



Banc Ceannais na hÉireann
Central Bank of Ireland

Eurosystem

Code of Conduct on Mortgage Arrears

A Consumer Guide



Introduction

If you are having trouble paying your mortgage or think you may have trouble paying your mortgage in the near future, the Central Bank's Code of Conduct on Mortgage Arrears (CCMA) sets out clearly how your mortgage lender will deal with you. This Code relates to the mortgage payments on your sole or main property.

The CCMA sets out a range of rules which lenders must follow. This guide lists 10 important steps that you can take to make the process as smooth as possible, followed by a summary of the CCMA, including information on:

- » Dealing with your lender
- » The information your lender must give you
- » The Mortgage Arrears Resolution Process (MARP)
- » Appeals
- » Repossession

10 Important Steps

Here are 10 steps that you can take to make the process as smooth as possible:

1

It is very important that you co-operate with your lender. Not co-operating can have serious consequences, such as your lender starting legal proceedings for repossession. It may also affect your eligibility for a Personal Insolvency Arrangement.

2

Don't ignore any communications from your lender. They must help you to try to resolve your situation and it is important that you provide your lender with all the information they need to assess your case. Keep in touch with your lender and inform them immediately if there is any change in your circumstances.

3

Read all the information given to you by your lender including the MARP (Mortgage Arrears Resolution Process) booklet, which your lender will provide you with. This booklet sets out important information about the process which you should familiarise yourself with.

4

Ask your lender questions if there is anything you are unsure about or if you need further information.

5

Consider getting independent financial and/or legal advice because it is important to carefully consider the advantages and disadvantages of any offer. It is especially important to get financial and/or legal advice if you have a tracker mortgage and your lender is offering you an alternative repayment arrangement that requires you to change to another mortgage type. www.keepingyourhome.ie has information on where you can get advice.

6

When your lender asks you to do something, for example, provide information or supporting documentation, **agree what exactly you have to do and a reasonable amount of time to do it** with your lender and stick to it. If you think you might need more time, be sure to let your lender know and agree on an extended timeframe.

7

The Standard Financial Statement (SFS) is there to help you and your lender assess the best solution to suit your circumstances. **Make sure you complete it accurately and provide all the necessary information.** Your lender must offer to assist you with completing the SFS and you can read the [Central Bank of Ireland's Consumer Guide to Completing a Standard Financial Statement](#) which will also help.

8

Know your rights about making an appeal and/or complaint. If you are not happy with the way that your lender is dealing with you or if you think they are not complying with the CCMA, you can make a complaint to your lender. You can also make an appeal to the lender's Appeals Board if you are not happy with the arrangement offered to you or if you think you have been wrongly classified as not co-operating.

9

Check if you are entitled to any government support, such as mortgage interest relief or Mortgage Interest Supplement. If you have payment protection insurance, check if you can make a claim on that policy.

10

Don't ignore the problem. Arrears won't go away and ignoring them can have serious implications for you and your family, including potentially losing your home. It is important that you contact your lender as soon as you are in financial difficulties or if you think that you might have a difficulty meeting your repayments.

Dealing With Your Lender

Your lender will have a specially trained person in each branch to deal with your case and any meetings between you and your lender to discuss your situation must be conducted in private. If you would feel more comfortable and need some support, bring a relative or friend with you to discuss your mortgage arrears situation with your lender.

If you want, you can ask someone else to discuss your situation with your lender (for example, an advisor from the Money Advice and Budgeting Service (MABS)). Your lender must discuss your mortgage arrears situation with the person nominated by you, as long as you give your permission in writing. Details of the MABS service are available at www.mabs.ie.

In the same way, if your lender appoints someone else (a third party) to engage with you in relation to your mortgage, for example, a solicitor, they must inform you in writing and explain the role of that person. The CCMA requires your lender to work with you to help you meet your mortgage obligations. While your lender is not required to offer you an alternative repayment arrangement, in practice, most lenders will agree an alternative arrangement with you, if appropriate and if you work with them.

Before making their decision whether to offer you an alternative repayment arrangement, your lender will ask you to fill out a form called a Standard Financial Statement (SFS). This is used to gather all your financial information and helps the lender to assess your financial situation. After assessing your case, your lender will consider if your mortgage should be re-scheduled and what, if any, alternative repayment arrangement is appropriate to your particular circumstances.

If your lender is not willing to offer you an alternative repayment arrangement, they must give you the reasons for their decision in writing and must inform you of the other options that may be available to you including, voluntary surrender, trading down or voluntary sale and the implications of each of these for you.

Voluntary Surrender:

- » This means that you agree with your lender that they can take full ownership of the property. Your lender will probably ask you to sign a legal document to give effect to this. It is important to remember that you may remain liable for any amounts that you owe to your lender and which they do not recover from the sale of the property.

Trading Down:

- » This means selling your property and buying a cheaper one. Trading down may be an option to reduce your mortgage, resulting in more affordable monthly repayments. Before considering this option, you will need to be certain that you will either have enough funds from the sale to buy another property or be able to get a mortgage you can afford, after paying off the mortgage on your current property. You should also bear in mind that you will still be liable for other costs relating to the sale of your home and the purchase of a new property, such as solicitor fees, auctioneer fees and stamp duty.

Voluntary Sale:

- » You may consider that the best option is to sell your property. In this case, your lender will be entitled to recover the mortgage balance and charges from the sale. You will only be entitled to receive any amount remaining once you have repaid the full amount you owe your lender.

Information Your Lender Must Give You

All lenders must have a section on their website providing information for customers who are having problems making mortgage repayments or are worried that they may have problems in the near future. You should be easily able to find this information from a link on their home page. If you don't have access to the internet, ask a friend or relative to help you, or you can use the internet in your local library. This section of your lender's website must also include an information booklet on its Mortgage Arrears Resolution Process.

The Mortgage Arrears Resolution Process (MARP)

The Mortgage Arrears Resolution Process (MARP) is the name given in the CCMA to the process for dealing with customers in or at risk of mortgage arrears. Under the CCMA, your lender must have an information booklet which explains the stages of the MARP Process and the meaning and consequences of not co-operating. The stages of the MARP process numbered 1 to 4 are listed below:

Stage 1: How your lender must communicate with you

If your mortgage account goes into arrears and the arrears remain outstanding for 31 days, your lender must write to you and inform you of the status of your account within three business days. The letter must, among other things:

- » state the date the mortgage fell into arrears, the number and total amount of full or partial payments missed and the amount of the arrears in euros
- » highlight the importance of co-operating with your lender during the MARP process and notify you that, if co-operation stops, the lender may start legal proceedings for repossession
- » confirm that it is treating your case as a MARP case
- » include a statement that charges and penalty interest in relation to the arrears will apply where you do not co-operate with the lender

All communications from your lender must be proportionate and not excessive. If your lender asks you to do something they must give you sufficient time to do it before following up with you. If you think you might need more time, be sure to let your lender know and agree on an extended timeframe.

If you do not engage with your lender in a way that allows them to carry out an assessment of your circumstances, your lender may classify you as not co-operating. If your lender intends to classify you as not co-operating, they must give you advance notice, in writing, explaining what that means for you and how you can avoid being classified as not co-operating. It must also advise you to seek independent advice.

Stage 2: Financial Information

Your lender will ask you to complete a form called a Standard Financial Statement (SFS) and must offer to assist you with completing it. In this form you will have to provide information on your current income, expenses and other amounts you owe. It is important that you include all your basic living expenses in the SFS. Your lender must provide you with a copy of the SFS once it is completed and you can request a copy at any time.

Your lender must offer to assist you with completing the SFS and you can read [Central Bank of Ireland's Consumer Guide to Completing a Standard Financial Statement](#) which might also help

Stage 3: Assessment

All mortgage lenders must have an Arrears Support Unit (ASU). Your completed SFS and other factors relating to your case will be assessed by the ASU which will decide whether or not an alternative repayment arrangement is appropriate to your circumstances. While the ASU is fully considering the contents of the SFS, your lender may agree to put a temporary alternative repayment arrangement in place to prevent your arrears from getting worse.

Stage 4: Resolution

When assessing your case, your mortgage lender must consider all the alternative repayment arrangements they offer, for example:

- » an interest-only arrangement for a period of time
- » extending the term of the mortgage
- » adding the arrears and interest to the mortgage, so that they are collected over the remaining term
- » splitting the mortgage into an affordable loan and a remaining balance which is set aside to a later date

While they must consider such arrangements, they are not obliged to offer you such an arrangement.

If you are offered an alternative repayment arrangement, your lender must

give you a clear explanation of the proposed arrangement and how it works, including the reason why your lender considers it to be appropriate for you. They must also provide you with the advantages of the offer and explain any disadvantages.

If your lender is not offering you any alternative repayment arrangement, they must give you the reasons why in writing. They must also inform you that a copy of the most recent SFS is available on request, and provide you with details, in writing of:

- » other options available to you
- » your right to make an appeal to the lenders internal Appeals Board
- » the website of the Insolvency Service of Ireland

The same information must be given to you if you do not accept the alternative repayment arrangement offered to you by your lender.

Appeals

If you are not happy with the way that your lender is dealing with you or if you think they are not complying with the CCMA, you can make a complaint to your lender.

You can also make an appeal to the lender's Appeals Board if you are not happy with the alternative repayment arrangement offered to you or if you believe you have been wrongly classified as not co-operating.

If you are not happy with the outcome of the appeal/complaint made to your lender you can refer the matter to the Financial Services Ombudsman (FSO). Further information on how to make a complaint to the FSO is available at www.financialombudsman.ie.

Repossession

Your lender is required to follow the MARP and make every reasonable effort to agree an alternative repayment arrangement with you. Provided that you are co-operating, you must be given at least eight months from the date your arrears arise before your lender can commence legal proceedings.

Regardless of how long it takes your lender to assess your case, and provided that you are co-operating, you must be given three months' notice before they can commence legal proceedings where:

- » your lender does not offer you an alternative repayment arrangement or
- » you do not accept an alternative repayment arrangement offered to you.

This will give you time to consider other options, such as voluntary surrender, voluntary sale or a Personal Insolvency Arrangement.

If you are classified as not co-operating, your lender may commence legal proceedings immediately. Before you can be classified as not co-operating, your lender must first write to you and warn you that this might happen and tell you what steps you need to take to avoid being classified as not co-operating.

If you agree an alternative repayment arrangement with your lender and are meeting your revised repayments, your lender cannot start legal proceedings against you to seek repossession.

Where can I get more information?

Central Bank of Ireland

www.centralbank.ie/publicinformation

Money Advice & Budgeting Service (MABS): 0761 07 2000

www.mabs.ie

Citizens Information: 0761 07 4000

www.citizensinformationboard.ie

Mortgage Arrears Information Helpline 0761 07 4050

(from MABS and Citizen Information Board)

www.keepingyourhome.ie

Free Legal Advice Centres: 1890 350 250

www.flac.ie

National Consumer Agency: 1890 432 432

www.nca.ie or 01 4025500

Dept of Social Protection:

www.welfare.ie

Financial Services Ombudsman: 1890 88 20 90

www.financialombudsman.ie

National Consumer Agency: 1890 432 432

www.nca.ie or 01 4025500

Insolvency Service of Ireland: 076 106 4200

www.isi.gov.ie