Hanley
ECONOMIC
Building Society

Higher Lending Charge

A Borrower's Guide

What is Higher Lending Charge?

Higher Lending Charge is an insurance which your lender may take out for all its protection in case, at some future stage you fall significantly behind with your mortgage payments and your lender has to repossess your property and sell it.

If the property is sold for less than the amount of your outstanding mortgage, your lender can claim on the higher lending charge to recover some (or all) of its loss. The basic security for the mortgage is your property. The higher lending charge, therefore acts as a form of additional security for your lender. It is not, however, additional security for you.

Lenders are normally prepared only to lend about 80% of the value of a property or its purchase price (whichever is the lower). If you need to borrow more than this, your mortgage will be high loan-to-value advance and you will normally be charged a fee for it (Higher Lending Charge).

Payment of this fee therefore enables you to borrow more than your lender would normally be willing to lend on the security of the property alone.

Some lenders may use this fee to reimburse themselves for the amount they have paid for their higher lending charge. Other lenders choose not to purchase higher lending charge insurance from an insurance company, preferring to use the fee to make other arrangements to cover the risk.

The fee is not, therefore, the cost of higher lending charge insurance. It is just the cost to you of taking out a high loan-to-value mortgage.

Key information at a glance

- A Higher Lending Charge Insurance may be taken out by your lender as additional security for itself.
- Higher Lending Charge Insurance does not cover you.
- You must repay all money owed under your mortgage whether your lender makes a higher lending charge claim or not.

What happens when a lender makes a Higher Lending Charge claim?

A lender can make a claim after it exercises its power of sale (ie when the lender has actually sold the repossessed property) and the price obtained for your property is less than your outstanding mortgage.

The difference between the amount the property was sold for and the amount of your outstanding mortgage is called a shortfall. When you take out a mortgage you make a personal promise to repay all of the money you owe under the mortgage. This promise still applies whether your lender has higher lending charge arrangements with an insurer or not. The fact the lender has made a higher lending charge claim does not mean that you do not have to repay the shortfall.

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In most cases, the higher lending charge will cover your lender only for part of its loss and, in addition, once an insurer has paid a higher lending charge claim, it gains the right of subrogation.

What is subrogation?

Subrogation means that the insurer can reclaim from you any money it has paid to your lender under a higher lending charge been caused by a "third party". In the case of higher lending charge, you, as the borrower, are the "third party" whose default led to your lender making the claim.

Either your lender or its insurer can take legal action against you to recover the shortfall if you do not repay it voluntarily, although any action would be taken in the name of the lender. In most cases therefore, it is your lender who will contact you to recover the shortfall on behalf of itself and its insurer. This does not mean that the lender is claiming the debt twice; any money paid by the insurer which is collected from you will be passed back to the insurer. In some cases, however, the insurer may contact you direct.

The fact that your lender has higher lending charge insurance does not mean that you are less likely to be pursued for the shortfall than if no higher lending charge insurance arrangements are in place. In both cases, your promise to repay all of the money you owe applies and lenders (and insurers) have 12 years (6 in Scotland) in which to seek recovery from all the money that you owe.

Porting

Porting is the term given to moving your current mortgage deal to a new property i.e. moving home. If your current mortgage product allows porting you will be required to pay the Higher Lending Charge to cover the cost of providing cover on your new property. Alternatively, if your mortgage product has an early repayment charge associated with it then you will be required to pay the early redemption charge which will enable you to take out a new mortgage product in line with your new loan to value.

Some people say that a higher lending charge covers me and enables me to escape from negative equity. How can I be sure that this advice is wrong?

Some advisers have misunderstood the nature of higher lending charge insurance and the wordings of the higher lending charge policies, taking them to mean that higher lending charge covers borrowers. However, it is very clear, and has been confirmed by various cases in the Courts, that this is not the case and that higher lending charge insurance covers only your lender and does not affect your personal promise and responsibility to repay the loan.

Consequently, you should be very wary of taking advice offered by any person or company that by simply handing your property back to your lender (known as "voluntary surrender") you will be covered by your lender's higher lending charge insurance and so avoid the payment of any shortfall. As you can see, such advice is wrong.

You would remain responsible for repaying any shortfall and your chances of obtaining another mortgage, or any other form of credit, in the future may be severely reduced (for example, your name may be placed on the Council of Mortgage Lenders' Possessions Register which most lenders check before granting a mortgage).

This information sheet is intended as a general guide and should contact your lender for a fuller explanation, if necessary. If you have mortgage arrears, or if you are not in arrears but have negative equity and wish to move, talk to your lender about possible ways that it may be able to help you.

Lenders always try to be sympathetic to borrowers in genuine difficulty, but you cannot simply "hand in your keys" and walk away from your home and your mortgage. Advice which says that you can is **WRONG**.