

How to exit homeownership through a voluntary or assisted voluntary sale (AVS)



About this guide

This guide has been prepared by the National Homelessness Advice Service (NHAS)

If you can no longer manage your mortgage payments & your mortgage is unsustainable, your home maybe at risk. If you are thinking about a voluntary or assisted sale, you should seek advice as soon as possible from Shelter, your local Citizens Advice, local authority housing options service or another independent advice agency – see details of where to get advice at the back of this guide

For further information and advice if you are struggling with your mortgage payments, please see leaflet – *Are you worried about your mortgage?* or go to www.nhas.org.uk/homeowners

Understanding the different terms

In this guide, you'll notice that some of the more technical terms have been **highlighted**. If you hover your mouse over these terms, a short definition will be given.



Contents

I: Introduction

1. Background information to exiting homeownership 4

II: A Step-by-step guide to Assisted Voluntary Sale or Voluntary sale

1. Deciding to exit homeownership 6
2. Achieving a planned exit from homeownership 6
3. Ways to exit homeownership 9
4. What are your rehousing options? 10
5. Requiring ongoing advice after exiting homeownership 11

Glossary of terms

III: Useful organisations



I: Introduction

1. Background information to exiting homeownership

If you have long term unsustainable mortgage debt you may wish to consider exiting homeownership. This guide is written to help you consider your options, if you feel you are unable to remain as a homeowner or the home you currently own is unaffordable.

What to be aware of – leaving homeownership in a planned way

The advantages of selling your home before it is repossessed are:

- ✓ You have greater control in considering your housing options
- ✓ You may achieve a higher sale price preserving your equity or minimising shortfall debts.
- ✓ You will avoid the county court repossession process and eviction.

The barriers you might face when selling your home are:

- Your home may be in poor repair
- You may not be able to afford the selling costs (for example energy certificate, agent and solicitor fees)
- The sale price you achieve may not cover the total mortgage and other secured loans (leaving you with a shortfall debt)
- You may have ill health and/or inability to cope with the sale process
- The current housing market in your area may affect the length of time it takes and the ability to sell
- You may be uncertain about your rights to local authority rehousing once the property is sold
- You may lack knowledge of alternative accommodation, for example access to private rented sector (PRS) accommodation.

To help overcome some of these barriers, a number of lenders have begun to offer support to homeowners with mortgage arrears, so they can sell their home and avoid repossession. This support package may be called '**Assisted voluntary sale**' or '**Voluntary sale**'.

What support can your lender offer?

Some lenders may only offer informal support, but others may be able to provide more detailed and structured support depending on your individual needs.



The range of support on offer from the lender might include:

- Allowing time to sell (this varies, with lenders offering anything from three, six, nine or up to twelve months)
- Agreeing to concessionary (reduced) mortgage payments and a halt to any repossession action while you are actively trying to sell the property
- Reimbursing or covering solicitor and/or estate agent fees
- Enabling the services of an asset manager to act as a 'proxy vendor', helping to progress the sale
- Providing a deposit and rent in advance, to secure alternative private rented housing.

Remember: not all lenders have clearly stated 'Assisted voluntary sale' schemes. However, you should still talk to your lender to determine what help may be available

To provide a level of assistance a lender could require one or more of the following criteria to be met:

- Arrears exist on the mortgage account
- All other options for repayment have been exhausted
- All legal owners named on the property have agreed to the sale (you will need specialist advice if you are seeking this option as a result of relationship breakdown)
- There is negative equity and no means to pay the shortfall after the sale
- There may be second charges secured on the property
- The homeowner is willing to fully co-operate with the process of selling the property
- Your interest only mortgage has come to an end and you have agreed with your lender that you do not have the capital sum to repay the total outstanding balance. You therefore need time to sell the property

Some lenders may consider an assisted sale before arrears develop, if it's clear that the mortgage is no longer affordable. Lenders may consider this option with you where you have an interest only mortgage coming to the end of its term and you do not have the means to repay all the balance. Some lenders may consider AVS where there is positive equity. Others may only offer to help borrowers sell as a last resort and only for those who are in negative equity.

You need to show you are fully committed to selling your home and want to avoid repossession. Lenders will be wary of any homeowner who is simply trying to use an assisted sale scheme to delay repossession action.

What are the benefits of an Assisted Voluntary Sale (AVS)?

By agreeing to a voluntary sale, you may resolve some of the following issues:

- Less stress as a result of avoiding repossession and the sudden loss of the home and lower shortfall debts
- Less disruption to work or the children's schooling, since the move will be planned
- Increased likelihood of a positive outcome where an application for social housing is made to the local authority
- You may achieve a better sale price for your home.



II: A Step-by-step guide to Assisted Voluntary Sale or Voluntary sale

1. Deciding to exit homeownership

It can be a really hard decision to make, but it is important to come to terms with your financial situation and its difficulties, and be prepared to downsize or move to rented accommodation. Failing to be prepared will only increase anxiety and can undermine an effective exit for the borrower, increasing the risk of the home being repossessed.

Things to think about when making the decision to exit home ownership:

- Follow the rule: **maximise income, minimise outgoings, prioritise payments** (this will determine whether the mortgage is sustainable for you).
- Are house values rising, remaining the same or falling locally?
- Has the lender indicated that they will move to repossession proceedings as the next course of action?
- Do you have future prospects of returning to full payments and what further forbearance options could the lender consider?
- Is it in your best interests to continue with homeownership – is the mortgage sustainable in the medium to long-term? Weigh up your need to remain in the property, balanced with any requirement of the lender to end forbearance and take action to repossess the home.
- Work out if you are building up an unsustainable level of arrears, which may (a) put the home at risk in the future or (b) become too much of a debt burden
- If you have an interest only mortgage how will you repay the capital sum once your 'interest only' loan has come to the end of its term?
- How realistic is it that your circumstances will change for the better in the near future? (Consider the local economy, your age, household dependants, family health and willingness to change your lifestyle.)
- To what extent can you and your family members live with the continued uncertainty?
- What are the alternatives (other housing options) to meet your accommodation needs?

(This list is not exhaustive.)

2. Achieving a planned exit from homeownership



You may feel comfortable with marketing the sale of your property independently, but there may in any case be advantages for you to enter into a lender's assisted sales scheme, if available.

Remember: there is no automatic entitlement to assistance from a lender to help sell the property – lenders do so at their discretion.

To enable you to make an informed decision about whether you need support from your lender, you should assess the following (**get free independent advice if you need help to make a decision**):

- Do you feel able to market and sell the property independently?
- If not, what assistance do you need (for example upfront sale costs, assistance with solicitor's and estate agent's fees, or assistance to get the property ready for marketing)?
- Will the lender be agreeable to support a sale to avoid repossession?
- Are you clear what the property is actually worth? The lender may lose patience if the property is marketed at too high a price, resulting in the property remaining unsold on the market for a long time, so lenders may view the borrower as only trying to 'buy time' and avoid repossession.
- Are you aware of any obligations in engaging with a lender's formal assisted sales scheme? Typically you must co-operate with the lender by meeting agreed payments while the property is on the market, provide documents and answer queries promptly from solicitors and estate agents (or asset managers if appointed), be available for viewings, present the property positively and remain in the property until it is sold.
- Are you clear what may happen to any shortfall debt you may have with the lender after the property is sold? Some lenders will agree any shortfall debts that arise once the property is sold, or freeze the debt based on the initial evaluation. In this situation, do you understand that if the price of the property achieved is lowered to reduce a sale the post sale shortfall debt may increase. You must therefore think carefully about what you agree with your lender.
- Are you clear on the advantages and disadvantages of signing an undertaking to repay shortfall debts in advance of the sale completing?
- Is there a second-charge lender who may commence repossession action while you are trying to sell the property, and do you need to apply for a Time Order to prevent this? Where an application for a Time Order is relevant, you should seek specialist advice.
- If you wish to pursue social or local authority housing you may find it easier to demonstrate that the sale of your home is a last resort to avoid repossession if selling with the lender's support rather than independently.
- Will you need help finding rent in advance or a deposit? Sometimes lenders also support the borrower with these upfront payments to help you to get accommodation in the private rented sector.
- Have you secured agreement to the sale with any former partner in the case of relationship breakdown? Does a Matrimonial Causes Act or Trusts of Land and Appointment of Trustees Act [1996] application need to be made to allow the sale to proceed? **Remember you must seek specialist help in the case of a relationship breakdown where your ex-partner is on the mortgage agreement or deeds**
- Have you got agreement from any second-charge lenders for their charge on the property to be released so the sale can proceed?
- Are you aware of any sanctions if you drop out of an assisted sale before a sale is achieved?

With the lender you may need to consider...



- Will they delay repossession to give you time to sell? If not, can the court process be used to secure time?
- Will they agree affordable/concessionary payments until completion?
- What information does the lender require from you to demonstrate the sale is genuine and being marketed appropriately (including estate agent's particulars, RICS valuation of property)? Some lenders conduct their own market appraisal or valuation to check the sale price is realistic.
- Does the lender want to monitor the sale's progress? If so, does the lender require your permission to monitor the sale's progress directly with the estate agent?
- Will the lender agree to a sale, where negative equity exists?
- Will the lender offer any assistance to help you sell the home to avoid repossession? What help is available?
- Can the lender be flexible to overcome any particular barriers?
- If assistance is offered to meet the cost of fees (for example energy performance certificates, solicitors and estate agents), are these costs absorbed by the lender or taken from the final balance on completion? (Lenders often have a cap on the amount they will pay for agents or solicitors.)
- Does the lender arrange to appoint its own agents, solicitors?
- Does the lender provide an explanation of their Assisted Voluntary Sale scheme, and any terms and conditions in writing?
- What are the consequences of non-compliance with these terms and conditions of any AVS support. Will the borrower be liable for any costs incurred if they drop out of the scheme prior to completion?
- What are the obligations or roles of all parties involved in the sale?
- Is an asset management company used and what is their role in the process? They should act as a 'proxy vendor' arranging the valuation, agreeing the marketing strategy with you as well as the lender, appointing the estate agent to market the property and progressing the sale through to completion, coordinating the input of both lender and borrower.
- How will the market price of the property be agreed? Will you be involved in this decision? If there is a dispute between the borrower, lender, estate agent, and/or asset manager regarding the valuation and marketing price of the property, will the lender pay for the borrower to obtain a further independent RICS (Royal Institute of Chartered Surveyors) valuation?
- What happens if a sale is not achieved in the specified period?
- When and how will any reductions in the price be agreed with the borrower?
- Will the borrower be given a named contact person working for the lender (and Asset Management Company, if appointed)?
- Will the lender agree to support the sale, if the agreement of third parties with an interest in the property has been obtained (i.e. second-charge lenders and former partners following relationship breakdown)?
- What is the lender's appetite to proceed with a sale of the property where a second-charge lender is potentially a barrier to the sale going ahead?
- Will the lender consider a request to provide assistance with rental deposits or rent in advance, to smooth the transition out of ownership and into renting? If not, can they allow the borrower to pay reduced payments, so they can save for a deposit and rent in advance themselves?
- Do you know the level of redemption fees which are payable on your first mortgage or other secured loans where you sell the property before the end



of the existing term (for example paying back early). Is there enough equity to cover these fees or do you need to request that these fees are waived?

- Do you need independent debt/ money advice first?

If you are unsure about any of the above points, it is very important that you seek independent free advice from one of the providers listed at the back of this booklet

3. Ways to exit homeownership

Once you have come to a decision that homeownership is unsustainable, look at the pros and cons of each available exit option:

Assisted or supported voluntary sale

You may be able to get support from your lender to sell the property to avoid repossession, for example through the appointment of an asset manager and/or in marketing the property. You must co-operate with the lender, asset manager (if appointed), estate agent and solicitor to progress the sale. In cases where negative equity exists, you will need to seek permission from the lender for them to release the charge on the property and agree to repay the lender any resulting shortfall debt (often termed 'short sales').

Voluntary sale – putting your house on the market

You put your property on the market for sale, independently, and repay the loan from the proceeds. As with assisted or supported voluntary sale, where there is negative equity, you will need to get the agreement of your lender to sell your property and make arrangements to pay any shortfall debt following the sale.

Voluntary Possession

You return the keys to the lender, either before or during the process of possession proceedings. Until the lender takes legal possession you continue to be liable for all contractual payments.

The value of an empty property after repossession may be lower than if you sell the home yourself while in occupation. Where there is negative equity in the property, there is a risk of shortfall debt increasing. Your credit rating will be damaged in the same way as if compulsory possession had occurred.

Unless it's clear that the mortgage was unsustainable through no fault of yours, you may be found intentionally homeless for voluntarily giving up your home before the lender has taken any action.



Compulsory Possession

You lose the home through repossession where, through a court process, the property is legally passed to the lender.

You are advised to seek specialist advice from an independent advice provider listed at the back of this booklet, before you consider any housing option or potential homeless application, where there is a risk of an intentional homelessness decision by the local authority.

4. What are your rehousing options?

You may not be aware that your local authority can advise you in terms of your options where home ownership is not sustainable.

Your housing options will be considered by your local authority in relation to your household circumstances, to determine if you have any 'priority need' this in turn will determine what level of support the local authority might offer.

Voluntary sales (which may include 'assisted' voluntary sales), give you time to plan a move from homeownership. However, in practice there may be only a few weeks between an offer and completion of the sale to arrange alternative accommodation. You may take up a rehousing option in either the social or private rented sector.

It is important to coordinate an assisted sale with rehousing options, to meet your alternative accommodation needs, as well as solve financial issues regarding the unsustainable mortgage debt. You may opt for either social or private renting. At the outset, you should consider your preferences for either of the rental sector housing, and find out whether you or your family may have a priority need in relation to the local authority duty to provide accommodation.

Former homeowners can access social housing via the waiting list or by making a homeless application; or they can access the private rented sector directly, or with some help from the local authority or a lender to pay the rent deposit and rent in advance.

Some local authorities may discharge their homeless duty by offering private rented sector accommodation and may restrict access to social housing so you need to speak to your authority

When thinking about your housing options you need to consider:

- Your likely financial circumstances after the sale has completed. What will your new debt commitments look like?
- Will you be entitled to housing benefit?

If you receive a lump sum from equity from the sale, you will need to find out if this will affect any benefit entitlement – you should always check benefit entitlement rules in relation to your household

- What support can you draw upon to secure access to the private rented sector?



- Can you call upon family or other support to fund a deposit/act as guarantor on the rent or other costs?
- Will the lender agree to reduce mortgage payments during the sale so that you can save for a deposit?
- Is there suitable affordable private rented sector accommodation locally? And will landlords of suitable properties accept housing benefit claimants, if you need to claim?
- Will local housing allowance (LHA) cover the cost of a private tenancy or will you need to make up the shortfall
- What assistance will the lender or local authority offer to help you move to private rented accommodation, if you do not have sufficient funds for a deposit or rent in advance? Will the lender's asset management companies identify suitable local landlords and properties for the household to move to?
- You may need to approach the local authority to discuss a potential homeless application, at least 28 days prior to a sale completion & you will need to provide documentation from the lender to demonstrate that repossession would be the end result if the sale was not agreed. Doing this early on should enable the local authority to work with you to consider your housing options, & help you to secure suitable alternative accommodation.

If you are unsure about any of the above points it is very important that you seek independent free advice from one of the providers listed at the back of this booklet

5. Requiring ongoing advice after exiting homeownership

Following completion of the sale of your property you may still need specialist debt advice, regarding the management of creditors plus advice about bankruptcy and/or Individual Voluntary Agreements (IVAs) if you have surplus income or assets, or Debt Relief Orders (depending on your level of debt).



Glossary of terms

- **Asset Management Company** – a company specifically set up to buy and sell property on behalf of the lender.
- **Assisted Voluntary Sale** – (AVS) a description is in this guide
- **Capital** – the amount of money you originally borrowed when you took out your mortgage. For the duration of your mortgage (mortgage term) you are charged interest on the amount of capital you borrowed
- **Forbearance** – these are options your lender may offer you or has already offered you to give you time to resolve your financial difficulties – such as interest only payments, reduced monthly payments, capitalisation of your arrears
- **Interest only mortgages** – where the amount you are paying each month only goes towards repaying the interest charged on the capital sum owed
- **Negative equity** – where the value of your home is less than the total amount of mortgages, other loans and debts secured on it
- **Positive equity** – where the value of your home is more than the total amount of mortgages, other loans and debts secured on it
- **Redemption fees** – these are fees fixed by your first or second charge lender(s) which are payable if you wish to pay off your mortgage or remortgage before the end of the fixed term of the mortgage
- **Repayment mortgage** – where the payments each month are paying an amount to reduce the overall capital sum you originally borrowed, plus the interest payable on the capital sum
- **Second charges** – these are second or subsequent loans you may have borrowed against the original value of your home, in addition to your main mortgage
- **Shortfall debt** – the amount of money you will owe your mortgage lender or other secured lenders/creditors after you have sold the property and paid all relevant fees
- **Time orders** – where you are in arrears with your second charge loans you may ask the court to grant a 'time order' to allow you time to repay and also change the terms of your loan including interest rates



III: Useful organisations

Local Authority

Remember that you can get advice from your local authority housing options service on exiting homeownership – either phone or look up their contact details and service information on the local authority's website.

Government schemes

For more information about help which may be available to you, you can visit gov.uk.

If you live in Wales, Scotland or Northern Ireland, you should visit wales.gov.uk, scotland.gov.uk, or nidirect.gov.uk respectively.

Support for Mortgage Interest scheme – SMI gov.uk/support-for-mortgage-interest

To help you with your mortgage and debt problems:

Local Citizens Advice

– Helps you to deal with any legal, money, welfare benefits issues or other problems.

For telephone advice from Citizens Advice in England, ring 03444 111 444, or find your nearest local Citizens Advice.

For details of your rights in particular housing situations check the Citizens Advice website

Shelter – Offers you help with housing, mortgage debt or problems with welfare benefits.

Phone the free housing advice helpline 0808 800 4444, open 8am–8pm Mon–Fri or 8am–5pm Sat–Sun, (calls are free from UK landlines and main mobile networks). Or, for advice online, you can visit: england.shelter.org.uk/get_advice/downloads_and_tools

For Wales call 03444 77 20 20 (Landline calls typically cost up to 9p per minute and calls from mobiles between 8p and 40p per minute)

StepChange Advice

– Offers you help to deal with all debts. Phone 0800 138 1111 or visit stepchange.org

Money Advice Service

Offers you help to deal with several debts. Tel 0300 500 5000 (English) or 0300 500 5555 (Welsh) moneyadvice.service.org.uk

National Debtline and My Money Steps

– Offers you help to deal with several debts. Phone 0808 808 4000 or visit nationaldebtline.org

Business Debtline

specialises in helping the self-employed deal with debt problems 0800 197 6026

businessdebtline.org

Payplan – Gives you advice on your debts. Tel 0800 280 2816 or visit payplan.com (Calls are chargeable)

The NHAS is a Shelter and Citizens Advice service supported by the Department for Communities and Local Government.

RH8181. Publication date: February 2016.



Registered charity number 279057



Registered charity number 263710