran an AVS scheme. However they reported some difficulty in providing such advice to borrowers as they are unclear about which lenders offer AVS and the content of their schemes. Several advisers and local authorities wished to see lenders offer a liaison person as they did for the Mortgage Rescue 'champions'.

*"Ideally, what I would like would be clear information on what they offer, if at all possible joined up information…someone who understands it to contact…it would help if it was linked into to other services, because they [the lenders] usually want to know is what we usually want to know, that the person has tried everything else and that they are still trying, if they are not or can't show that they are, they appear to be less likely to go with it"* Local authority representative

## *Rehousing and AVS*

Several borrowers who gave voluntary possession had been enrolled initially on Assisted Voluntary Sales schemes. Some had started to seek accommodation and found it sooner than they had thought would be the case. They noted that they were reluctant to turn down this alternative accommodation, in the social and private rented sectors, even though they had not yet achieved a sale. As a result they gave voluntary possession. AVS therefore resolves the borrowers' debt problems, or goes a long way to resolving them, but does little to address important borrower concerns regarding their rehousing. This is a particular downside of AVS, recognised by borrowers and local authorities in that once a sale is agreed there is often little time to organise alternative accommodation, as local authorities are unable to line up accommodation in advance.

> *"That period once the house is sold, there's still* [only] *a short period of time to find somewhere else. It was a relief* [the lender] *taking* [the sale] *over, but I wanted to take control over where I was living."* Borrower, voluntary possession

Providing reassurance, information about, signposting or links to rehousing opportunities may, therefore, increase the persistence of borrowers on AVS schemes. Asset managers reported clients interested in incorporating the provision of rental deposits and rent in advance into their schemes. Alternatively, one adviser suggested that AVS schemes could be linked into Housing Options team services.

> *"AVS should be linked to initiatives with local council applications to homelessness services. If you go through AVS then we'll help you out with a bond in the PRS, so it's linked to support and assistance, the whole package. Section 55[11] notices are sent but nothing is done until 28 days, there's no duty until within 28 days, but through housing options there should be something that offers them the next steps to take. With the changes in social housing they'll discharge their duty into the PRS, so that will be people's destination anyway. So the quicker and earlier to intervene the better."* Adviser

> *"Obviously if people came to us and they were going through AVS, they would be encouraged to use that money to rent privately, that's what we would be doing…they can always make a homelessness application, we can't refuse that, but we would say that it is always better to choose where you live, rather than going to a bed and breakfast, temporary accommodation and then end up where you really don't want to live."* Local authority representative

Several local authority representatives also noted that lenders have an interest in moving borrowers out of unsustainable loans but are not responsible for the costs of rehousing. These authorities considered the provision of deposits and rent in advance to access the private rented sector would be a small price to pay for lenders to increase the effectiveness of their schemes and minimise pressure on over-stretched public housing services.

### *Satisfaction with private renting*

Of the households now in the private rented sector, at least four would still prefer to have the additional security and affordable rents offered by social housing. However, several borrowers in the private rented sector were satisfied with their new housing, had entered private sector accommodation of superior quality and had costs that were more affordable than their previous

[11] Lenders are required by law to notify local authorities; using Section 55 notices that they intend to seek possession of a person's home.

owner-occupied homes and in the location of their choice. Former borrowers recognised that their properties had been in poor condition due to long standing financial problems and were pleased to enter homes in better condition. Some former borrowers had been on high interest rates and/or had been recent purchasers where their debt burden remained high, so private renting in some instances offered former borrowers accommodation at lower monthly costs than their mortgage payments. Moreover, other former borrowers became eligible for housing benefit on a change of tenure, assistance that had eluded them in homeownership, although a minority questioned the value for money of public subsidy being used to pay housing benefit at a higher level than their mortgage payments.

One point of concern about the private rented sector was the lack of security of tenure. Although they expressed great relief at not having the constant anxieties over the mortgage and possession hanging over them, the prospect of having to move again remained a concern.

> *"I would have preferred social housing as you get a tenancy for life. Instead of when a landlord changes his mind, has fallen out with his girlfriend and wants to move back in."* Borrower, repossession

> "*The landlord says he has no intention of selling until he retires and said we could stay until my daughter leaves school. But there is still that thing that he could sell. In private renting you never feel 100 per cent secure, so I am still looking for a housing association as they can't do that."* Borrower, voluntary possession

There was no one particular exit route that led to households being more or less dissatisfied with the private rented sector.

## The emotional and health impacts of resolving unsustainable homeownership

The emotional strain of resolving the mortgage debt issues was lessened for many borrowers once they entered a lender's Assisted Voluntary Sales scheme. Several borrowers considered that undertaking the sales process themselves was a burden they could not face due to stress, ill-health or other different priorities and they were pleased AVS allowed them to avoid or limit this necessity. The borrower interviews suggested that AVS could also be potentially beneficial in limiting emotional damage, as further strain was averted by avoiding possession. AVS was also reported in more positive terms when AVS provided an organised exit in which borrowers could retain some control, paying reduced payments while saving for a rental deposit and taking time to research options for and organise alternative accommodation.

> *"Taken a lot of pressure out of it, otherwise it would have been repossessed, and my illness is stress related, but again it's taken off the pressure and been very helpful."* Borrower, AVS

A minority found the sale moved beyond their control and felt they had been offered no further support over and above if they had undertaken the sale themselves. For example, borrowers reported further stress or negative thoughts when they lost control of the speed of sale or the value at which the property was sold.

Stress, emotional and health problems are a well documented aspect of living with and resolving unsustainable homeownership. Of the 30 former borrowers who left homeownership via possession, voluntary sale, voluntary possession and Mortgage Rescue, in addition to any pre-existing physical health problems, eight had stress related health problems: stress induced ill-health (five) or pre-existing mental health problems (three) that were reportedly exacerbated by the anxieties surrounding their mortgage debts. In three of these cases the former borrowers' problems were compounded as their stress related health problems adversely impacted upon their employment inhibiting their ability to resolve their arrears problems. One of the former borrowers had been suicidal. Again the interviews were not a representative sample, but it was notable that none of the borrowers who had entered an AVS scheme and only one who had conducted a voluntary sale reported stress induced or aggravated ill-health, despite these borrowers or former borrowers representing half of the borrower interviews. Whether they had been stressed before entering the AVS scheme was not always clear but is likely in the instances where borrowers reported that they valued AVS because it removed the stress of the selling process and provided a structure of greater certainty.

Although we are unable to verify the extent of these issues, one adviser suggested that 60-70 per cent of her clients were in receipt of some form of medication for what she termed "*recession depression"* and that in one day alone she had three borrowers express suicidal feelings, which she had not previously encountered. Over and above these cases where former borrowers had reported physical and mental ill-health as a consequence of the anxieties they faced over the mortgage, were additional borrowers who expressly reported acute stress.

> *"The stress of the business failing and more so the repossession have aggravated it a lot."* Borrower, repossession

> *"I was diagnosed with reactive depression, it was the redundancy, everything and it became a bottomless spiral…they said it'll take 12 months before I start to feel better."* Borrower, Mortgage Rescue

> *"The biggest thing that doesn't get talked about is the emotional effect….however hard I worked I felt a complete and utter failure".* Borrower, Mortgage Rescue

Previous studies have found that there are adverse health impacts of mortgage possession. Pevalin (2009) found that mortgage possession is associated with an increased risk of common mental illness, including in the years leading up to the possession, that is not apparent for renters evicted from their homes. Nettleton & Burrows (1998, 2000) found that mortgage debt induces poor health outcomes and an increase in GP attendance especially amongst men and that the emotional intensity of the experience impacts directly and indirectly on health due to the protracted and uncertain processes that lead to possession. The former borrower respondents reflected these previous findings, that the extended period of mortgage debt threatening the households' security in the home has for significant proportion of borrowers had an adverse impact on their health. In addition, a minority of former borrowers were concerned about the impact of their housing instability and change on children, especially if there were other underlying health or behavioural problems.

For these reasons, former borrowers spoke of the *"huge relief"* when their mortgage situation was brought to a close, although some former borrowers' anxieties continued in relation to their shortfall debts which is discussed in the following section.

> *"When the sale went through, we woke up on that Friday and all those worries were gone."* Borrower, Mortgage Rescue

> "[handing keys back] *was a relief. It was too much. I was getting poorly, really stressed."* Borrower, voluntary possession

However, borrowers wished to avoid the public exposure of possession, which occurs through the court process but also from the notices affixed in the property's windows once the lender obtains possession. The avoidance of such exposure was cited as an important motivation for borrowers seeking alternative exit routes to possession. Wilkinson and Pickett (2009) note that public shame and loss of status contributes to stress and anxieties, and the loss of homeownership through possession can be understood in this way.

> *"It wasn't very nice. A bit humiliating. People would say to me 'sorry to hear about the house'. I think that was unnecessary. Advertising to everybody your financial difficulties. It doesn't advantage anyone and the kids did get a hard time."* Borrower, voluntary possession

## Financial impact of AVS

Limiting exposure to shortfall debts and securing support for the costs of selling the home were important motivations for borrowers' participation in AVS. Qualitatively it is hard to discern how well the finances of borrowers who chose to exit through AVS were protected following completion of an AVS in comparison to those who were subject to possession. Beneficial outcomes of AVS are hard to estimate against the counterfactual, not least because there is a range of ways in which financial hardship can be addressed including bankruptcy, repayment plans, Individual Voluntary Agreements, or simply the failure of a lender to institute recovery processes. These different schemes are also characterised by different (and a different balance of) liabilities. There are some observations to make however that suggests that borrowers using AVS were *anticipating* a more favourable outcome.

As discussed borrowers were certainly persuaded that AVS could deliver a better sale price, although several were unhappy with the valuations of their homes. Even if the price was improved, some were still facing substantial shortfall debts once their sale completes (See Table 5.2).

Table 5.2 shows the extent of former borrowers' equity in the property and the size of any actual or estimated shortfalls. Of the 44 borrowers and former borrowers interviewed, 16 cases had some equity in the property, or the sale cleared their mortgage debt but without a surplus. This outcome was found across all exit routes bar voluntary possession. In the remaining cases former borrowers were left with, or were anticipating, substantial shortfall debts following the sale of their home, again across all exit routes.

**Table 5.2 Size of shortfall debts arising from sale of former mortgaged properties*.**

| N=43** | Voluntary Sale | Voluntary Possession | Repossession | Mortgage Rescue Scheme | Assisted Voluntary Sale | Total |
|---|---|---|---|---|---|---|
| Positive or no equity | 7 | 0 | 2 | 3 | 4 | 16 |
| Shortfall £0-20,000 | 3 | 3 | 0 | 2 | 4 | 12 |
| £21-40,000 | 0 | 3 | 3 | 2 | 1 | 9 |
| £40,000 plus | 0 | 1 | 1 | 0 | 4 | 6 |
| Total | 10 | 7 | 6 | 7 | 13 | 43 |

*Source: Former Borrower interviews*
**Note: Where sales were incomplete, or lenders had not notified former borrowers of the sale price of a repossessed property, shortfall debts are estimated*
***One borrower did not provide information on the level of equity in their property.*

As few borrowers had completed their AVS sales, it was hard to establish whether AVS borrowers are more or less likely to be able to secure write offs of these shortfall debts or whether the repayments were more affordable compared to other shortfall debts. One lender agrees to freeze the level of shortfall debt based on the valuation at the outset of the AVS sale, so whether the property is sold at much less was immaterial to the borrower. This may incentivise borrowers to stick with AVS and provide some welcome certainty to the opaqueness of how lenders approach shortfall debts, although not all borrowers fully understood this agreement. However, other lenders (not offering AVS or not to all their defaulters) may write off equivalent sums, or even greater, in relation to shortfall debts. How effective, therefore, this lenders' approach is in securing better outcomes for borrowers rather than effecting a less conflicting – should borrowers be resistant to reducing the sale price - and speedy sale and resolution of the mortgage account for the lenders remains uncertain.

The falling housing market has been an important contributor to former borrowers' debts, but was combined with borrowers remortgaging and obtaining additional secured loans. Furthermore, several former borrowers also had additional borrowing on unsecured loans and credit cards. In one case, where the borrower had undertaken a voluntary sale, these unsecured debts amounted to around £75,000. Another had substantial credit card debts as they had prioritised paying the mortgage to remain in the home, but had used credit in the first instance rather than negotiate early forbearance with the lender.

Five of the former borrowers were in the process of, or considering, going bankrupt because of the size of their debt and their limited means of servicing these now unsecured loans. Again, bankruptcy could be associated with any of the exit routes.

> *"Under the contract I do owe them that money, although it's no fault of my own, it's the market. I guess they'll file against me and I'll go bankrupt or IVA, but it's all means*

*tested. It doesn't take rocket science to see I can't afford it and that I'll go bankrupt or get an IVA. They must be doing loads of these."* Borrower, AVS

One former borrower had been successful in agreeing a full and final settlement of the debt in receipt of 10 per cent of the total balance, so her £23,000 short fall debt was reduced to £2,300, which her family paid on her behalf. More commonly, other former borrowers interviewed had not been able to secure any write off of the shortfall debts, but lenders had agreed in some instances to low repayments based on borrowers' new circumstances, or even token repayments of £1 per month, subject to an annual appraisal of their financial circumstances should they be able to repay more in the future. In five cases of possession (compulsory or voluntary) lenders had not informed former borrowers the value that the property had sold for, often some months after the sale completed and despite requests from the former borrowers to be informed. This left former borrowers frustrated and anxious as the debt problem remained unresolved. The process and speed of communicating the sale price and balance seems surer in respect of AVS.

In three of the eight cases where relationship breakdown had prompted the mortgage arrears problems, the resident partners were left to liaise with the lenders regarding substantial arrears and debts alone. They felt that the lenders took insufficient action to chase their former partners about the debts for which they are jointly responsible.

*"It's annoying as I've always been really good with money. No-one will approach him* [ex-partner]. [The lender] *will only approach me as I'm the one that's going to pay."* Borrower, voluntary sale

As mentioned, some borrowers also found private rents cheaper than some of the high interest loans they had previously paid, although this was not always the case. However, the receipt of housing benefit in the rented sector was consistently positive, compared to the limited financial support for homeowners, which was noted by several former borrowers.

*"Miles better financially, get rent rebate, it pays half the rent for us. It's sustainable; we get by every week, every month."* Borrower, Mortgage Rescue

The limited damage to borrowers' credit rating by avoiding having the home possessed was important to many people who chose AVS. This could secure better outcomes in the long run such as access to credit, or services that rely on credit scoring such as parts of the private rented sector.

### *Impacts for AVS on lenders' business*

Overall there was no consensus regarding the business case for Assisted Voluntary Sales. Some lenders and asset managers were very positive about the impact of AVS on the 'bottom line' in addition to any reputational or regulatory benefits that may also accrue from supporting borrowers to sell rather than moving to possession. However, other lenders and asset managers were ambivalent at best, seeing substantial challenges ahead before AVS could reap rewards.

*"Very few positives for* [lenders]. *In reality any theoretical savings , such as the costs of litigation when not in a repossession and theoretically getting more for occupied*

*property, changing locks, draining rads, getting a bit more as it's in a better condition…but few people get through to fruition, so they're not better off by running it at all."* Asset Manager

*"Lenders reluctant to put anything but a positive spin, given it's in FSA's spotlight."* Asset Manager

*"It's only ever a small percentage* [of borrowers] *who want to go through this process. Can't force customers down this route. It's resource intensive, it's expensive for the lender, but we prefer to do it in certain cases as its better for the customers and can evidence slightly reduced shortfalls…From a commercial focus it's slightly different…commercially it doesn't stack up."* Lender

*"From our perspective if a lender understands it, big win for lenders, if they took 5 minutes to look at repossessions and the losses they'd soon work it for themselves."* Asset Manager

*"Overall we're finding we've gained from doing it. If we're not running AVS, we're taking repossession and that generates less money for the customers and ourselves."* Lender

## Conclusion

Borrowers who exited due to unsustainable homeownership accessed social housing and private renting, irrespective of the exit route.

Many former borrowers approached local authorities for housing assistance. Some were successfully rehoused, but several other former borrowers were deterred as they were not considered homeless as they were not at, or within 28 days of, eviction, or local authorities had suggested that if they voluntarily sold their home their homelessness would be their responsibility. Advisers were often able to successfully challenge such 'gate-keeping' practices, but several borrowers were influenced by the information they had received from the local authority and swapped their house search activities to the private rented sector or waited to be repossessed. Advisers remain concerned about forms of voluntary exit and intentionality but there is a suggestion that the AVS route may bring some benefits in terms of acceptance for re-housing. There is a tension for all those exiting via voluntary sale between the unpredictability of the timing of the sale process and the availability of alternative accommodation. This can lead borrowers to abort a sale in favour of voluntary possession in order to secure their preferred accommodation.

It was not possible to determine how different exit routes related to the sale prices achieved. It was, however clear that one attractive feature of AVS for borrowers was their perception that it was likely to result in higher sale prices and so lower shortfalls.

More former borrowers who sold their homes covered their debts or released equity from their homes than borrowers leaving homeownership via other routes, but other borrowers, including some who sold, remained with significant shortfall debts. The provision of housing benefit in the rented sector meant many former borrowers were better placed financially, even when the payments were greater than their previous mortgage. The emotional strain of mortgage debt was immense and nearly a fifth of former borrowers reported stress induced or aggravated mental health problems, although few borrowers who undertook voluntary sales or Assisted Voluntary Sales experienced any such health problems, although their situation remained highly pressured. Many lenders were positive about the benefits AVS type schemes had brought them and their customers, but other lenders, even when they offer AVS, remain uncertain about the business case for AVS.

# Chapter 6
# What role do advice services play?

## Introduction

This penultimate chapter considers the present and potential role of advice services in advising borrowers on the sustainability of homeownership, and in particular, on their role in borrower decisions on Assisted Voluntary Sales. The chapter examines access to advice, before discussing the role of advice for AVS and possible improvements required in this area. It brings together several issues mentioned earlier in the report but under a more coherent consideration of the role of advice.

### Accessing advice

A number of the local authority and third sector advisers, and to a lesser extent also lenders, in the study commented on the lack of availability of independent financial advice for borrowers nationally. After a period of significant support and investment, this situation was felt to be worsening with present government cut-backs and the number of clients requiring assistance growing. A number of the advice agencies had already been subject to quite considerable reductions in their service levels and several borrowers reported opportunities to access advice closing to them.

> *"My team specialise in housing and priority debts but there are very few places a client can get structured and co-ordinated advice*. [We represent] *the only source of that type of advice in the county…Whatever has been the triggers for the financial shock, they need welfare, debts, all housing options advice, it needs to be cogent and coherent strategy so they can make a controlled exit or they can pursue the defence of their home. That type of advice is in really really short supply. 60-70% of our clients have a stress related problem with ill- health…it's an enormous relief getting someone to put it all together for them."* Adviser

> *"We always tell them to seek independent advice, but we don't get an awful lot of third parties contacting us. We get customers frequently saying that it'll take 4 weeks to get a CAB appointment, so we direct them to the CML websites and other free advice, they do get a little bit of help but mostly it's at the eviction or solicitors stages, when customers panic."* Lender

More generally, there were concerns that the level of knowledge around advice, as well as ability to use the internet, differed between borrowers. In this study, many people had accessed Citizens Advice, Shelter or local authority advice services, but typically borrowers accessed this help once they had been in arrears for some time or were imminently facing possession. This could make it much more difficult to negotiate on behalf of the borrower. A minority of borrowers did not seem to have been aware of the advice sector or at least not until quite late in the process. Whilst most people appeared comfortable with accessing this type of help, a minority were reluctant to do so preferring to try and sort out the situation alone.

*"I've asked them to write off the debt but they said they won't, so I'm going to see someone next week. I didn't realise there were people who could help, and I'm not stupid, but I didn't know."* Borrower, voluntary possession

*"Some borrowers have their heads in the sand, they think it will go away for some clients and there is little dialogue with the lender. By that time the lenders have given up and sought repossession. Lenders can then be a little bit closed off."* Adviser

Advisers pointed out that borrowers will approach them with very different levels of information and insight into their situation, and some will require more guidance than others. Those with access to the internet may already have looked into a number of options, whilst others will have very little, if no information, about their options.

*"People like that don't have the intellectual capacity to realise what level of debt they're getting into. They were responsible tenants, but now their debts have now snowballed and they don't understand that after interest only for 25 years they still owe £100,000."* Adviser

Overall, most borrowers who had accessed advice had been very satisfied with the service they had received. Some had clearly been supported over time by a named adviser and this was much appreciated by borrowers. Others had received clear and useful advice at a crucial point in time. A minority of borrowers did however report that they had received poor advice, indicating that advice was not uniformly meeting the required standards.

*"Last year I spent about a week speaking to everyone to try and save the house but I was banging my head against a brick wall. I just have to sell the house and be done. It would've been nice if there was just someone who could come round and go through all the options with me, but it's never happened and it's coming to an end now."* Borrower, AVS

The central importance of the availability of *independent* advice was also stressed by some respondents.

## Advice concerning AVS

The advice sector has a role to play in supporting borrowers to exit homeownership and affect the best outcomes possible. Ultimately, it is the borrowers' (and lenders') decision when and how they exit and what track out of homeownership they pursue. Nonetheless, there are various aspects of the process from deciding to leave, to establishing a new home, where advisers can play an important role:

- Supporting borrowers to recognise when the situation is unsustainable in order to help them reconcile themselves to changing tenure
- Providing advice on the timing of any exit in terms of the consequences for health, wealth, lender support and/or rehousing opportunities
- Obtaining support from the lender for any voluntary sale, including AVS

- Explaining to borrowers the terms and conditions and obligations of lenders' AVS
- Ensuring borrowers are aware of how valuations of property are made – in particular the difference between a RICS valuation and an estate agents market appraisal
- Ensuring lenders make borrowers aware of how any anticipated shortfall debt will be managed
- Advising borrowers in relation to the size and terms of repayment of any shortfall debts
- Supporting borrowers to seek the cooperation of any third party interests in the mortgage- e.g. former partners or second charge lenders
- Ensuring borrowers are aware of rehousing options available through local authority access to social housing (waiting list or homelessness route), or in the private rented sector (with or without any support from Housing Options or lenders in terms of rent deposits and rent in advance)
- Monitor local authorities rehousing decisions on behalf of borrowers as appropriate
- Supporting borrowers to maximise income post-sale and resolve overhang debts.

Advisers set out the benefits and consequences of the options available for the borrower to decide to remain in the home or pursue an exit from homeownership. Discussing a range of factors relating to borrowers ability to cope with further pressure, their financial prospects and the terms and consequences of any lender forbearance offered may all influence the borrowers' decisions. However, there is a tension between an adviser knowing only one course of action is appropriate and the borrower accepting this. These were *"difficult conversations"* but important in ensuring some borrower commitment, albeit often with regret and reticence, to the exits pursued.

Lenders stressed that the independent role of financial/debt advisers was very valuable in terms of helping people to consider whether or not their mortgage, and ultimately homeownership, was sustainable. It was thought that this type of advice would be more easily accepted from an independent source than the lender:

> *"We've been working with* [independent financial and debt advice company] *and the feedback has been really great.* [Borrowers] *prioritising the mortgage so it gets paid first, but where the customer is still in a deficit position it is great if the advice from a stranger is 'you need to exit now, talk to your lender'. Also I think we need them to be more consistent and stronger 'this is the circumstances, we need to be getting you out of the mortgage market.'"* Lender
>
> *"Advice need to be stronger about exiting, leaving the mortgage market rather than going back to talk to lender and go and put that in people's minds, rather than people will be more open when lender says it as they'd think 'they* [the lender] *would say that'."* Lender

Lenders generally felt that there was an important role for advice workers in terms of helping borrowers understand AVS schemes, appraise this as an option against other options, and also to be realistic with what this was likely to deliver (for example, being realistic about property valuations). At least one lender used a signed declaration where borrowers made a commitment to receiving advice. In other schemes, independent advice was not a requirement of the scheme but they strongly recommended that borrowers sought advice before committing to the scheme.

> *"As much as we can we refer customers to get proper advice. I think they are definitely a role, very much - get proper advice and thoroughly understand the scheme, like in MRS, see solicitors, make sure they understand the voluntary sale and stuff, the implications of selling."* Lender

> *"All customers for AVS are recommended to seek independent advice. If a customer rings expressing an interest in AVS they are advised to get independent advice at the outset. Our compliance team were very clear about this as ultimately it's a big decision, but a big decision that the customer has to make themselves."* Lender

However, it was clear that advisers, as well as local authority representatives, felt that they had limited information on the role and operation of AVS schemes at present. There was a clear call for lenders to provide greater clarity about which institutions offered AVS and the content of the schemes, as advisers and local authorities had previously failed in obtaining this information. A couple of local authority housing option interviewees had not heard of AVS at all, others had a patchwork of information gleaned from their negotiations with lenders on behalf of individual borrowers.

The advice sector identified a need for basic information on which lenders provided AVS and an overview of each scheme in terms of eligibility, length of time given to sell a house, whether fees are paid and so on. Ideally, they also requested a named contact at each lender, similar to the mortgage champion for Mortgage Rescue, who could answer borrower queries.

> *"It would actually be helpful to know which lenders will look at it, as it's very hit or miss…who will consider AVS and if not why…"* Local authority representative

> *"The CML sent us a list of all the mortgage champions and their contact details for Mortgage Rescue which was a Godsend because it means you can get to the person you need to speak to, if we could have a similar sort of outcome for AVS…that would be very useful…"* Local authority representative

Securing debt advice was also critical for the longer term outcomes of former borrowers, as a large proportion of people leave homeownership in the current market with substantial shortfall debts, including those who leave via an AVS scheme. Detailed advice is essential regarding the negotiation of loan repayments with the lender or other creditors, securing write offs of all or partial sums of shortfall debts, informing former borrowers of bankruptcy procedures and Individual Voluntary Arrangements. Furthermore, advice on the management of the debt overhang can influence the longer term outcomes for former borrowers and advisers have an important role here with often complex legislation and with conducting negotiations with creditors.

The advisers also have an important role in securing better outcomes for borrowers in terms of rehousing, informing borrowers of the options available, securing assistance from lenders and local authorities, as well as countering occasional ill-informed initial local authority advice given to borrowers.

## Conclusion

There is an important role for advice services sitting between borrowers, local authorities and lenders, acting as a conduit reinforcing information in several directions. For lenders the advice services can increase borrowers' understanding of AVS schemes, strengthening the borrowers' recognition of the options and possible outcomes (including possession) that they face, emphasising the borrowers' obligations, and support access to housing (via social housing or the private rented sector). For local authorities advice services can act as external validation that AVS was a legitimate option for individual borrowers' to pursue and that other options had been exhausted. For the borrower, advice services provide support and enable informed decision making with the potential to increase borrowers' commitment to the chosen exit route, and resolve rehousing and shortfall debt problems.

# Chapter 7
# Conclusions

This report reflects on the findings of a mixed method study of borrowers leaving homeownership due to unsustainable mortgage debt. In the context of borrowers', lenders' and advisers' appraisals of whether mortgage debt is sustainable and how borrowers currently exit homeownership and the outcomes achieved, the research considered recently emerging *Assisted Voluntary Sale* schemes offered by lenders to avoid possessions. Little was previously known about the extent of the use of these schemes, the type of support offered, and borrowers, lenders and advisers experiences of AVS.

The research suggests that Assisted Voluntary Sales schemes can, potentially, be effective in delivering better outcomes for borrowers and lenders than possessions, but that there are significant obstacles that would need to be overcome for these schemes to be more widely adopted and to fulfil their potential. These are set out below:

1. Borrowers need support in recognising their homeownership is unsustainable. Identifying a mortgage as unsustainable is a critical but challenging decision to be made by borrowers, lenders and advisers and involves a range of quantitative and qualitative judgements. The extent to which borrowers reconcile themselves to losing their home, or at least leaving homeownership, can influence the type of exit made and the outcomes achieved. Lenders and advisers both have a role here.

2. The final exit routes out of homeownership can be unpredictable and do not always reflect borrowers' circumstances. A key finding is that the pathways out of homeownership are circuitous and the boundaries between different exit routes are permeable as borrowers switch between different resolutions to their mortgage debt problems in a desire to avoid possession. The final exit can be quite arbitrary, therefore, and is not a reflection of the borrowers' particular situation or characteristics. In addition, there is no single pathway to AVS with the timing of offers, the criteria for entry and acceptance on to the schemes varying between and within lenders.

3. Borrowers are not made aware of the various exit routes that can bring their mortgage problems to an end. In these circumstances, borrowers are unable to receive information about and adequately appraise all the options that are, or may become, available in relation to relinquishing homeownership at the onset of their problems. Borrowers often experience different policies and practice from lenders, different advice from advice services, different responses from local authorities and can end up with unpredictable results. The variety of approaches results in unequal treatment for borrowers in similar circumstances.

4. AVS schemes are under-developed and not yet embedded into current market practices. No one model of AVS exists, with lenders operating schemes of varying formality in a range of ways. There is no systematic appraisal of the financial benefits it brings to lenders and/or borrowers.

Before AVS can fulfil its potential to provide better outcomes for borrowers and lenders, the industry would need to demonstrate to itself the reputational, regulatory and business merits of supporting defaulting borrowers from their books. Lenders should also urgently consider the most effective method of operating AVS schemes.

5. In adverse circumstances, borrowers are generally positive about the concept of AVS. Borrowers reported that AVS took the pressure off them and removed obstacles to the sale such as upfront costs and fees, or when they were unable to cope with the sale process alone. Borrowers also welcomed the opportunity to try and achieve a higher sale price than possession, but would like to have known about the schemes earlier. Lenders are concerned with managing the expectations of borrowers regarding the provision of support to sell their home, but mechanisms to increase the flow of information to borrowers that lenders may be able to help with a sale can increase trust, increase the take up of the schemes and legitimise AVS as an exit route from homeownership. AVS offered earlier may increase the effectiveness for lenders and help borrowers plan and reconcile themselves to AVS as a valid exit route.

6. AVS is not currently synchronised with access to housing, but borrowers are anxious about solving their housing needs as well as mortgage debt. AVS could be more attractive if lenders worked with partners in local government, advice agencies and asset managers to consider ways to secure, signpost, support – through rental deposits and rent in advance or other means – access to alternative private sector housing. This has the potential to increase borrower persistence with schemes. (In addition, lenders may also use negotiations surrounding shortfall debts to incentivise borrowers to complete AVS sales.) Local authorities also need to increase their awareness of voluntary exits from homeownership prompted by mortgage debt and reconcile their approaches to offering housing assistance to defaulting homeowners with their actual circumstances rather than the litigation practices of lenders. Lenders and advisers both have a role in providing local authorities with external validation of the unsustainable nature of borrowers' loans without the use of possession proceedings.

7. Local authorities' primary ambition is to prevent homelessness and so they do not always recognise when a situation is unsustainable until final exit routes are advanced or completed. Final exit routes then also determine initial advice given to borrowers. Local authorities' policy or practice is divergent from the pathways borrowers use when they organise an exit from homeownership prior to possession. Borrowers were frequently informed that they could not be considered 'homeless' unless they have experienced or are facing imminent possession, despite it being unreasonable for them to continue occupying an unaffordable home. Occasionally, when local authorities recognised the borrower could be homeless, they suggested that voluntarily relinquishing the home could render the borrowers responsible for their own predicament, disqualifying themselves from access to housing assistance. Some borrowers had acted on advice from local authorities and handed their keys back or waited to be repossessed. However, voluntarily selling with lender assistance can demonstrate to local authorities that homeownership was unsustainable.

8. This study suggests that AVS schemes have the potential to offer better outcomes for borrowers and lenders in comparison to possession, but their use remains limited. Further work is required

by the lenders, and partner agencies, to establish AVS as a legitimate and preferable route out of homeownership, and the circumstances in which it is most effective for struggling borrowers and to ensure it is synchronised with other housing policy responses.

## References


BoE (2011) *Financial Stability Report 2011*, London, Bank of England.

CLG (2009) *Homelessness Code of Guidance for Local Authorities: Supplementary Guidance on Intentional Homelessness.* London, Communities and Local Government.

CML (2010) 'CML publishes 2011 market forecasts' *News and Views* 15 December 2010.

Ford, J., Munro, M., Smith, S., Sprigings, N. and Wallace, A. (2011) *'Review of the 2009 and 2010 changes to Support for Mortgage Interest'* London, Department of Work and Pensions.

Ford, J. and Wallace, A. (2009*) Uncharted Territory? Managing mortgage arrears and repossessions.* London, Shelter.

Ford, J., Bretherton, J., Jones, A. and Rhodes, D. (2010) *Giving Up Homeownership: A qualitative study of voluntary possession and selling because of financial difficulties,* London, Communities and Local Government

FSA (2011a) '*Forbearance and Impairment Provisions – 'Mortgages'*. London, Financial Services Authority.

FSA (2011b) '*Statistics on Mortgage Lending : December 2010 Edition'* London, Financial Services Authority.

FSA (2010) '*Mortgage Market Review: Arrears and approved persons (Policy Statement 10/9).'* London, Financial Services Authority.

FSA (2009) *Mortgage Market Review: DP 03/09,* London, Financial Services Authority.

Local Government Ombudsman (2011) *Homelessness: How councils can ensure justice for homeless people.* London, Local Government Ombudsman.

Munro, M., Smith, S. and Ford, J. (2010) *An evaluation of the January 2009 arrangements for Support for Mortgage Interest.* London, Department for Work and Pensions.

Nettleton, S. and Burrows, R.(2000) 'When a Capital Investment Becomes an Emotional Loss: The Health Consequences of the Experience of Mortgage Possession in England', *Housing Studies*, 15: 3, 463 — 478.

Nettleton, S., Burrows, R., England, J. and Seavers, J. (1999) *Losing the family home: Understanding the social consequences of mortgage repossession.* York, Joseph Rowntree Foundation.

Nettleton, S. & Burrows, R. (1998) Mortgage debt, insecure homeownership and health: an exploratory analysis, in: M. Bartley, D. Blane and G. Davey-Smith (Eds) *The Sociology of Health Inequality* (Oxford, Blackwells).

Pevalin, D.J. (2009) Housing repossessions, evictions and common mental illness in the UK: results from a household panel study. *Journal of Epidemiology and Community Health* 63 pp.949-951.

Purdey, C. (2011) *Housing equity: a market update*, London, Council of Mortgage Lenders.

Shelter (2010) '*Summary: Outcomes of advice for struggling homeowners'* London, Shelter.

Stephens, M. and Quilgars, D. (2007) Managing arrears and possessions, *Housing Finance Online* (5).

Whitehouse, L. (2009) 'The Mortgage Arrears Pre-action Protocol: An Opportunity Lost' *Modern Law Review* vol. 72(5), 793-814.

Wilcox, S., Wallace, A., Bramley, G., Morgan, J., Sosenko, F and Ford, J. (2010) *Evaluation of the Mortgage Rescue Scheme and Homeowners Mortgage Support*: *Interim Report*, London, Department for Communities and Local Government.

Wilkinson, R. and Pickett, K. (2009) *The Spirit Level: Why more equal societies almost always do better.* London, Penguin Books.

# Appendix 1 Lender On-line Survey

THE UNIVERSITY of York. NHAS cml Council of Mortgage Lenders Building Societies Association

## Centre for Housing Policy

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## Assisted Voluntary Sales

### Research for NHAS/Shelter

Thank you for taking time to complete the survey. It should take approximately 5 minutes. We would like all lenders to complete the survey. Please follow the instructions and when you are happy with your answers, please press 'submit' at the end

### Name of organisation(s) represented:

*(This information will be used during the data collection process and will be removed for the analysis)*

### Descriptive information

**1. Is your residential mortgage book** *(please mark one)*

- ○ Prime sector ?
- ○ Non-prime sector (i.e. credit impaired) ?
- ○ Mixture of prime and non-prime?

**2. Please indicate which of the following best describes your organisation** *(please mark one)*

- ○ Building Society (including subsidiary of a Building Society)



- ○ Centralised lender (not part of a Bank or Building Society)
- ○ Other *(please give details)*

**3. Please indicate the following:**

- Estimate of the number of residential mortgage loans held
- Estimate of the number of residential mortgage loans in arrears
- Estimate of the number of residential mortgage loans 6 months or more in arrears

### Assisted Voluntary Sales schemes

Assisted or Supported Voluntary Sales are where the lender offers some form of assistance to a borrower in mortgage debt to help them sell their home privately to avoid compulsory possession, over and above just allowing them time to sell.

**4. Does your organisation and/or subsidiaries currently operate an Assisted Voluntary Sale type scheme?**

- ○ Yes *(click on the arrow to go to Q8)*
- ○ No *(go to Q5)*

**5. Do you have plans to introduce an Assisted Voluntary Sales type scheme within the next 12 months?**

- ○ Yes *(go to Q6)*
- ○ No *(go to Q6)*
- ○ Don't know *(Go to Q6)*

**6. If you do not currently operate an Assisted Voluntary Sales type scheme, could you briefly tell us the reasons why not:**

**7. If you do not currently operate a formal Assisted Voluntary Sales scheme, do you consider *ad hoc* requests from borrowers to help them sell their home to avoid possession?**

- ○ Yes *(click on the arrow to go to Q15)*
- ○ No *(click on the arrow to go to Q15)*
- ○ Don't know ***(click on the arrow to go to Q15)***

**8. Who operates your Assisted Voluntary Sales Scheme?**

- ○ Your own staff
- ○ A third party provider
- ○ Other, *please specify*

## Nature of support offered through Assisted Voluntary Sales schemes

**9. Please indicate which of the following you offer borrowers under your Assisted Voluntary Sales scheme.** *(Please tick all that apply)*

- ☐ Legal fees
- ☐ Estate agent fees
- ☐ Advice on marketing property
- ☐ Advice on valuation
- ☐ Removal costs
- ☐ Help finding alternative accommodation
- ☐ Referral to LA housing section for advice around homelessness
- ☐ Deposit/rent in advance for private rented property
- ☐ General debt advice
- ☐ Negotiations with secured creditors
- ☐ Negotiations with unsecured creditors
- ☐ Case officer who handles all aspects of sale process
- ☐ Other support, *please specify....*

**10. How long do you typically give people to sell their property?**

## Targeting Assisted Voluntary Sales

**11. In what circumstances are borrowers eligible for an Assisted Voluntary Sale?** *(tick all that apply)*

- ☐ Positive equity
- ☐ Negative equity
- ☐ No second charge loans
- ☐ Not eligible for Government Mortgage Rescue
- ☐ Any situation
- ☐ Other *(please specify)*

## Extent of use of Assisted Voluntary Sales

**12. When was your Assisted Voluntary Sales scheme introduced?**

(month/year)

**13. Please provide an estimate of the number of borrowers whose mortgage was brought to a close in the following situations during the period 1 July 2010 to 31 December 2010:**

| | Number | Don't know |
|---|---|---|
| Assisted Voluntary Sale (see key opposite for definition) | | ☐ |
| Government Mortgage Rescue Scheme Sale (see key) | | ☐ |
| Compulsory Possession (see key) | | ☐ |
| Voluntary Possession (see key) | | ☐ |
| Voluntary Sale (without lender support, other than time to sell) (see key) | | ☐ |

**An Assisted Voluntary Sale** is where the lender offers some form of assistance (such as help with legal fees or use of their asset managers or agents) to a borrower in mortgage debt to help them sell their home privately to avoid compulsory possession; over and above just allowing them time to sell.
**A Government Mortgage Rescue Scheme Sale** is where a former borrower has sold their home (or parts of it) to a housing association and now occupies the property as either a tenant or on a shared equity basis
.**A Compulsory Possession** is where a possession order has been granted to the lender in the county court and has been enforced by an eviction warrant
**A Voluntary Possession** is where a borrower hands back their property to their lender or abandons it.
**A Voluntary Sale** is where the lender gives the borrower in mortgage debt time to sell the property, but does not offer more assistance in the form of letting the borrower use their own agents or asset managers etc.

**14. As at the 31 December 2010, how many borrowers were in the process of selling using your Assisted Voluntary Sale scheme?**

## Appendix 2: AVS Brochure

Reproduced with kind permission

Bradford & Bingley

Mortgage Express

# Assisted Voluntary Sale

# and what it means for you

## Helping you with your payment difficulties

Mortgages are a long term commitment and we recognise that circumstances can change during your mortgage term. If you lose your job, or experience a drop in income you may find that you experience difficulties in meeting your mortgage payments.

If this happens we appreciate that it can be a worrying time and we want to try and help you resolve any problems. We always encourage you to speak to us as soon as possible so that we can look at your individual circumstances and see what options may be available to help you. Wherever possible we will agree a payment arrangement with you to pay your arrears back over a number of months to suit your budget. If you are experiencing short term financial difficulties, we may be able to arrange a short term reduction in payments, allow you to transfer your mortgage to an interest only basis for a short period, or extend the term of your mortgage.

You may be eligible for assistance under the Homeowners Mortgage Support, Mortgage Rescue or Support for Mortgage Interest Schemes. You should contact your Local Authority or Citizens Advice Bureau to discuss how these schemes may be able to help you.

However, if a suitable arrangement cannot be agreed you may decide that as a last resort it is in your best interests to put your property up for sale. This is where our Assisted Voluntary Sale (AVS) scheme may be able to help you.

## What is AVS?

If you fall behind with your mortgage payments and we are unable to agree a solution with you, we may as a last resort take legal action which could eventually lead to repossession of the property. We recognise that this is a stressful experience for any borrower and aim to avoid this wherever possible.

With AVS you agree to put your property up for sale and you are able to continue living there until the sale is completed.

## How AVS can help you

By voluntarily selling your property you can benefit in a number of ways:

No legal proceedings or eviction – If you fall behind with your mortgage payments and we are unable to agree a solution with you, we may as a last resort take legal action which could lead to repossession. Going to court and facing eviction can be a particularly worrying time. With AVS there will be no court proceedings and you will be able to remain in your property until the day the sale completes. This could provide you with valuable breathing space and give you greater control over your future. You will not have to worry about repossession and will have time to find suitable alternative accommodation.

Impact upon your credit rating – If a property is repossessed this fact is notified to Credit Reference Agencies, which could make it difficult for you to get credit or a mortgage in the future. As you will be voluntarily selling the property there will be no repossession noted on your credit file.

You could achieve a higher sale price – A lived in property usually sells for a greater amount than an empty repossessed property. As you will be required to pay back any difference between the sale price and your outstanding mortgage, achieving a higher sale price could benefit both of us.

The sales process – We will appoint a dedicated Asset Management Company (a property manager) to manage the sale of your property. They are experts in selling properties and will work closely with you to ensure that the process is as smooth as possible, thereby reducing much of the stress involved in selling a property.

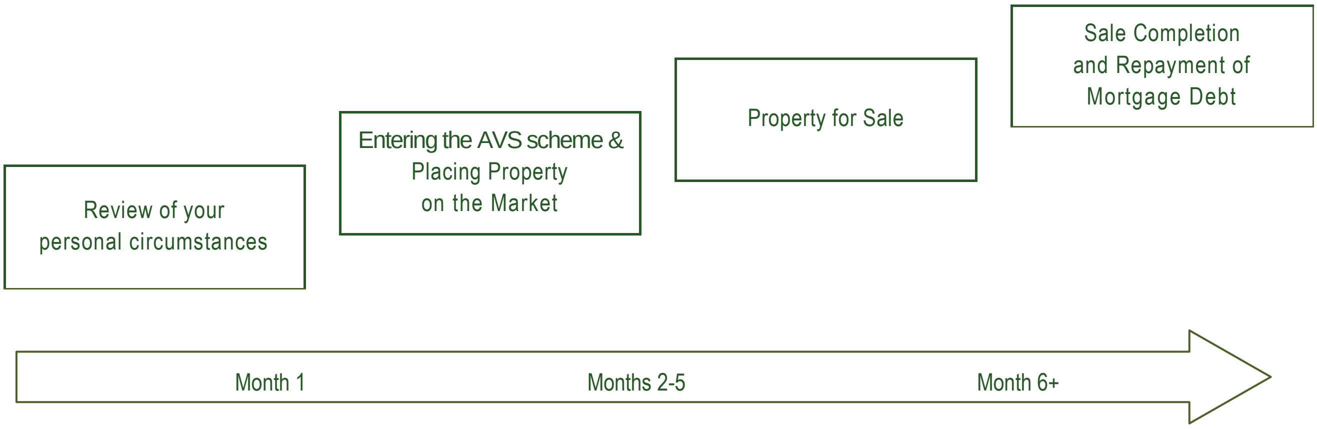
## How does AVS work?

We want to ensure that you fully understand exactly what AVS involves and how the process works. Before taking part in the scheme you will receive full details of the scheme and will enter into an agreement with us that sets out your obligations. If you require any clarification at any stage you should call us using the numbers at the end of this document and we will be happy to discuss any concerns or issues you have. We cannot give you advice about whether AVS is suitable for you, so we also recommend that you speak to an independent adviser who can look at your circumstances and examine if AVS is right for you. A number of organisations can give you impartial free advice before you enter into AVS:

| | | |
|---|---|---|
| National Debtline | 0808 808 4000 | |
| Shelter | 0808 800 4444 | www.shelter.org.uk |
| Consumer Credit Counselling Service | 0800 138 1111 | www.cccs.co.uk |

You can also speak to your local Citizens Advice Bureau or your solicitor for assistance.

There are a number of key steps involved in selling your property with the AVS scheme:




- Before considering AVS we will discuss your personal circumstances with you and if possible agree a payment arrangement for you to pay your arrears. Only if we cannot agree a payment arrangement, and all other appropriate options have been exhausted, will we consider AVS.
- We'll ask you to complete an Agreement for Voluntary Sale document which will enable you to join the scheme and allows us appoint the Asset Management Company. They will manage the sale for you – they will organise the valuation and agree the sale price with you. The property cannot be put up for sale until the sale price is agreed. If the sale price cannot be agreed upon then you will no longer be able to take part in the AVS scheme.
- Your property will be marketed by an estate agent (who has been instructed by the Asset Management Company) who will agree any viewings with you and receive any offers. Once a reasonable offer has been received, the Asset Manager will need to agree with you that this is acceptable.
- You will need to appoint a solicitor to carry out the conveyancing during the sales process and to countersign the Agreement for Voluntary Sale document. We also recommend that you receive advice from a solicitor or an independent advice agency, to ensure that AVS is right for you.
- Once the sale is agreed, contracts will be signed and exchanged and you will arrange to move out of the property by the completion date. If the amount received from the sale of the property is not enough to pay off the outstanding balance of the mortgage, you will need to agree a payment schedule with us to repay this shortfall. We will advise you of the amount you will be expected to repay before the sale completes.
- If you have abided by the terms of the Scheme, Bradford & Bingley will pay the costs associated with the sale of the property. We will also make a maximum contribution of £400+VAT towards your legal fees involved in the sale.

## How long does it take?

It will take approximately one month from the initial discussions with you about AVS to placing your property up for sale.

There is no set time period in which a property must be sold through AVS. The average time to sell a property in the UK is 8 weeks (Land Registry June 2010), although it could of course take significantly longer than this. It is in your interests to ensure that the property remains well maintained in order to achieve maximum value.

If the property has not been sold within 6 months we will review your membership of the AVS scheme to see if it is still appropriate for you, and may terminate our agreement with you at this stage. If you have fully cooperated with the terms of the scheme we will pay any costs that have been incurred while you were on the scheme. If you have not fully cooperated with the terms or have not accepted any reasonable offers which have been received, then any costs may be added to your outstanding mortgage debt.

## Leaving the Scheme

When you join the AVS scheme you will enter into a legal agreement with us, the terms and conditions of which you must adhere to. If you break any of the terms and conditions then we may remove you from the scheme. If this happens any reasonable costs we have incurred, including where appropriate the costs of the asset manger, estate agent and solicitor, may be added to your outstanding mortgage debt.

You may also voluntarily request to be removed from the scheme at any time. If we accept your removal you may be responsible for any reasonable costs we have incurred up to that point including third party costs as explained above.

If you do leave the scheme and you are in arrears with your mortgage payments, you will need to agree a payment arrangement with us to pay the arrears. If we are not able to come to an arrangement then as a last resort we may take legal action, which could eventually lead to repossession of the property. However, we always aim to avoid this course of action and urge you to call us to discuss your options in these circumstances.

## How do I find out more information?

If you have any questions about the AVS Scheme please contact us using the numbers below:

If you have a Mortgage Express mortgage please call us on 0844 892 182 1*

If you have a Bradford & Bingley mortgage please call us on 0844 892 1822*

If you have a mortgage that was originally taken out with GMAC, Kensington, Close Brothers or Keystone, which was subsequently transferred to Mortgage Express, please call 0844 892 1820*

We are available

Monday – Friday 9am – 8pm
Saturday 9am – 1pm

* Calls may be monitored and recorded. Calls to 0844 numbers are charged at 3 pence per minute from BT landlines. Calls to 0800 and 0808 numbers are free from BT landlines. Calls from mobiles and other providers may vary so check with your provider.

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BB/TR0068 (07/10)

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