

Moving out of Mortgage Arrears and Personal Debt

Part 1: A guide to the Code of Conduct on Mortgage Arrears 2013

FLAC, September 2013

Advisory note and disclaimer:

FLAC (Free Legal Advice Centres) is a human rights organisation which exists to promote equal access to justice for all. As an NGO, FLAC relies on a combination of statutory funding, contributions from the legal professions and donations from individuals and grant-making foundations to support its work. We offer basic legal information through our telephone information line and free legal advice through a network of 80 volunteer evening advice centres. FLAC also campaigns on a range of issues including personal debt, fairness in social welfare law, public interest law and civil legal aid.

At the time of writing of the first version of this guide, the revised Code of Conduct on Mortgage Arrears 2013 has only been in place three months. The Personal Insolvency Act 2012 has just come into operation. The Personal Insolvency Practitioners (PIPs) who will make proposals on behalf of debtors under this Act have begun to be appointed. As a result, the whole area of debt and insolvency law in Ireland is quite uncertain at present and any guide to the area must always be approached with care.

You will note that this Guide mentions both the new Code of Conduct on Mortgage Arrears (CCMA) 2013 and the new Personal Insolvency Act 2012. FLAC originally intended to publish all the information together. However, it is already clear that many borrowers in mortgage arrears are receiving very worrying letters from their lenders under the new Code. We felt that borrowers needed updated information and guidance urgently. Therefore, we have decided to release the section on the new CCMA now, with a related piece on the Personal Insolvency Act 2012 to follow. As a social justice organization reliant on the work of volunteer lawyers and donor funding, FLAC seeks to help people to access justice where it can.

FLAC has assembled the information in this guide through study of the relevant codes and legislation, through interaction and consultation with the Central Bank, the Insolvency Service, the Money Advice and Budgeting Service (MABS) and potential PIPS, and also through listening to the stories of many debtors who are struggling with arrears on mortgages and other personal debts. While we have tried to make sure that the information contained in this guide is factually correct, the constantly developing nature of the area means that in some places it has had to involve guesswork. This is unavoidable at this stage of the debt crisis, and our guide will be **regularly updated** as more concrete information comes to light.

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Introduction

Don't bury your head in the sand if you are in debt, all the advice says. This is easier said than done, but it is advice that we in FLAC repeat - with one important qualification: When you do set out to engage with your creditors, you should inform yourself of your rights (such as they are) well in advance and, just as importantly, keep updated about developments.

The mismatch of debtor against an array of creditors is all too obvious and we in FLAC believe that the State has done far too little to even up that imbalance. We continue to vigorously campaign for an improved allocation of resources to help people in debt to have access to the full range of services needed to negotiate with creditors.

However, the old saying that 'information is power' still holds true. This guide attempts to set out the rules in place as we currently understand them; not, unfortunately, as we would like them and have campaigned for them to be. Thus the guide includes some analysis of areas where we have particular concern.

Nonetheless, we will also continue to vigorously campaign for reform of these processes to improve them from the consumer perspective.

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1. Mortgage Arrears: The Code of Conduct on Mortgage Arrears 2013 & its Mortgage Arrears Resolution Process (MARP)

Introduction

If you are in arrears with the mortgage on your principal dwelling house, it is vitally important that you are aware of the rules in the Central Bank's Code of Conduct on Mortgage Arrears (CCMA). You should download a copy of the CCMA (at www.centralbank.ie) or get one printed at a Citizens Information Centre, a MABS office or a local library. **You will need to consult it regularly.**

The Code of Conduct on Mortgage Arrears obliges all mortgage lenders (apart from local authorities) to have a **Mortgage Arrears Resolution Process (MARP)**. A lender must use this system to process cases of arrears (or of pre-arrears, which is where you feel you might be about to go into arrears) on primary residences. The aim is to attempt to put in place a sustainable alternative payment arrangement wherever the borrower cannot afford to pay the mortgage in the way set out in the original mortgage agreement. In this way, the purpose of the Code is to avoid the repossession of family homes wherever possible.

2. The Mortgage Arrears Resolution Process (MARP): The steps leading to a decision

At what point does the Code apply to a mortgage case?

- **Arrears cases** - If you miss a payment or part of a payment on your mortgage, you are in arrears. If you do not clear those arrears **within 31 days**, your lender must write to you (by letter or via another durable medium such as e-mail) **within three business days** confirming that you are now being treated as a MARP case. This letter must also contain certain other information (see Rule 23 of the code for more detail) and a copy of the lender's MARP booklet.
- **Pre-arrears cases** – You may feel that you are in danger of going into arrears because of financial difficulties and may contact the lender to begin the MARP process yourself. On the other hand, your lender may feel you are in danger of going into arrears because of financial difficulties and may wish to start the MARP ahead of actual arrears occurring.

CCMA - Rule 23

How should I respond to the MARP letter?

The purpose of the Code is to avoid the repossession of family homes wherever possible. It is important that you understand that this is the Code's purpose and that you make sure that your lender knows that you know this. When you go into arrears and your lender writes to you to begin the MARP process, you should therefore write back to acknowledge that you are now in MARP, setting out your understanding of this process.

How do I keep on top of my MARP process?

The first letter from your lender and your reply to it should be the beginning of your **MARP file**, as we believe that it is absolutely crucial for you to **document everything** that happens from here.

If you are already in the MARP process when you are reading this (as so many borrowers currently in arrears are), you should immediately do your best to put the documents that you have in order, if you have not

already done so. If you find it difficult to handle paperwork, think of a person you know and trust who might be able to help you. If you are missing letters and other documents, you should write to your lender and ask it to send you out a copy of all correspondence relating to your case since the MARP process began.

Can I get someone to deal with the lender for me?

The borrower may give written consent to a third party to act on his or her behalf in relation to his or her arrears situation. This person does not have to be a financial or legal expert but could be anyone you think will do a good job, such as a friend, relative or a neighbour with experience in financial matters.

The lender must liaise with the third party in relation to your arrears situation, but the lender may send written correspondence to you only, so you must make sure to bring any letters or e-mails to your representative's attention. If the lender refuses to engage with the third party, this is a matter you should note as it can form part of any appeal or complaint you may wish to bring (we will deal with appeals and complaints later).

Are there any rules controlling my lender's contact with me?

Not really. Previously, a lender could make a maximum of three unsolicited communications (in other words, contacts that you didn't agree to) per month with a borrower. This limit has been now removed.

The new rules on communications by lenders with borrowers can be summarised as follows:

- The lender must inform you in writing when it appoints a third party (for example, a debt collection company) to deal with your case and it must explain the role of the third party. Add this letter to your MARP file.
- The lender must have a communications policy in writing which is approved by its Board of Directors. You should ask your lender for a copy of this policy and add it to your MARP file.
- The lender must ensure that the level of communications with you by it or a third-party debt collector is 'proportionate and not excessive' including that 'unnecessarily frequent communications are not made'. Such communications must not be 'aggressive, intimidating or harassing'.
- The lender must give you sufficient time to carry out any agreed action – for example, to fill out a financial statement – before it contacts you again.
- The lender must then take steps to agree future communication with you. This might include any review of your financial statement, for example.

CCMA – Rules 21, 22 & 23

Can a lender visit my home without my permission?

Yes, a lender may make an unsolicited personal visit, but only in quite specific circumstances. This type of visit may only be made when all the lender's other attempts to make contact with you have failed, and immediately prior to declaring you as 'not co-operating' under the MARP.

You must receive at least five business days' notice **in writing** of such a visit in order to allow you to make contact with the bank yourself. This notice must offer you the facility to meet in a local branch instead of in your home. So if you do not wish your lender or its representative to visit you at your home, you could use this time to make an alternative appointment, for example, to arrange a meeting at a branch of the bank. Again, make sure you document any attempt you make to arrange an alternative appointment. Your lender must also inform you in writing that you can have a third party present at this meeting if you wish.

How is my arrears case assessed?

Your lender must give you and any joint borrower ('borrower' includes all parties named on the mortgage account) a Standard Financial Statement (SFS) to fill out with all your financial details. It is most important that this is filled out correctly. We recommend that you talk to the Money Advice and Budgeting Service (MABS) or similar for help with this.

The lender must then pass on the completed financial statement to its **Arrears Support Unit (ASU)**. Make sure you keep a copy of the Standard Financial Statement that goes to the ASU and be sure that it contains accurate, up-to-date financial information in terms of your income, your expenses and details of other creditors to whom you owe money. This is vital as this is the information that the lender's ASU will use to decide on your case.

The ASU must take into account **all circumstances** in assessing your case, including:

CCMA - Rule 37

- Your personal circumstances (employment status, family status, responsibilities, and so on);
- Your overall debt (all money owed, such as credit card/store card debt, credit union loans, HP debt, car leases, overdrafts, and the like);
- The information in the Standard Financial Statement;
- Your capacity to repay right now;
- Your previous history of payments.

A temporary repayment arrangement may be put in place while the ASU is making its decision to try to ensure that your arrears situation does not become worse.

CCMA - Rule 38

Can I lose the protection of the Code?

To have the protection of the Code of Conduct, it is essential that you are deemed to be co-operating with your lender. A very detailed definition of 'not co-operating' is set out in the new CCMA. You may be considered as 'not co-operating' in any one of the following situations:

CCMA –
'Definitions' on
page 4

- If you fail to 'make a full and honest disclosure' of information to the lender that would have a significant impact on your financial situation, for example, if you say your income is lower than it actually is, hide assets or exaggerate your expenses.
- If you fail to provide financial information, including the SFS, within the time allowed by the lender (note that the timeline set by the lender must be fair and reasonable.)
- If you fail for a period of three months to enter into an alternative repayment arrangement, fail to meet your mortgage payments and fail to make contact with or respond to communications from your lender (or a third party such as a debt collection agency acting on its behalf).
- If you fail for a period of three months to enter into an alternative repayment arrangement, remain in arrears and fail to make contact with or respond to communications from your lender (or a third party such as a debt collection agency acting on its behalf).
- If you fail for a period of three months to enter into an alternative repayment arrangement and fail to meet your mortgage payments; you make contact with or respond to communications from your lender, but do not engage in such a way that the lender can complete an assessment.

CCMA – Rule 34

- If you fail for a period of three months to enter into an alternative repayment arrangement and remain in arrears; you make contact with or respond to communications from your lender but do not engage in such a way that the lender can complete an assessment.
- If you enter into an alternative repayment arrangement but fail to meet the repayments as agreed and fail to make contact with or respond to communications from your lender (or a third party such as a debt collection agency acting on its behalf).
- If you enter into an alternative repayment arrangement but fail to meet the repayments as agreed; you make contact with or respond to communications from your lender but do not engage in such a way that the lender can complete an assessment.

Before your lender can classify you as not co-operating for any of these reasons, it should write to you to explain in what way it believes you are not co-operating. It must warn you that you have to take certain actions – such as filling out the SFS – so that it may complete an assessment of your circumstances. You must be given **at least 20 business days** to take these actions. You may be subject to an unsolicited personal visit during this time.

What are the consequences of losing the protection of the Code?

Where the 20-day period referred to above ends and you have not taken the action required, your lender must write to you and officially classify you as not co-operating. It must inform you that:

- legal proceedings to repossess your home may commence immediately;
- the protections of the MARP no longer apply;
- other options may now be available, such as voluntary surrender of the property to the lender, trading down to another property and selling the current one, availing of the mortgage-to-rent scheme or voluntary sale. Details must be provided of each of these possible options (and we will look at each of these later on);
- you have a right to appeal the lender’s decision that you are not co-operating;
- you have a right to consult a Personal Insolvency Practitioner, but that your failure to co-operate may affect your eligibility for a Personal Insolvency Arrangement (we will also look at this later on).

Can the lender lose the protection of the Code?

No. Unfortunately the Central Bank did not consider it necessary to define non-co-operation by a lender or set out any penalties where lenders don’t follow the rules.

3. The Mortgage Arrears Resolution Process (MARP): The lender’s decision

Must I be offered an alternative repayment arrangement?

The lender must explore all options for alternative repayment arrangements offered by that lender. So the lender is only obliged to ‘explore’ options and only those that it chooses.

CCMA – Rule 39

A lender is not obliged by the code to offer an alternative repayment arrangement. It can decide that none of the options it chooses to explore is suitable in your case. It can then classify your mortgage to be ‘unsustainable’ (you do have a right of appeal, which we will look at in detail later).

CCMA –
Rule 14 (d)

The Code obliges a lender to set out in its MARP booklet ‘an explanation of the alternative repayments arrangements available to borrowers’ and how these arrangements will work, so you should already know which options your lender is proposing to explore before your case is assessed. If for some reason you have not been informed of the available options, you should ask the lender to confirm which alternative repayment options it is offering in your letter replying to the lender’s initial MARP letter.

The revised Code of Conduct on Mortgage Arrears provides a range of alternative repayment options, including:

- interest-only payments for a period of time;
- a temporary reduction in the interest rate;
- a permanent reduction in the interest rate;
- payment of interest and a part of the capital for a period of time;
- a payment break (or ‘holiday’) for a period of time;
- extending the term of the mortgage (in order to reduce the monthly instalments);
- changing the type of the mortgage;
- adding arrears and interest to the principal amount due (known as capitalising arrears and interest);
- equity participation (a share of the property is transferred to the lender and the principal amount owed by the borrower to the lender is reduced by the value of that share);
- a split mortgage, where the mortgage is divided into two parts, one being serviced in full by payment of capital and interest, the other part being ‘warehoused’ until some future date (**note that the issue of whether interest runs on the warehoused part is a decisive factor here**);
- any voluntary scheme, such as a Deferred Interest scheme (for example, where two-thirds or more of the interest is paid);
- reducing the principal sum to a specified amount, i.e. some debt write-off.

What if I have an alternative repayment arrangement currently in place?

CCMA – Rule 43

The Code states that a lender must review an alternative repayment arrangement at ‘intervals that are appropriate to the type and duration of the arrangement,’ including at least 30 calendar days before it is due to come to an end. This means that before your current arrangement ends, the lender must come to you a month in advance to conduct a review of your financial situation.

CCMA – Rule 44

The Code states that a lender must carry out a review of an alternative repayment arrangement at any time, if requested by the borrower. You could therefore seek a review right now or you could write to your lender asking it to confirm which alternative repayment options it now offers so that you will be more prepared for the review when it comes.

Is my tracker rate of interest on my mortgage safe?

It may not be. If the lender decides that none of the options available that would allow the borrower to retain their tracker rate is either appropriate or sustainable, it may offer an alternative repayment arrangement which requires a change from an existing tracker mortgage to another type of mortgage. The only safeguards are that the alternative arrangement must be affordable for the borrower as well as sustainable, but it is basically the lender who decides this. If such a proposal is made to you, it can be appealed to the lender’s Appeals Board.

What information am I entitled to in relation to the lender's decision?

Your lender can basically make two types of decision under the MARP process (apart from classifying you as not co-operating – see above for more on this).

1. You are offered an **alternative repayment arrangement**, or
2. Your mortgage is considered to be **unsustainable**.

In either case, a lender must document how it considered each option it has examined, including why any given option is appropriate and sustainable or not appropriate and sustainable for the borrower, as the case may be. Your lender should write to you setting out details of how it considered the various different options it offers.

CCMA – Rule 40

If no option is considered appropriate and the lender declares the mortgage to be unsustainable, but fails to fully explain in writing why, you should write to the lender seeking details of how it considered each of the options).

Even if your lender offers you an alternative repayment arrangement, you may still write seeking details of its consideration of each of the options under examination. You may want to appeal the lender's decision in order to try to get an arrangement that is less difficult for you to comply with.

Should you accept the lender's decision, it is still useful for you to have this information as part of your MARP file.

Am I entitled to any advice where an alternative repayment arrangement is offered to me?

According to the Minister for Social Protection, Joan Burton TD, distressed mortgage holders are entitled to "independent financial advice". When a lender is proposing an alternative repayment arrangement, €250 must be offered to the borrower to obtain independent financial advice from a participating practitioner.

Further details of this scheme, now called the Mortgage Arrears Information and Advice Service (MAIAS), and a list of the accountants who have signed up to it may be found at www.keepingyourhome.ie. That website also provides other useful information on options for borrowers in mortgage arrears.

Please note that this scheme is limited. For example, the accountant is not supposed to offer an opinion or advice to the borrower in arrears on whether the arrangement being proposed is in his or her interest or not. His or her role is simply to explain the terms of the offer.

The Citizens Information Board operates a very useful website offering information on many areas of public service at www.citizensinformation.ie and has a dedicated telephone helpline offering mortgage information at 0761 07 4050.

What happens if I am offered an alternative repayment arrangement and I comply with it?

As long as you make the agreed payments, the lender cannot commence legal action to repossess your home. However, note that the arrangement will be subject to regular review, including if you stop making the agreed payment.

What can I do if I feel the alternative repayment arrangement offered by the lender isn't suitable for me?

- If you feel that the arrangement being proposed by the lender is not sustainable for you and you are not willing to enter into it, you should **write to the lender to let them know**. The Code does not provide any timeframe for this.
- You may then appeal to the lender's **Appeals Board**, looking for a more sustainable arrangement, but you must put forward tangible, well-founded arguments to justify this.
- There is then the further option of referring the matter to the **Financial Services Ombudsman's (FSO) office**, if your appeal to the lender's Appeals Board is unsuccessful.

What can I do if my mortgage has been declared unsustainable?

- If this does happen and you want to try to hold onto your home, you can also appeal that decision to the lender's Appeals Board.
- If this is unsuccessful, there is a further option under the Code of referring the matter to the Financial Services Ombudsman's (FSO) office. However, you should note that a referral to the FSO is unlikely to result in the overturning of the lender's decision unless the lender has not complied with the rules in the code in how it treated your case under the MARP.
- Appeals and preparation for appeals are considered in much greater detail below.

What can happen if I reject an alternative repayment arrangement or my mortgage is declared unsustainable?

In either case, the lender must write to inform you of any **other options** now available to you. These include the voluntary surrender of your house, trading down to a cheaper property, voluntary sale of the property or the mortgage-to-rent scheme. Details of these will be outlined below.

Your lender must also inform you of your **right of appeal**. However, in either of these cases, you are now outside the protection of the MARP. In theory, therefore, your lender may take legal action to repossess your house. This can happen either

- **three months** from the date it wrote to you after your rejection of the proposed alternative repayment arrangement or from the date it wrote to tell you that your mortgage was unsustainable; or
- **eight months** after your arrears problem began – whichever is the latest.

In practice the three-month limit will be more likely, as many borrowers are currently in arrears for far longer than eight months.

FLAC understands that the three-month stay on legal action will **not** be suspended while the borrower exercises his or her right of appeal. Given that it may take up to three months or even longer to process an appeal to the lender's Appeals Board and get a decision, a lender may be in a position to bring legal action before a decision has actually been made by the Appeals Board. However, FLAC believes that it is unlikely that lenders will move to take legal action to repossess while an appeal is still undecided.

What if I agree with my lender that my mortgage is unsustainable?

If you feel that your mortgage is unsustainable, you may agree to **voluntarily surrender** the property to your lender who may then try to sell it. However, if the lender sells your home for less than the amount outstanding on the original loan (after the costs of sale have been deducted), you will in theory be liable for the difference. However, this debt is now an unsecured debt, as it is no longer secured by a mortgage on the property. This means that you could at this point approach a Personal Insolvency Practitioner and seek to propose a Debt Settlement Arrangement (DSA) under the Personal Insolvency Act 2012 for this and any other unsecured debts that you may have. This proposal would likely involve a commitment to repay a percentage of the debt over a five or six year period, followed by a write-off of what remains (see below for further detail).

Can I apply for social housing if my mortgage is unsustainable?

Importantly, once you and your lender agree under the MARP process that your mortgage is unsustainable, you have the right to be assessed for social housing immediately - you do not have to wait for legal action to be brought against you.

If your relevant local authority refuses to carry out this assessment, you can point out that Regulation 23 of Statutory Instrument 84/2011 (Social Housing Assessment Regulations) sets out the criteria to be used by a local authority when determining a household's need for social housing support. In turn, Statutory Instrument 321/2011 (Social Housing Assessment (Amendment) (No. 2) Regulations) provide at Regulation 3 (g) (ii) that Regulation 23 be amended so that an additional criterion, namely (ee) be added as follows:

Regulation 23 of Statutory Instrument 84/2011 (Social Housing Assessment Regulations)

'whether it has been concluded, under the Mortgage Arrears Resolution Process set out in the Code of Conduct for Mortgage Arrears 2011 issued under section 117 of the [Central Bank Act 1989](#) (No. 16 of 1989), that the mortgage on the accommodation is unsustainable for the mortgagee'.

Regulation 3 (g) (ii) of Statutory Instrument 321/2011 (Social Housing Assessment (Amendment) (No. 2) Regulations)

Thus you **can apply to be assessed for social housing without delay** as soon as you and your lender have agreed in writing that the mortgage is unsustainable.

4. The Mortgage Arrears Resolution Process (MARP) & Code of Conduct on Mortgage Arrears (CCMA): Appeals and Complaints

Introduction

If you have received a decision from your lender under the MARP and you are not happy with what is being proposed or you are not happy with how you have been treated under the Code, it appears that you basically have two options. You can **appeal** the decision of the lender, or you can **make a complaint** about how the lender complied with the Code. On the issue of appeals and complaints, Rules 49 to 55 are the relevant rules to look at.

CCMA - Rules 49 to 55

It is also important for us to say that there is an alternative for a borrower to appealing a lender's decision under the Code. You may instead seek to speak to a Personal Insolvency Practitioner (PIP) with a view to making a proposal for a Personal Insolvency Arrangement under the Personal Insolvency Act 2012.

- **When can I appeal?**

CCMA - Rule 49

The Code provides that a lender must have established an appeals process with an appropriate **Appeals Board** to allow you to appeal a decision of that lender's Arrears Support Unit. It would seem however that not every decision of the lender may be appealed to the Appeals Board, as the rule provides for **three** specific grounds (or reasons) of appeal. These are:

- Where an alternative repayment arrangement has been offered to the borrower by the lender and the borrower is not willing to enter into this arrangement. (In other words, as explained above, you are not happy with the arrangement offered and seek one that is more suitable to your financial circumstances.)
- Where the lender declines to offer an alternative repayment arrangement to the borrower. (In other words, where the lender writes to you and says that your mortgage is unsustainable.)
- Where a lender classifies a borrower as 'not co-operating' and the borrower wants to challenge that decision (see above for definitions of 'not co-operating').

- **When can I complain?**

On the other hand, the Code says that a lender must apply the complaints rules in the Central Bank's Consumer Protection Code (CPC) – a more general code imposing standards of behaviour on providers of financial services – where a borrower wishes to make a complaint about either:

CCMA - Rule 55

- The lender's treatment of the borrower under the code; or
- The lender's compliance with the requirements of the Code.

- **What is the difference between an appeal and a complaint?**

FLAC understands that the distinction between appeals and complaints was drawn in order to make the whole process more efficient for lenders and borrowers. Complaints about the treatment of borrowers under the CCMA – as well as the compliance of lenders with it – are to be dealt with under the consumer protection code. This will, according to the Central Bank, ensure that a lender's Appeals Board "can solely focus on appeals relating to a decision of the lender's Arrears Support Unit (ASU)".

- FLAC has noted that many customers have been receiving "unsustainable mortgage" letters and some of these appear to have been sent without the required fresh re-consideration of the borrower's financial circumstances. In FLAC's view, this may not only allow for an appeal to the Appeals Board on the decision itself, but should also give rise to legitimate complaints under the Consumer Protection Code that the lender has not treated the borrower properly under the Code of Conduct on Mortgage Arrears nor indeed complied with the CCMA's requirements. The general point is **that a borrower may have both a right of appeal to the lender's Appeals Board and a right of general complaint under the lender's complaints procedure (which must follow the rules in the Consumer Protection Code) arising out of the same case.**

4.1 Further details on the appeals process

- **How much time do I have to appeal after the lender's original decision?**

The lender must allow a reasonable period of time - **at least 20 business days** (or **four calendar weeks**) - for a borrower to appeal its decision. You should already have details of the lender's appeals process provided to you in writing as part of the original MARP booklet. If you do not have a copy of this, make sure to request it in writing. If you are not in possession of the necessary

information to properly appeal how the lender came to its decision, you should write to your lender requesting it. Any letter should stress that the Code allows you a reasonable period of time - at least 20 business days from the date of the notification of the lender's decision – to appeal and that time for the purposes of your appeal will not run until you are properly notified.

- **Who is on the Appeals Board?**

The Board must be made up of three of the lender's senior personnel who have not been involved in the borrower's case previously. At least one must independent of the lender's management, must not be involved in lending matters and may not necessarily be part of the lender's organisation at all.

- **What information am I entitled to from the lender in order to consider any appeal?**

Under the Code, a lender must explore **all of the alternative repayment arrangements that it offers** from the list of options (see above). This must be done when the lender is looking to put in place an alternative repayment arrangement for either the first time or following a review of an existing arrangement, for example, moving from an interest-only arrangement to a split mortgage proposal.

Rule 39

Under Rule 40, a lender must document how it considered each option it offers under Rule 39 in each specific case. This must include the reasons why any option it offers to you is considered to be appropriate and sustainable for your individual circumstances. It also must include why any option it does not offer to you is not considered appropriate and sustainable for your particular circumstances. Thus, whether you are a new or an existing MARP case, all options the lender chooses to look at must be documented along with the lender's reasons for offering or not offering the particular options to you.

Rule 40

The Code does not specifically say that you, the borrower, are entitled to this information in writing. It is clear however that you may not be able to properly exercise your rights of appeal unless you are given the full basis for the lender's decision.

Following the publication of the revised Code of Conduct in June 2013, FLAC wrote to the Central Bank, asking if it could confirm that the borrower will be immediately entitled to written details of lender's consideration of all the options considered.

The Bank first replied only to say that a borrower is entitled to an explanation of the reasons why the alternative repayment arrangement offered is considered to be appropriate and sustainable. A further request for clarification on these issues from the Bank resulted in a more detailed reply summarised as follows:

- The Bank repeated that where an alternative repayment arrangement is offered by a lender, it must provide the borrower with the information in relation to that offer, to help the borrower to make a decision on whether to accept or reject it.
- It said that where a lender does not offer a borrower an alternative repayment arrangement, it must provide the borrower with the reasons why it has not and the other information detailed in Rule 45.
- It confirmed that a lender must base its assessment of the borrower's case on the full circumstances of the borrower including the criteria set out in rule 37 (see above)

- It confirmed that Rule 42 only required the provision of information on why the arrangement offered is considered to be appropriate and sustainable for the borrower, and not information on other options that were not offered to the borrower.
- It accepted however that it may be important to a borrower for his or her appeal to know how the lender considered (other) options not offered. The Bank said that it would be up to any borrower appealing to make the case for that information to be provided by the lender's Appeals Board.
- It confirmed that in circumstances where a new alternative repayment arrangement may be required, for example where an interest-only arrangement is coming to an end; a lender must review the arrangement that is in place. It said that in this review, the lender must check with the borrower whether his/her circumstances have changed since the alternative repayment arrangement was put in place or since the last review was conducted. Where there has been a change in the borrower's circumstances, the lender must request an updated standard financial statement from the borrower and must consider the appropriateness of the (existing) arrangement for the borrower.
- Finally, it suggested that in considering whether the (existing) arrangement is appropriate, on the basis of a standard financial statement, a lender must comply with the all relevant provisions of the resolution rules in the MARP (rules 39 -47).

It would seem from this reply that many lenders who have sent out letters recently to borrowers on interest-only arrangements to tell them that their mortgages are now unsustainable - but without carrying out a proper review - may be in breach of the Code.

- **What should I include in my appeal?**

Your appeal must be in writing and, as we have said, it is vital that it is properly prepared, as it may be the only real opportunity you will have to challenge the lender's decision. In order to do this, you need to have the maximum information from the lender on how it considered your case.

If this information is not provided to you voluntarily, you should ask for it in writing. Your **MARP file** (see above) may also be helpful in revealing any differences in the bank's account of your dealings with them that might be useful for your appeal.

4.1.1 Grounds for appeal

As set out above, there are three grounds of appeal. Below, we will look at each of these in turn, with some suggestions as to how you might frame your appeal under the relevant heading.

i. **Alternative repayment arrangement offered, but you are unhappy with it**

You should at least have had access to an accountant under the government's **Mortgage Arrears Information and Advice Service** (see above) to have the terms of the lender's alternative repayment arrangement proposal explained to you by this point. Hopefully, you will as a result be in a better position to assess whether it is sustainable for you. Better still, you may also be a client of MABS or have access to some other form of on-going assistance.

We have to stress that FLAC a legal rights body and not a debt counselling or budgeting advice organisation. We strongly advise that you seek specialist assistance from MABS or an equivalent.

Any appeal you bring under this heading should try to make a case for the lender to offer you a more suitable arrangement. You should be trying to show that the arrangement being offered gives you too little room for manoeuvre in terms of your finances. To properly make your appeal, you need to examine the information the lender considered and assessed before deciding that the arrangement being offered is sustainable for you. To do this, you should also ideally have information in writing on the other alternative repayment arrangements your lender offers and how they were considered and ultimately not offered in your case. If this is not provided, you will need to write to your lender looking for it.

We must stress that it is beyond the scope of this guide to offer any specific advice on how a particular appeal should be handled. FLAC has campaigned consistently for more state resources to be put into providing ongoing advice and assistance for borrowers in arrears, faced with difficult decisions such as whether to accept an alternative arrangement or not, and we will continue to do so. You should try to avail of the support that is out there, such as consulting MABS or one of the voluntary organisations that negotiates directly with lenders. You should also consider going to one of FLAC's legal advice centres for free and confidential one-to-one legal advice. Details of all these services can be found at the end of this guide.

ii. A conclusion that your mortgage is 'unsustainable'

An appeal under this heading may be more straightforward. Here you will be trying to convince the Appeals Board that the Arrears Support Unit is incorrect in deciding that your mortgage is unsustainable. Again, in order to make your appeal properly, you will need the all the relevant information from the lender. If this is not provided, you will need to seek it in writing. The information you will need includes a list of the alternative repayment arrangements that your lender generally offers, how it considered each of these and how it came to the decision that each of them was not appropriate and sustainable in your case.

The Code obliges the ASU to assess your case taking all your circumstances into account. This includes:

CCMA - Rule 37

- Your personal circumstances
- Your overall debt situation
- The information in the standard financial statement (SFS)
- Your current repayment capacity
- Your previous repayment history

In FLAC's view, you are also entitled to know in detail how these factors were taken into account when assessing the available options and deciding that they were not appropriate and sustainable for you. For example, your lender may in principle offer a split mortgage as a potential arrangement. It may however decide that this option is not appropriate and sustainable in your case. If it does, you should be entitled to know the detail of how your financial situation, payment capacity and general circumstances were assessed in refusing you this potential option (or any other option the lender offers).

With this information, you can then argue that the assessment failed to take into account important facts.

However, FLAC must again stress that it is beyond the scope of this guide to offer any specific advice on how a particular appeal should be handled. We have campaigned consistently for more resources to be put into providing ongoing advice and assistance for borrowers in arrears, faced with difficult decisions such as whether to accept an alternative arrangement or not, and we will continue to do so. You should try to avail of the support that is there, such as consulting MABS or one of the voluntary organisations that negotiates directly with lenders. You should also consider going to one of FLAC's legal advice centres for free, confidential one-to-one legal advice. Details of all these services can be found at the end of this guide.

iii A declaration that you are 'not co-operating'

The list of potential grounds for deeming you as 'not co-operating' is outlined above and the definition is at page 4 of the Code. It is important to remember that before your lender can classify you as not co-operating, you must be given notice in writing that you have at least **20 business days** (or four working weeks) to undertake any actions the lender requires, now and into the future, to get back on track. If you take these actions, for example, completing a SFS or meeting the terms of any agreed alternative repayment arrangement, no classification of 'not co-operating' should take place. It is vitally important that you use this four-week period to address whatever problem the lender considers has occurred.

Even where you are classified as not co-operating, you can still appeal that decision. You should already know what your lender's problem with you is, based on the 20-day letter described above. It would be best to try to resolve this in the 20-day period. You may, however, have a genuine difference of opinion with your lender about their interpretation of not co-operating and an appeal gives you the opportunity to highlight this.

- **What happens after I have submitted my appeal?**

Once you have lodged your appeal, your lender must acknowledge it in writing within **five** business days of the appeal being received.

The lender must also provide you with the name of the individual or individuals who have been designated as your point of contact for the appeal.

- **How long will it be until I hear back?**

Your lender must supply you with a regular written update on the progress of the appeal at intervals of not greater than 20 business days. The lender must have come to a final decision within **40 business days** of having received the appeal.

Within five business days of completion of the appeal, the lender must inform the borrower in writing of:

- The decision of the Appeals Board and the reasoning behind that decision;
- Where applicable, the terms of any offer being made;
- The borrower's right to refer the matter to the Financial Services Ombudsman (FSO) and the contact details for the FSO.

- **What are my rights of further appeal to the Financial Services Ombudsman?**

If you are unhappy with the outcome of an appeal to the Appeals Board under any of the three grounds outlined above, you then have a right under the Code 'to refer the matter' to the FSO (emphasis added). Note that **this is not described as an appeal**. FLAC seriously doubts whether there is any right of appeal to an independent third party under the MARP process.

The Financial Services Ombudsman has recently clarified that where issues of sustainability/repayment capacity are in dispute, he can only investigate a complaint as to whether the provider adhered to its obligations under the CCMA – in other words, whether the lender complied strictly with the Code in how it carried out its work.

The FSO will not investigate the details of any renegotiations of the commercial terms of a mortgage and will not interfere with the commercial discretion of a provider “unless the conduct complained of is unreasonable, unjust, oppressive or improperly discriminatory in its application to a Complainant”. Again: In practice this means that it is very unlikely that the FSO review the decision made by your lender – it will only look at how the lender complied with its obligations under the terms of the Code.

Finally, you should note that by the time the FSO deals with any referral by you from an unfavourable decision of a lender’s Appeals Board, you will be outside the protection of the MARP process and open to legal action for repossession. This is because well over three months is likely to have passed from the time of the lender’s decision (or eight months will have passed since you went into arrears).

FLAC does not know yet whether a borrower referring the matter on to the FSO will stall any potential legal action by a lender. Details of the FSO’s complaints handling procedures can be found at www.financialombudsman.ie.

- **Are there any alternatives at this stage to the two avenues of appeal outlined above?**

Where the lender refuses to offer you an alternative repayment option or offers one that you do not consider workable, you do not necessarily have to appeal to the Appeals Board and/or refer the matter to the FSO. Instead, the Code suggests that you could contact a Personal Insolvency Practitioner (PIP). Through the PIP, you can apply under the Personal Insolvency Act 2012 for a Personal Insolvency Arrangement (PIA).

Note also that you could apply for a Debt Settlement Arrangement (DSA) instead if you have only one secured debt, such as a mortgage in arrears. Although that secured debt cannot be included in the DSA, the mortgage lender may be prepared to reschedule the mortgage payment while your unsecured debts are being dealt with under a DSA. Where they are ultimately written off, you may be able to go back to paying your mortgage.

To apply for a PIA,

- you must declare in writing that you have already co-operated for a period of at least 6 months with your mortgage lender under the CCMA (for example by paying agreed interest-only for 6 months)

and that despite this co-operation,

- you have either not been able to agree an alternative repayment arrangement with your lender or your lender is unwilling to enter into an alternative repayment arrangement.

Any PIA application must be approved by your creditors as follows:

- At least 65% of creditors (secured and unsecured) in value vote in favour at the meeting;
- At least 50% of secured creditors in value vote in favour at the meeting;
- At least 50% of unsecured creditors in value vote in favour at the meeting.

Any DSA application must result in at least 65% of your unsecured creditors in value voting in favour of the proposal at the meeting.

If the relevant voting thresholds are not met, whether the application is for a PIA or DSA, your proposal fails and you have no rights of appeal. Bankruptcy is the next option and it is unlikely (though not impossible) that you will be able to hold onto your home in the bankruptcy process.

4.2 Further details on the complaints process

As explained in the introduction to this part of the guide, the Code differentiates between an appeal and a complaint. We have looked at the crucial decisions of a lender that can be appealed to its Appeals Board. You can however also make a complaint under the lender's general complaints procedure about how the lender treats you in terms of your rights under the Code or how the lender complies with the rules of the Code itself. These complaints are more about the process than the lender's decisions.

- **To whom do I complain?**

You will be making a complaint to the internal complaints body of the lender, who must deal with it according to the rules set out in the Central Bank's Consumer Protection Code (CPC). The lender's Arrears Support Unit, compliance/risk function and senior management is responsible for undertaking an analysis of complaint trends under the CCMA.

- **How will the complaint be processed?**

The complaint will be processed in accordance with s 10.7 – 10.12 of the **Consumer Protection Code 2012**. This obliges your lender (or any other entity regulated by the Central Bank) to have a written complaints procedure; the minimum requirements of this procedure are set out below.

<p>Consumer Protection Code 2012 - Sections 10.7 to 10.12</p>

- **In what form should the complaint be made?**

It is always best to make any complaint **in writing**. However, under the Consumer Protection Code, if a lender receives an oral complaint (such as one made during a telephone call or a face-to-face visit) it must offer the borrower the chance to have the complaint dealt with in accordance with the lender's formal complaints process.

- **What happens after I make a complaint?**

The lender must acknowledge each complaint in writing **within five business days** of receipt.

The lender must also provide the borrower with the name of the individual or individuals who have been designated as your point of contact in the lending institution in relation to the complaint.

The lender must provide the borrower with a regular written update on how the complaint mechanism is progressing, at intervals not greater than 20 business days.

The lender must have come to a final written decision within **40 business days** of having received the complaint.

Within 5 business days of completing the investigation, the lender must make the borrower aware, in writing, of:

- the outcome of the investigation;
- where applicable, the terms of any offer or settlement being made;
- the right of further referral to the Financial Services Ombudsman.

- **What kind of offer or settlement can I expect if my complaint succeeds?**

Neither the Consumer Protection Code nor the Code of Conduct on Mortgage Arrears sets out any guidelines on this matter. It will be up to the lender to decide the appropriate response where your complaint is upheld. To some extent this may be influenced by what you look for yourself. You may, for example, seek to go back to the stage of the process you were at when the cause of your complaint occurred. You may be looking for some monetary compensation (which would generally be set against your existing arrears).

- **What happens if I am not happy with the outcome?**

If you are not satisfied with the outcome of your complaint under the Consumer Protection Code, you are entitled to refer the matter to the relevant Ombudsman, in this case the Financial Services Ombudsman (FSO). Details of the FSO's complaints handling procedures can be found at www.financialombudsman.ie. The FSO has the power under the Central Bank legislation to uphold, partially uphold or dismiss a complaint. It can make a number of orders. These include:

- to review, rectify, mitigate or change the conduct complained of or its consequences;
- to provide reasons or explanations for that conduct;
- to change a practice relating to that conduct;
- to pay an amount of compensation to the complainant for any loss, expense or inconvenience sustained by the complainant as a result of the conduct complained of;
- to take any other lawful action.

5. Final steps: Your options after the CCMA/MARP process

- **If my mortgage has been declared unsustainable, or I reject the alternative repayment arrangement offered by my lender, or I have been deemed as not co-operating, what other options are available if my appeal(s) fails?**

In these situations, the lender must have already informed you in writing of the reasons why the decision has been made, and the other options available to you, including:

- Voluntary surrender
- Trading down
- Mortgage-to-rent
- Voluntary sale

The lender must also explain the consequences of each of these actions to you, including;

- An estimate of the associated costs and charges of each option
- The requirement to pay any outstanding arrears
- The impact that each option will have your credit rating, and
- The importance of seeking independent legal advice before choosing any of these options

If you do not receive this information from your lender, especially the information laying down the associated costs and charges of each option, you should write to your lender, requesting this information in writing.

- **What is a ‘voluntary surrender’ and what are its consequences?**

Voluntary surrender means handing back the property to the lender so that the lender may (eventually) sell it. There may be serious financial consequences involved in taking this option and any borrower should check carefully what the lender’s policy is on voluntary surrender and what processes you will be asked to go through. In particular, you should be wary of any documentation such as a ‘deed of surrender’ that you may be asked to sign. You must seek legal advice in all cases.

Generally, you will be responsible for any outstanding debts, including the shortfall (any amount still owed on the original loan after the sale of the property), any accrued interest, charges, legal and other costs of sale and any other related costs. Although you will avoid the legal costs of repossession in the courts, you will lose control of the sale of your home. This could mean that your home may sell for less when sold by the lender than if you sold it yourself. You should note however that the lender is obliged to get the best price ‘reasonably obtainable’ for the house. It is also possible that the lender may pay more for the various services – auctioneering and legal – than you would pay by shopping around. There may be additional charges for services such as security.

If you opt for voluntary surrender, you must ensure that the lender has stated in writing that the mortgage is unsustainable under the terms of the MARP. As pointed out above, this should be enough for your local authority to assess your social housing need and for any application for rent supplement for private rented accommodation to be made, if it is necessary. A written declaration of unsustainability from your lender will be necessary.

Voluntary surrender is not an easy option, and as pointed out, you will remain liable in theory for any ‘shortfall’, which is the difference between the amount of the mortgage outstanding and the amount for which the property is actually sold. It is unclear how this residual debt associated with a voluntary surrender will be dealt with by each individual lender, with most lenders so far approaching it on a case-by-case basis. As we have already pointed out above, the residual debt is now an unsecured debt and an application for a Debt Settlement Arrangement could be made on your behalf by a Personal Insolvency Practitioner (PIP) for this and other unsecured debts that you may have.

- **What is ‘voluntary sale’ and would it be any better?**

Voluntary sale is defined under the Code as the voluntary sale by the borrower of the primary residence in order to repay part or all of the mortgage. If your lender agrees to voluntary sale, you will have to agree in advance to pay over the sale proceeds to the lender. You should check carefully what the lender’s policy is on voluntary sale and what processes you will be asked to go through. In particular, you should be wary of any documentation that you may be asked to sign. You must seek legal advice in all cases.

You will generally have to pay the costs of sale in terms of legal and auctioneering fees but you should be able to agree to have these deducted from the sale price before handing over the balance to your lender. In theory at least, you will be liable for any shortfall between what you owe the lender and what the house sells for net of costs.

This residual debt however is now an unsecured debt and an application for a Debt Settlement Arrangement could be made by a Personal Insolvency Practitioner (PIP) for this and other unsecured debts that you may have.

The potential advantage of voluntary sale is that you have more control over the process in terms of getting the best price for the house which may help to reduce the balance owed. You may also be able to continue living there rent free or for a nominal rent until a sale is completed.

- **What is 'trading down' and what are the consequences?**

In the Code of Conduct on Mortgage Arrears, 'trading down' is where a borrower sells his or her primary residence and buys a lower value property. This may allow the borrower to clear or reduce the arrears on the mortgage and reduce the monthly payments on the mortgage to a lower and more affordable amount.

In practice, if this option is workable, it is likely to have been explored long before the point at which the lender classifies the mortgage as 'unsustainable'.

- **What is the 'mortgage-to-rent scheme' and how do I get involved in it?**

Under the mortgage-to-rent scheme run in conjunction with the Department of the Environment, Community and Local Government, borrowers with unsustainable mortgages may potentially switch from owning their home to renting their home as social tenants. Although this is not an option that will appeal to all, it can allow families to stay in the community in which they are rooted. There is also the potential for a buy-back of the property after five years if the household's financial situation improves. However, a number of qualifying conditions apply. These include:

- Your mortgage must be unsustainable;
- Your house must be worth less than €220,000 (Dublin) and less than €180,000 (rest of Ireland);
- You cannot own any other property or have assets worth more than €20,000;
- Your net income cannot exceed certain limits depending on where you live in the country;
- You must be approved for the Mortgage-to-Rent Scheme by your lender;
- Your home must be approved by the Housing Association as suitable;
- You must be approved for Social Housing Support by your local authority.

More detailed information about the mortgage-to-rent scheme is available at <http://www.housing.ie/> or www.citizensinformation.ie. Information can also be obtained from the housing associations that purchase the dwellings in question and with whom the former borrower enters into a tenancy agreement.

You must get legal and financial advice before your participation in the mortgage-to-rent scheme can be allowed to go ahead. In this case, **your lender will provide up to €500 for independent legal advice**. You will also be able to avail of the Mortgage Arrears Information and Advice Service where **a lender will also provide up to €250 for financial advice** from the MAIAS accountants panel.

- **At what stage could my home be repossessed?**

A lender may take legal action for repossession under the Code of Conduct on Mortgage Arrears if

- the mortgage has been declared **unsustainable**,
- if an **alternative repayment arrangement has been refused by the borrower** or
- if the borrower has been declared as **not co-operating**.

However, if the mortgage has been classified as unsustainable or an alternative repayment arrangement has failed, the lender can only initiate this action either

- a) **three months from the date the relevant letter is issued, or**
- b) **eight months from the date the arrears arose,**

whichever date is later. The purpose of this time period is to allow you to appeal the lender's decision or to make contact with a personal insolvency practitioner with a view to possibly proposing a personal insolvency arrangement to your lender and your other creditors.

It is important to note however that the three months will continue to run even while any appeal made to the appeals board or referral to the FSO is ongoing or while you are consulting with a personal insolvency practitioner on proposing a personal insolvency arrangement.

Note also that if a borrower has been declared as not co-operating and the relevant notification has been issued, then legal proceedings can be issued immediately.

Even where legal action is brought by your lender to repossess your family home, Section 2 of the Land and Conveyancing Law Reform Act 2013 allows for these legal proceedings to be adjourned by the Court so that a proposal for a Personal Insolvency Arrangement can be explored as an alternative to repossession.

Land & Conveyancing Law Reform Act 2013 - Section 2
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- **What notice will I get of repossession proceedings?**

Under the Code, a lender must notify the borrower in writing immediately before it applies to the Courts to commence legal proceedings for the repossession of the primary residence. This is intended to allow for some final negotiation to take place on an arrangement that might avoid repossession.

CCMA - Rule 58

The Code also provides that the lender must maintain periodic contact with the borrower at all times when repossession proceedings are ongoing. The Code does not say how often this 'periodic' contact should take place.

CCMA - Rule 59

- **Is there anything I can do to stop repossession proceedings once they have begun?**

One way to put a stop to the proceedings is to agree a new alternative repayment arrangement with the lender before an order of repossession is granted. According to Rule 59, the lender must in this situation seek an order from the court to put the legal proceedings on hold, for the period during which the borrower adheres to the terms of the alternative repayment arrangement. It is unlikely however that a new alternative repayment arrangement will be available at this late stage.

In reality, once repossession proceedings have begun, there is not much you can do other than contact a Personal Insolvency Practitioner and consider an Insolvency Arrangement, as in this case the judge can adjourn the proceedings to allow you to make the proposal.

- **Is there any way I can challenge the legal action to repossess my home?**

Legal proceedings to repossess your home may be brought in either the Circuit Court or High Court. High Court cases are run in Dublin and Circuit Court cases at a large town in your locality. It is open to any borrower served with legal proceedings to enter a legal document called an 'appearance' and to follow that appearance with a written defence. If it is considered that your written defence may have some legal substance, the case may be set down for a hearing where you will have the opportunity to explain your arguments to a judge.

However, these are not decisions that you should take at all lightly. If you do not succeed, you may be held liable for your lender's legal costs as well as any legal costs of your own. Although a court or court official may sympathise with your situation, you must be aware that **inability to pay is not a legal defence**. You should also bear in mind that the court will be aware that legal action to repossess can only be brought after a long process, including compliance with the terms of the Code. Get legal advice in all cases before you decide decision to defend.

Am I entitled to legal advice during this process?

As previously mentioned, you can visit one of FLAC's legal advice evening centres for free and confidential one-to-one legal advice from a volunteer lawyer with any legal questions you have. In addition, you may be entitled to legal advice and possibly to legal representation in court from the Law Centres of the state-funded Legal Aid Board. See <http://bit.ly/CLAflacsheet> for details of how the Legal Aid Board's civil legal aid service operates.

While FLAC's evening clinic service is entirely free, and appointments are usually available within a couple of weeks of enquiring, the Legal Aid Board's service is **not free**, though it is heavily subsidised. In addition, there can be long waiting lists in various centres to access that state service.

FLAC has also called on the government to make more resources available to existing providers and a greater range of support and advice available to borrowers in recognition of the complexity of negotiating mortgage debt arrears and the serious imbalance that exists between borrowers and lenders. We will continue to press for that support and you should check our website for updates.

6. Conclusion

The aim of this guide is to outline from the consumer perspective how the Code of Conduct on Mortgage Arrears and other related processes function for those who are seeking to re-negotiate their mortgage arrears towards a more sustainable solution. The Code is only that, a method by which mortgage lenders must negotiate with those in arrears on the mortgage debt on their principal family home. While it is unsatisfactory in many ways, it is the only mechanism set down by the authorities and it is important that those in debt understand it as well as possible.

FLAC has been campaigning for stronger systems and for better support for borrowers for many years. While there has been much progress recently, unfortunately we see that the new system will need further reform before it treats borrowers in debt in a fair and transparent manner.

If you have concerns about any of the information contained in this document, please refer to the introductory section and do get in touch with FLAC for clarification. We are also interested in hearing from people who are willing to share their stories so as to highlight concerns around Ireland's system for handling

personal debt. These case studies may help to expose short comings and press for change. You can e-mail us at campaigns@flac.ie with any of your questions or concerns.

- For updates on FLAC's work on reforming personal debt law and on our work in general, visit our website at www.flac.ie or follow us on Facebook (www.fb.me/flacireland) or on Twitter (www.twitter.com/flacireland).

7. Important bodies:

- Central Bank: *Body governing regulation of financial institutions in Ireland. Issues Codes of Conduct.*
Web: www.centralbank.ie/
- Citizens Information Board: *Information on public services and entitlements in Ireland.*
Web: www.citizensinformation.ie
List of local advice centres: <http://centres.citizensinformation.ie/>.
*Dedicated Mortgage Arrears Information Helpline: **0761 07 4050**, Mon-Fri, 9.30am to 5pm.*
Dedicated website: www.keepingyourhome.ie
- Financial Services Ombudsman (FSO): *Independent body handling complaints from customers on financial services that have not been resolved by the service provider. Web : <http://financialombudsman.ie/>*
- FLAC: *Free Legal Advice Centres – independent legal rights organisation. Offers free, confidential legal information over telephone (**1890 350 250**) and in one-on-one sessions with volunteer lawyers in centres around Ireland (full list at www.flac.ie/gethelp). Campaigns for reform of consumer credit and personal debt laws – more at www.flac.ie*
- Insolvency Service of Ireland: *Independent statutory body established to roll out, regulate and administer the new personal insolvency infrastructure. It also licenses Personal Insolvency Practitioners.*
Web: www.isi.gov.ie/ Tel: **076 106 4200**
- Legal Aid Board: *Independent statutory body providing legal information and representation to eligible means-tested people on civil law matters. Web: www.legalaidboard.ie / Tel: LoCall: **1890 615 200***
- Money Advice & Budgeting Service: *The Money Advice and Budgeting Service (MABS) is the only free, confidential, independent and non-judgmental service for people in debt, or in danger of getting into debt, in Ireland. Web: www.mabs.ie Tel: **0761 07 2000** operates Monday to Friday from 9am to 8pm.*
- Mortgage Arrears Information & Advice Service: *If you are in mortgage arrears, or think you are at risk of going into arrears, the Mortgage Arrears Information and Advice Service can help you understand your options. Web: http://www.keepingyourhome.ie/mortgage_arrears_information_and_advice_service/index.html#sec1*

8. Glossary of terms

Appearance:	<i>A court document that a defendant borrower must fill out after being served with legal proceedings to repossess in order to speak in court and consider a defence</i>
Arrears:	<i>The money that is owed under a mortgage (or other type of loan) when the instalments are not paid on time</i>
Arrears Support Unit (ASU):	<i>Dedicated unit in each mortgage lending institution that deals with arrears cases.</i>
Bankruptcy:	<i>Where a person's assets and income come under the control of a High Court officer called the 'Official Assignee' whose job is to sell those assets so that creditors of an insolvent debtor are paid. An application for bankruptcy (also called a petition) made by either a creditor or the debtor him or herself. Bankruptcy under the new legislation is likely to be final stage in insolvency where other measures have failed.</i>
Code of Conduct on Mortgage Arrears (CCMA):	<i>Central Bank Code that sets out the rules that mortgage lenders must follow in dealing with customers who are in arrears with mortgages on their primary residence. Download at http://bit.ly/CCMA2013</i>
Consumer Protection Code:	<i>Central Bank Code that sets out the basic rules that providers of financial services must follow in their dealings with consumers of such financial services. Download at http://bit.ly/CPC_2012</i>
Insolvent:	<i>Under the Personal Insolvency Act 2012 means that a debtor is unable to pay his or her debts in full as they fall due. In practice, his or her total assets are less than total liabilities and there is no prospect in the reasonable future that this financial position is going to change.</i>
Joint ownership:	<i>Where two or more people own a property together. They can be joint tenants or hold a tenancy-in-common. Seek further information on this with a legal advisor.</i>
Judgment mortgage:	<i>A creditor obtains a judgment for a money debt in a court and registers that judgment against a property interest of the debt, so that if the property is sold, the creditor will get payment from the proceeds.</i>
Mortgage Arrears Resolution Process (MARP):	<i>A system that the lender must use to process your arrears and which is governed by the CCMA.</i>
Mortgage Arrears Resolution Targets (MART):	<i>'Performance targets' set by the Central Bank for the principal mortgage lenders – they must 'resolve' a certain percentage of mortgage arrears cases by set dates or face a penalty.</i>
Mortgage-to-rent scheme:	<i>Government scheme where a housing association assumes ownership of your home and you rent it back, subject to strict conditions http://www.housing.ie/Housing-Information/Mortgage-to-Rent-Scheme</i>
Principal dwelling house (PDH):	<i>Also known as 'principal private dwelling', this means the place where you normally live, your home.</i>
Protective Certificate:	<i>Obtained for a debtor by a PIP during the insolvency arrangement process, it will prevent creditors from taking any legal action against the debtor while the terms of his or her arrangement are being worked out.</i>
Repossession:	<i>Where the lender takes back the house, following a court process and whether the borrowers wants this or not.</i>

Standard Financial Statement: *A 12-page document used by all financial institutions to capture information about a customer's current financial position.*

Voluntary sale: *Where a borrower agrees to sell the house to repay all or part of the outstanding sum owed.*

Voluntary surrender: *Where the borrower hands back the house to the lender so that the lender is free to sell the house.*