



FINANCIAL REGULATOR
Rialtóir Airgeadais

PO BOX 9138
College Green
Dublin 2
T +353 1 410 4000
F +353 1 410 4900

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Findings of Arrears and Repossessions Handling Procedures Examination

The Financial Regulator today published the findings of an examination of procedures for handling arrears and repossessions across credit institutions and other mortgage lenders, focusing on residential mortgages. Launching the findings the Consumer Director of the Financial Regulator, Mary O’Dea, called on mortgage lenders to continue to engage with borrowers who are currently experiencing financial difficulties and who are willing to enter into revised arrangements to repay their mortgages.

The examination found that lenders accept revised repayment arrangements when a consumer is in financial difficulty and has a willingness to repay the mortgage. Mortgage lenders generally have procedures in place for handling arrears and repossessions, which clearly state that the repossession of a residential property is a last resort.

The examination showed that at end June 08, 13,931 mortgage accounts (1.44% of residential accounts at end June 2008) were over 3 months in arrears, compared with end December 2006 when there were 11,252 accounts over 3 months in arrears (1.21% of residential accounts at end 2006).

In relation to repossessions by court order between January 2005 and June 2008, credit institutions repossessed 112 residential properties. Other mortgage lenders repossessed 16 in that time period. In total, there were 128 repossessions by court order for the period January 2005 to June 2008 out of a total of almost 1 million mortgage accounts reported to be held at end June 2008.

The reasons given for residential mortgage accounts falling into arrears included unforeseen circumstances, such as marital/relationship breakdown, unemployment, or illness. Other reasons cited were financial mismanagement or poor cash management.

The examination confirmed that mortgage lenders generally have fair and reasonable procedures in place to deal with arrears and repossessions. The Financial Regulator has written to all regulated mortgage lenders with feedback from the examination, setting out best practices identified:

- Where a mortgage was drawn down prior to the introduction of the Code, mortgage lenders should carefully assess each original mortgage application prior to initiating legal action for possession. In this regard, lenders should be satisfied that the initial assessment was robust before considering repossession as anything other than a last resort. In particular, special consideration should be given to those consumers who are unable to repay a mortgage on a principal private residence and whose difficulty in repaying their debts is due to unforeseen circumstances as opposed to avoidable circumstances. This is fundamentally in the consumer's best interests.
- Effective credit and risk management should include robust management reporting on arrears and repossessions data as visible trends may prompt the lender to review its credit/underwriting policies.
- It is clearly in the best interests of consumers that they are advised of the impact of missed mortgage repayments and/or repossession on their credit ratings.
- Before a lender agrees a revised repayment arrangement with a consumer, it should ensure that the arrangement is realistic and affordable. Best practice shows that some form of assessment of a borrower's ability to repay must be conducted e.g. an income and expenditure statement.
- Lenders have also been advised that in their contact with consumers:
- They should be particularly aware of those consumers whose fixed rate mortgages will revert to variable rates in the coming months, especially where this could negatively impact on consumers due to an increase in their mortgage interest rates;
- A dedicated staff member should be assigned, where possible, to deal with a consumer whose account is in arrears; and
- When a consumer first falls into arrears, lenders should explain their arrears and repossession procedures and possible additional costs to the consumer in a clear and consumer friendly manner.
- Lenders should provide consumers who are in arrears with information on debt counselling services e.g. the Money Advice and Budgeting Services. Lenders should have clear policies in place to advise borrowers of other supports available to them such as family income supplement, mortgage interest supplement and free legal aid.
- Lenders should suspend the collection/recovery process until valid complaints in relation to a consumer's mortgage account have been fully investigated or resolved.
- The potential costs associated with taking action through the High Court or the Circuit Courts can vary, depending on the circumstances of the case. Lenders should not, therefore, adopt a strict policy of taking action in either the High Court or the Circuit Courts, but rather consider the issue on a case-by-case basis, bearing in mind the impact their decision will have on the consumer.

