



Forbearance in context – and some practical reminders!

26 June 2009

Jackie Bennett

CML

Topics to be covered

- The numbers
- CML tools to help lender forbearance
- CML industry guidance
- Pre-action protocol
- ISMI
- Mortgage rescue
- HMS
- A round up of other 'hot topics'

Political profile

"I think these figures [the latest CML forecast] show that help we're trying to give families at every step of the way is helping people avoid losing their home. But while the risk of repossession remains high and people fear for their homes we will do whatever we can to offer help."

John Healey, housing minister, June 2009

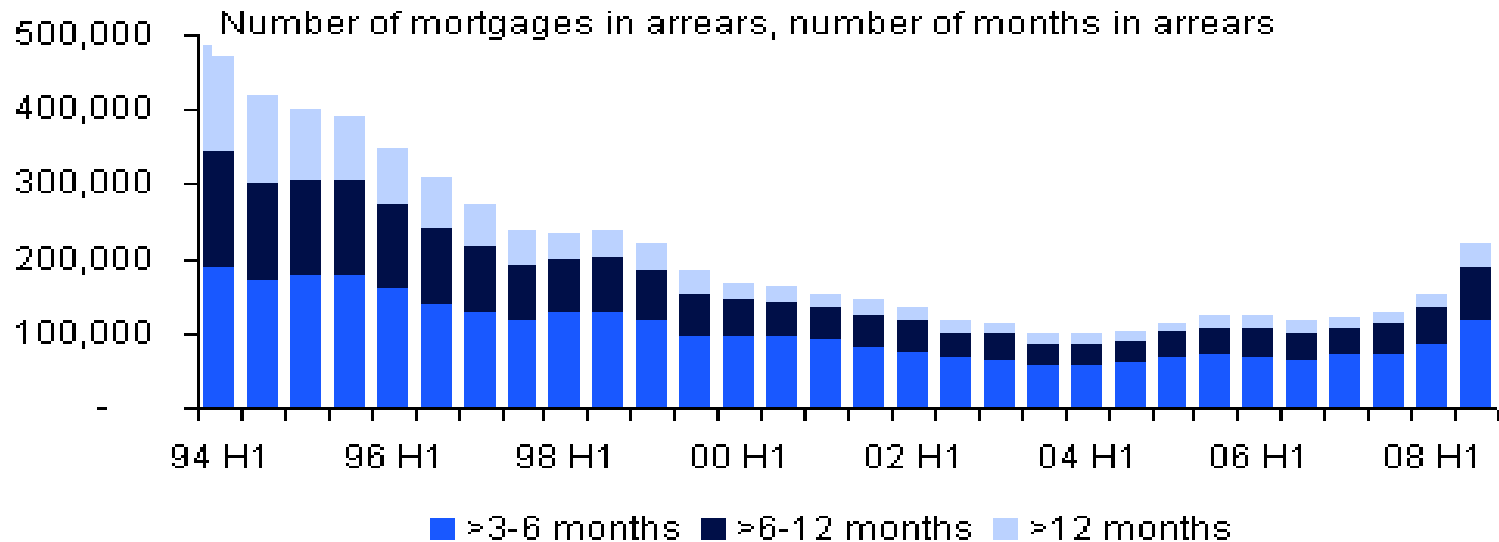
"The combination of mortgage advice, intervention in the courts and lenders viewing repossession as a last resort means that in the first quarter of this year—a time when many would expect repossessions to rise—we have seen a 40 per cent. fall in applications to the courts by lenders to take possession of people's homes."

John Healey, housing minister, June 2009

The numbers

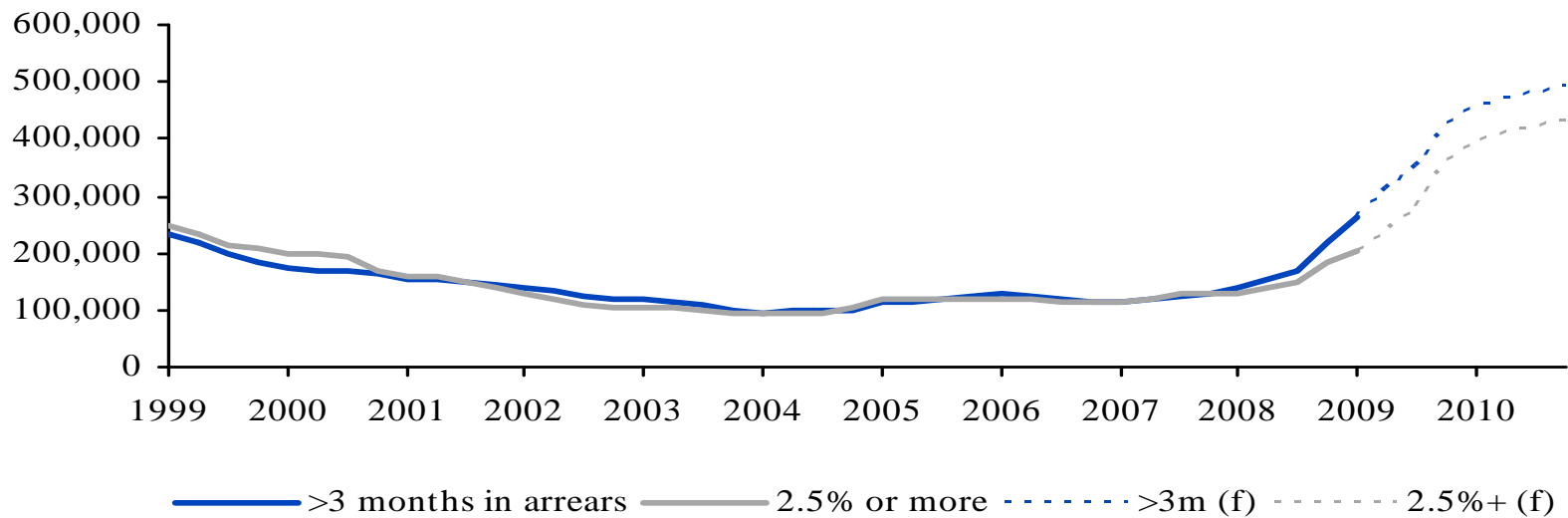
- 12,800 possessions in Q1 2009.
- Predicting 65,000 possessions in 2009 – lower than originally anticipated because of lower interest rates, lender forbearance and the impact of government initiatives.
- Expecting around 360,000 mortgages to be in arrears of 2.5% or more of outstanding balance at the end of this year, up from 182,600 at the end of 2008.

Number of mortgages in arrears



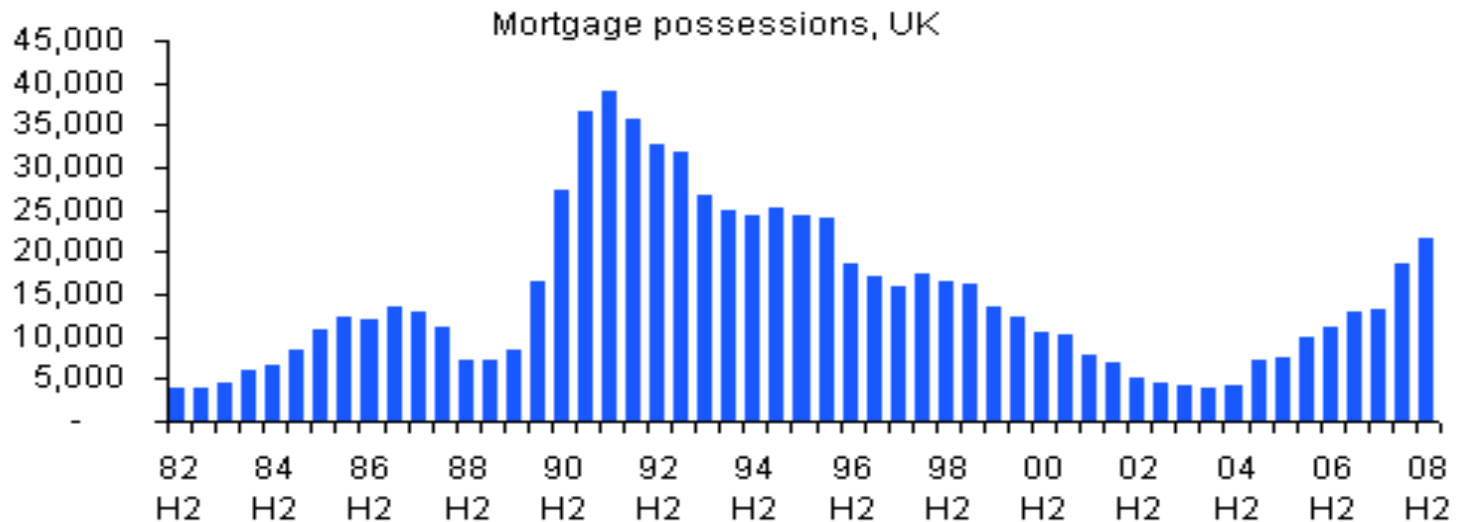
Source: CML

Forecast arrears



Source: CML

Mortgage possessions



Source: CML

How does the customer view the experience?

Initially, "me centric"

But on reflection understand lender standpoint

Consumers mainly thinking about themselves 'the impact on me'
Being in arrears is a horrible/nightmare situation

Considering the lender's position: required reflection and looking at situation from different perspective

"I'd never missed a payment in the past"

"It was just a short-term problem"

"I'd broken a contract with them"

"They need to know they will get their money back"

"The lender wasn't flexible which didn't help me"

Fair Treatment

And then, final perspective dependent on outcome

What was the final outcome: level of satisfaction with overall solution impacted heavily on perception of fair treatment

"The lender wasn't flexible which didn't help me"

Lost/had to sell home – the only solution?

Arrears resolved effectively: repaying manageable amount

CML tools to help lender forbearance

- CML industry guidance on arrears and possessions.
- Model wording for consumers to explain how they can expect to be treated.
- CML guidance on dealing with arrears and possessions in BTL.
- E-learning course for staff.
- Guidance on working with asset managers.

CML industry guidance

- Issued last October.
- Intended to help lenders with compliance on A&P and treating customers fairly (TCF).
- Builds on FSA requirements and takes account of FSA good and bad practice and feedback from advice agencies.
- Practical guide to requirements against which lenders can benchmark their own practices.
- Welcomed by FSA and advice agencies.
- Will consider whether amendments are necessary as a result of this week's FSA announcement.

So what does TCF mean in A&P?

- Ensuring individual circumstances are taken into account.
- Making sure policies and procedures explain how this will be achieved.
- Checks are made to ensure this is achieved in practice.
- Take court action only as a last resort.

... and specifically?

- Test customer literature to make sure it is clear and easy to understand.
- Call centres adequately manned with extended opening hours.
- You tell customers how they can be expected to be treated (the CML has provided model wording).
- You manage cases pro-actively and encourage customers to contact you.

... and specifically?

- Record sufficient details about the case so that customers don't have to keep explaining themselves.
- You have a clear contact point with a local call rate (eg 0845, 03 numbers).
- Require third parties (servicers, asset managers) to adopt TCF too, and monitor it.
- Undertake a TCF gap analysis, make changes if necessary, and review regularly.

Deciding how to deal with a case

- Do you have clear policies and procedures for what options are available?
- Are staff trained to explain options available?
- Do they have the knowledge and flexibility to decide what might be appropriate?
- Do they know when to refer to a more senior member of staff?

Debt advice

- Customers should be encouraged to contact free debt advice agencies (CAB, Shelter, CCS, National Debtline etc).
- How?
 - info in FSA leaflet and lender's own leaflet
 - on phone
 - in letters
- Dedicated point of contact for debt advisers.
- Consider specific links with an organisation (eg a number of lenders have links with CCCS).

Debt counsellors

- If you use them:
 - Role should be clearly explained
- If you charge:
 - This should be made clear
 - Charges should be fair and reflect cost
 - Customer should be able to decline and go to free debt adviser
- Should only be sent without customer's permission:
 - If you can't make contact
 - After a number of missed payments
 - where there is no arrangement in place

Possession only where all else has failed

- Are you clear about the steps you go through before starting possession action?
- Only go to court when –
 - All attempts to contact customer have failed.
 - Where there is contact all options have been explored with the customer.
 - Can't agree an arrangement that's affordable for the customer.
 - Customer can't sustain payments agreed under the arrangement.

Possession only where all else has failed

- Consider whether you could let customer stay in the home and sell it.
- Court action should not be used as a discipline to make sure someone pays!
- If an arrangement is agreed after papers filed at court consider postponing.

Management Information (MI)

- Relevant and timely
- Qualitative and quantitative
- How?
 - ask customers about their experience
 - review effectiveness of arrangements to pay
 - review court decisions

Quality control

- Clearly defined systems and review processes
- Review individual cases
- Programme of staff training both induction and refresher
- Consider complaints
- Record and monitor telephone calls
- Staff remuneration is on quality as well as quantity

Fees and charges

- Is the imposition of a charge reasonable?
- Are you satisfied that your charges reflect a reasonable assessment of the additional cost of the additional work of dealing with customers in arrears?
- Fees should not be set by benchmarking against competitors.
- Charges are waived where a customer is complying in full with an arrangement to pay.

Pre-action protocol

- Applied to all cases issued from 19 November 2008.
- Ensures there has been proper negotiation before coming to court and to ensure efficient use of court time.
- Demonstration to the court that FSA requirements have been followed and possession is a last resort.
- Standard checklist being developed.

Court agents

- Should have flexible mandate and full history of the case.
- Should be able to contact you to take instructions.
- Should consider whether appropriate to appeal.
- Are seen by the courts as your representative – do you even know what they look like/are doing on your behalf?

ISMI

- Changes to ISMI
 - paid after 13 weeks (not 39) – from Jan 09;
 - covers up to £200,000 of mortgage.
 - Standard rate of interest held at 6.08% to December 09.
- Based on household income not individual income.
- In discussion with DWP about how to deal with cases where ISMI is greater than the interest charged – hope for a pragmatic solution.

Mortgage rescue in England

- Scheme now available across England
- For vulnerable households:
 - families with children
 - elderly
 - disabled
- Will be offered shared equity or mortgage to rent.

Mortgage rescue in Scotland and Wales

- Schemes available here too.
- Both offer mortgage to rent and shared equity.
- Slightly different criteria – not limited to vulnerable households – links to full details on CML website.
- Northern Ireland still considering a scheme.

Practical considerations for mortgage rescue

- Can you sift your book to identify potential cases and proactively refer to local authorities?
- Working with lenders and CLG to identify tools to help lenders to do this.
- The following link allows you to enter a postcode and find the relevant local authority:
<http://local.direct.gov.uk/LDGRedirect/Start.do?mode=1>
- CLG assisting lenders with any cases that get 'stuck' – contact Derek.allen@communities.gsi.gov.uk

HMS

- Some lenders confirmed their participation.
- Other lenders concluded that, while they support the principle of reasonable forbearance, they would prefer to help their borrowers outside the scheme and without calling on government financial support.
- We see HMS as simply one means to an end. What matters is how lenders are working with their borrowers through periods of difficulty where they believe these can be resolved, not whether they are using HMS in itself.

Intentional homelessness

- Concern from lenders about use of assisted voluntary sale if there is doubt about whether borrower will get help from LA.
- Guidance to LAs states:
“An applicant’s actions would not amount to intentional homelessness where he or she has lost his or her home, or was obliged to sell it, because of rent or mortgage arrears resulting from significant financial difficulties, and the applicant was genuinely unable to keep up the rent or mortgage payments even after claiming benefits, and no further financial help was available.”

Intentional homelessness

- Full guidance and a presentation explaining the position on the CML website.
- CLG considering how this can be reinforced with LAs to ensure practical and pragmatic application.

Changes to court rules

- From 1 October 2009 two changes will be introduced to Part 55 of the Civil Procedure Rules.
 - Lender in mortgage possession proceedings should send a notice to the property which is addressed to the tenant as well as to the occupier.
 - Lender must notify the local authority within which the property is located of the proceedings. This notice is to be served at the same time as the notice to the tenant/occupant.

Tenants in residential properties

- Concern about the position of tenants particularly in non-BTL.
- Change in court rules partly to address concerns.
- CLG to consult on legislative changes over the summer.
- Can you identify where there are tenants in a property?

Other industry initiatives

- HAPs project in Norwich which provides a negotiation service;
- Reviewing and improving the quality and clarity of customer communications;
- Dedicated advice teams to work with customers in pre- and post-mortgage arrears;
- Proactively contacting customers coming off fixed rate and other deals to ensure they can afford their new payments;
- Encouraging better liaison between lenders and money advice; and
- Reviewing individual cases, including listening to inbound and outbound calls, to see how the customer experience can be improved.

Conclusions

- A&P high profile and will remain so.
- CML and lenders fully engaged to keep possessions to a minimum.
- Potentially complex array of initiatives for borrowers and lenders but a number of options for those who engage.
- Key message remains – talk to your lender.
- CML website will give latest updates.