

# Mortgage Payment Problems

- 45% of British adults have found it difficult to keep up with household bills and loan repayments in the past few months, compared to 15% before the pandemic\*.
- We are going to see more clients with mortgage problems
- Some will just need to keep up with the mortgage, while others will also have other problems.

# First Steps – Talk to Mortgage Company

Talk to your mortgage provider – they are very aware that many people are having problems. Help they might offer:

- Payment holidays
- Reduced payments
- Increase term of the mortgage

Also consider:

- Switch to a better deal (but check early redemption charges)
- Switch to cheaper mortgage protection insurance, buildings or contents insurance.

# First Steps – Max Income

## Maximise Income

- Check benefits entitlements
  - Universal Credit & other income replacement benefits such as Bereavement Allowance
  - Disability benefits & Carer's Allowance
  - SMI loan – but only after 39 weeks on ESA/JSA, or 9mths on Universal Credit
- Take in a lodger
- Chase absent partner for contribution, especially if there are children
- Register with Child Support, or use threat of doing so as bargaining tool

# First Steps – Reduce Exp

Bank statements are very revealing:

- Insurances
- Streaming Services
- Gymn memberships and other subscription services
- Online shopping
- In-app purchases
- Uber Eats, JustEat, Takeaways, Costa...

# Priority Debt Strategy Chart

Debt type	Typically, what will the creditor want?	Strategies and tactics
Mortgage, second mortgage or secured loan	Arrears cleared or repossession of property	<ul style="list-style-type: none"> <li>● Offer CMP plus offer to clear the arrears over a "reasonable period" up to life time of mortgage (for first mortgages and unregulated second mortgages) (<i>Cheltenham and Gloucester v Norgan</i>)</li> <li>● Apply for time order if a regulated mortgage contract under FSMA (Regulated Activities) Order 2001</li> <li>● There are some mortgage rescue or Sale and Rent Back schemes operating in England and Wales through local authorities and housing associations</li> <li>● Check if there is a local Preventing Repossession Fund still running (England only)</li> <li>● Check if can claim SMI (many secured loans are not eligible for help unless in receipt of UC). From April 2018, SMI is awarded by way of a loan scheme secured on property</li> <li>● Direct deductions from benefits for arrears</li> <li>● Lender forbearance options, such as a payment holiday, interest only for a time, extending the term or capitalisation of arrears</li> <li>● Remortgage on better terms or consider part-rent and part-buy schemes but need independent financial advice</li> <li>● Sell property or assisted voluntary sale</li> <li>● Consider downsizing and buying a cheaper property</li> <li>● Consider equity release but need independent financial advice</li> <li>● Is the lender following the FCA MCOB rules?</li> <li>● Is the lender following the Mortgage Pre-action Protocol?</li> <li>● Check any grounds to make a complaint with escalation to FOS if necessary</li> <li>● If a regulated secured loan was taken out before 21 March 2016, are there grounds for bringing an unfair relationship claim?</li> </ul>

# Time to Pay

- Payment holidays
- Reduced payments over a longer period
- Offer normal payments plus spreading missed payments over 'reasonable time'
- Direct deduction from benefits
- Time Order – done after court action is started, and is an agreement to stay court action as long as debtor keeps to their conditions, ie keeps up agreed payments.

# Don't just hand back the keys

- If you can't pay your mortgage:
- Don't hand the keys back to your mortgage lender - this is called voluntary repossession and should be a last resort. And you'll still be liable for mortgage repayments and buildings & contents insurance until the sale, and possibly other costs too.
  - Don't wait until you get evicted - your lender could take you to court to repossess your home.
  - After handing back keys or eviction, properties often sell for less.
- If you have no other way of getting money to pay the mortgage arrears, it would be better to try to sell the property yourself, rather than handing back the keys or waiting to get evicted.

# Lump Sums

- Lump sum or Full & Final IVA
- Equity Release - release a lump sum to pay off mortgage arrears
  - Lifetime Mortgage or Home Reversion (part sale)
  - Some deals allow you to pay towards interest
  - If not, then very hard to repay
- Pension Pot - if 55yrs+
  - Check how much it will reduce your monthly payment when you start to draw it
- Third party lump sum

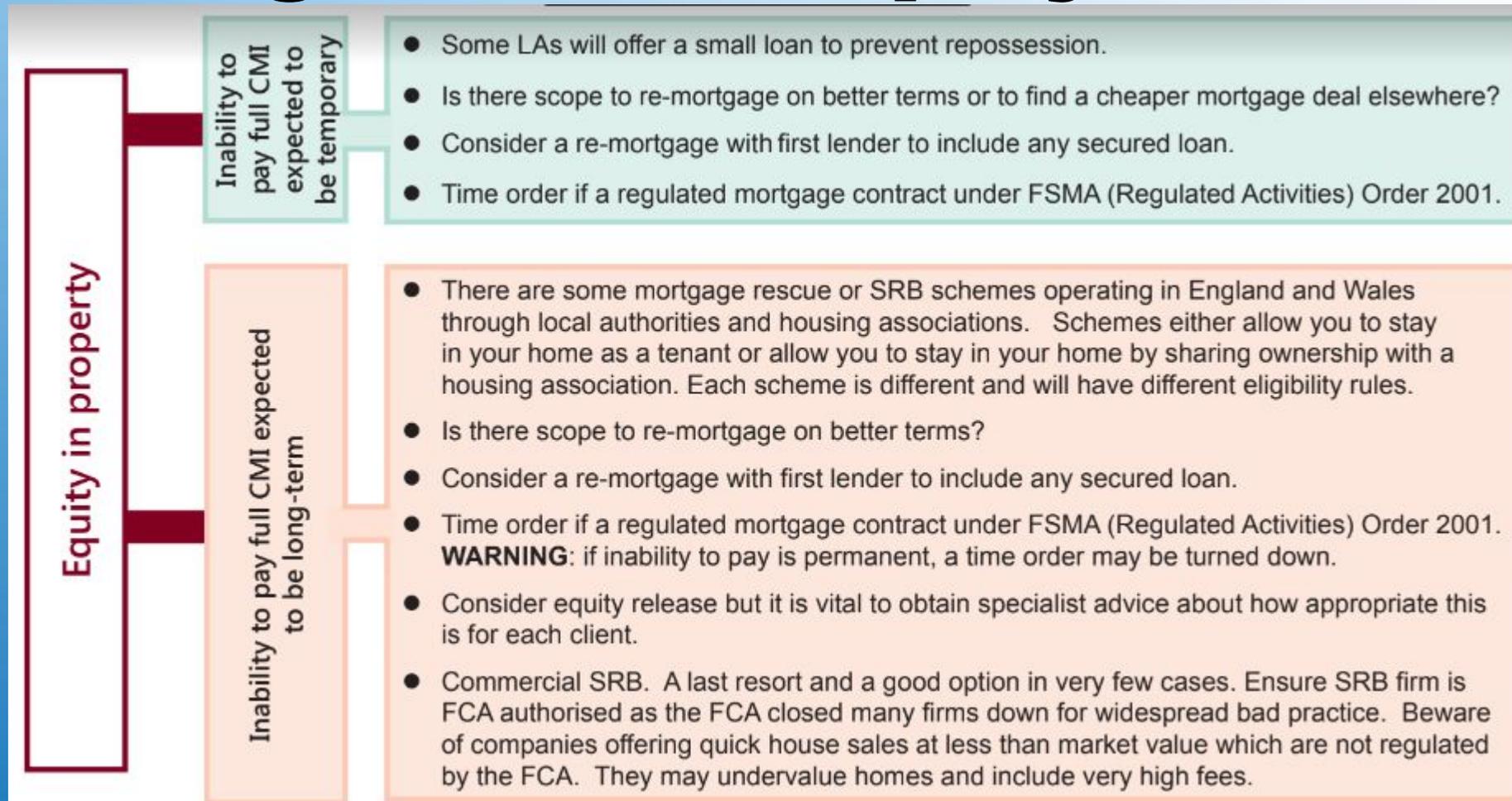
# Sell the property

- Sell and rent back – hardly any companies offer this now.
- Quick Sale companies
  - Fast sale for a lower than market price, but
  - The market is unregulated, so watch out for high charges, strange valuations and restrictive contracts
- Assisted Voluntary Sale
  - Where all other options have been exhausted
  - Some lenders will help you during the period while you are selling the house, with reduced payments and other help
  - Needs co-operation from joint owners, so might not work if sale is due to relationship breakdown

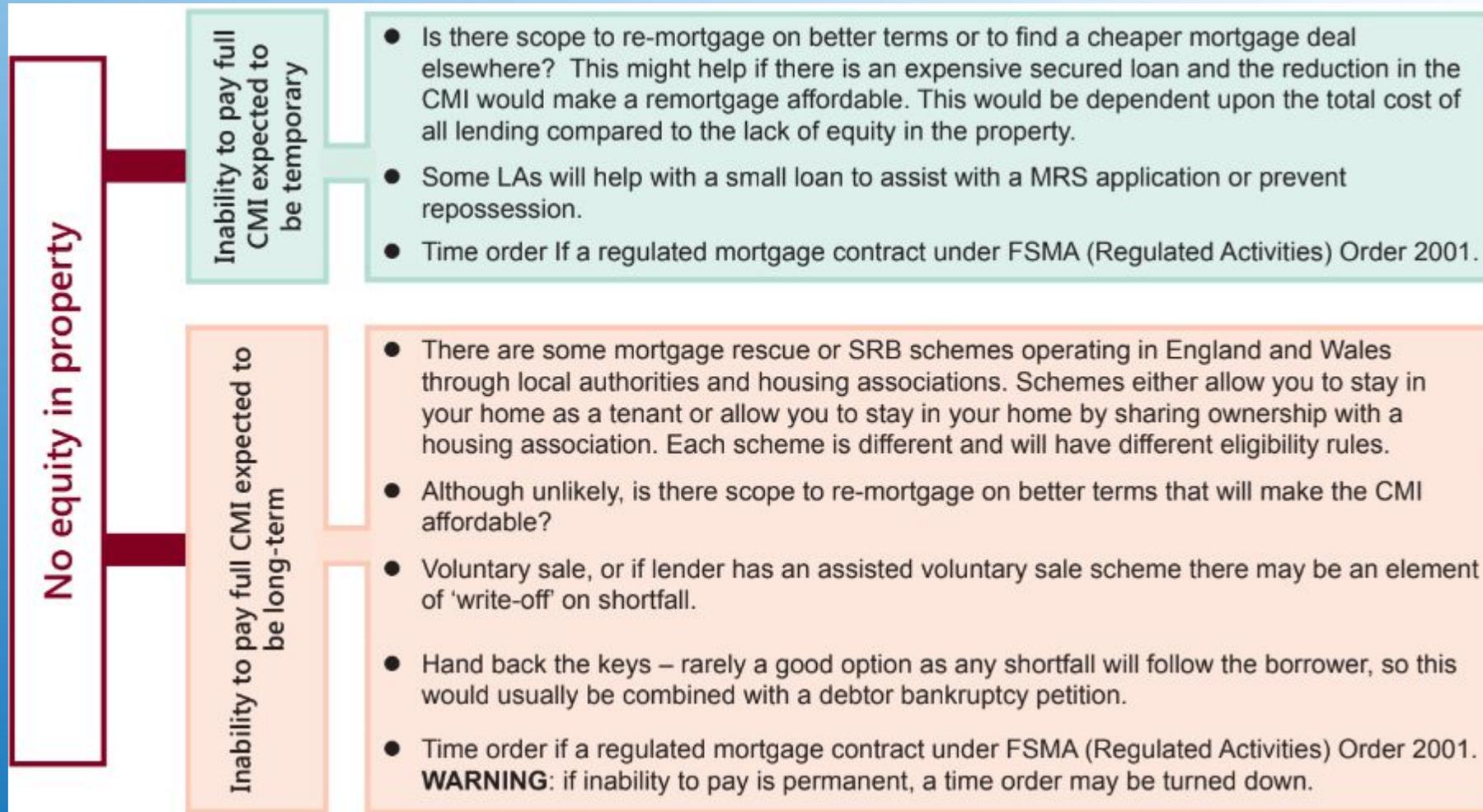
# Selling with Negative Equity

- Lenders might refuse to sell, but you can apply for a County Court Order, though it is expensive
- County Court will consider if you need to move, eg for a job or for schools for children.
- Mortgage Indemnity Insurance (MII) might not cover the shortfall, and lender will pursue you in this case.
- Always ask lender for permission to sell, as they may need this to claim on the MII.

# Unaffordable Mortgage Strategies – with equity



# Unaffordable Mortgage Strategies – without equity



# Legal Action

The important things to remember are:

- It's almost never too late to try and come to an agreement with your lender, negotiating an arrangement with your lender
- You can get free help and advice to deal with a claim for mortgage arrears
- If there's a court hearing, make sure you go to it - it may be the last chance you get to stop you from losing your home

# Grounds for Complaint

- Is lender following FCA MCOB rules?
  - Your mortgage lender must treat you fairly and give you a reasonable chance to make arrangements to pay off the arrears, if you are able to. They must consider any reasonable request from you to change when or how you pay. Your mortgage lender should only start court action as a last resort, if all other attempts to collect the arrears have got nowhere.
- Is lender following Mortgage Pre-Action Protocol?
  - If your lender takes you to court, they must complete a checklist to confirm they followed the protocol. Your lender must give copies to you and the judge.
  - If they haven't completed a checklist, they must give the court a clear reason. The outcome of the case might be affected if the court isn't satisfied with your lender's reason. For example, you could use this to persuade the judge you shouldn't have to pay the lender's costs.

# Getting Help with Legal Action

- SHARP
- Legal Aid
  - Low income (automatic if on means tested benefits)
  - Savings <£8,000
- Duty solicitor at court during possession hearings
- University of Leicester Legal Advice Clinic
- Many solicitors will offer 30mins of free advice