

## Mortgage Arrears: Frequently Asked Questions

The Central Bank has issued a [Code of Conduct on Mortgage Arrears](#). It is in place since 1 January 2011 and relates to arrears on the mortgage repayments on your primary residence or sole residential property. The Code sets out the obligations of lenders when dealing with mortgage customers who are experiencing difficulty keeping up repayments on their mortgage. The Central Bank has also produced a consumer guide to dealing with your lender. To view the guide click [here](#).

### Frequently Asked Questions

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## **1. Dealing with mortgage arrears**

### **a. What should I do if I have difficulties keeping up the repayments on my mortgage?**

If you are already behind with your mortgage repayments or feel you may shortly have difficulties meeting your mortgage repayments, it is very important that you contact your lender as soon as possible to discuss your situation. Discussing your mortgage repayment problems as early as possible will help in reaching a solution. Any delay in contacting your lender may result in your mortgage arrears situation becoming worse than it would have been otherwise. Your lender has procedures in place to deal with your case and find an appropriate solution for your circumstances under the “Mortgage Arrears Resolution Process”. You can get more information on this process in the Code of Conduct on Mortgage Arrears and in the “Mortgage Arrears Resolution Process” (MARP) booklet which your lender must have available for you. The booklet is an information document which explains how your lender is required to deal with customers in mortgage arrears or customers who are experiencing difficulty keeping up repayments on their mortgage. Your lender must give a copy of this booklet to you. Your lender will also have a copy of this booklet on their website.

### **b. How can I get independent advice about dealing with my mortgage arrears problem?**

If you need help to deal with your mortgage repayment difficulties, your first step should be to contact the Money Advice and Budgeting Service (MABS) or seek independent financial advice. Contact details for your local MABS office can be found at [www.mabs.ie](http://www.mabs.ie).

### **c. I am afraid to contact my lender. What should I do?**

If speaking directly to your lender is difficult for you, you can ask someone for support, such as a relative or friend you trust. Ask them to attend any meetings with your lender with you. You could also ask someone else to discuss your mortgage repayment problems with your lender on your behalf. This could be a relative or friend that you trust to help you deal with this important issue. To do this, you will have to give your lender written permission to discuss your mortgage with this person. Your local Money Advice and Budgeting Service (MABS) office could help ([www.mabs.ie](http://www.mabs.ie)).

### **d. Will my lender have staff available to discuss the difficulties I am experiencing meeting my mortgage repayments?**

All mortgage lenders must have at least one person in each branch with specific responsibility for dealing with customers who are having difficulties meeting their mortgage repayments. Any meetings between you and your lender to discuss your situation will be conducted with the utmost privacy.

**e. If I need information about my mortgage account without delay, in order to apply for State support, will my lender provide it?**

Any information that you request from your lender in relation to your mortgage account, for the purpose of claiming benefits or support from the State, for example, mortgage interest supplement, must be provided to you within 10 business days of your request.

**f. I am afraid my lender will not be sympathetic about my situation if I cannot keep up my mortgage repayments. What should I do?**

We would encourage you to contact your lender as soon as possible to discuss your situation. Your lender must treat your case sympathetically and the Code of Conduct on Mortgage Arrears requires lenders to work with you to try to agree an alternative repayment option, if possible.

**g. I am having difficulty keeping up the repayments on my rental property. Is my lender obliged to comply with the Mortgage Arrears Code in this case?**

Provided your rental property is a residential property and is the only property you own, you will be afforded the protection of the Mortgage Arrears Code. Otherwise, the provisions of the Mortgage Arrears Code will not apply.

**h. Is my lender allowed to contact me to discuss my mortgage repayments?**

Your lender is not allowed to contact you more than 3 times in one month to discuss your mortgage repayments or any mortgage arrears you have - unless you have asked your lender to contact you or have given them permission to contact you more than 3 times in one month. However, there are occasions when they must communicate with you about your mortgage repayments, for example, informing you that arrears have arisen on your mortgage or providing you with information on how it handles mortgage arrears.

**i. I went into mortgage arrears in 2009. Am I covered by the revised Code of Conduct on Mortgage Arrears?**

Yes you are. Anyone who was in arrears on their mortgage on their home before 1 January 2011 (the date the revised Mortgage Arrears Code came into effect), is covered by the revised Code. Your lender must apply the protections of the revised Mortgage Arrears Code to your case after 1 January, but how they do this will depend on what stage of the Mortgage Arrears Resolution Process (MARP) you are at when the revised Code came into place. For example, if you entered an arrangement with your lender last year and this breaks down after 1 January 2011, your lender must formally review your case immediately. As part of this review, your lender will ask you to complete a Standard Financial Statement (SFS), which you may not have had to do before. Your case will then go through all stages of the MARP process. This means that your case will be assessed by your lender's Arrears Support Unit, which will consider what form of alternative repayment arrangement is suitable for your current circumstances. If you are not happy with the arrangement you are

offered, you can make an appeal to your lender's Appeals Board. Don't worry if all of this is new to you, as your lender will give you a copy of their booklet explaining how their MARP works and make sure that you understand it.

## **2. Agreeing an alternative repayment schedule with your lender**

### **a. I can afford to pay some of my mortgage - will my lender accept this?**

Your mortgage lender must consider all available options for an alternative repayment arrangement in order to find out which option is the most appropriate for your situation. Examples of alternative repayment arrangements are:

- an interest-only arrangement for a period of time;
- extending the term of the mortgage, which will mean lower monthly repayments; or
- capitalising the arrears and interest.

### **b. If I cannot afford to pay all the interest on my mortgage, will I be charged penalties?**

Your lender is not allowed to charge you penalty fees or charge you surcharge or penalty interest on mortgage arrears where an alternative repayment arrangement has been agreed with you and you are co-operating reasonably and honestly with your lender. However, it is important to remember that normal interest will build up on any arrears you owe.

### **c. I am on a tracker mortgage – can my lender put me on a higher rate or a different type of rate?**

No, a lender cannot require you to move from an existing tracker mortgage to another mortgage type as part of any alternative arrangement offered to you to resolve your mortgage repayment problem.

### **d. What information will I have to give to my lender in order to agree an alternative repayment schedule?**

You will have to give your lender information about your financial situation on a form called a Standard Financial Statement (SFS). For example, details of any income or social welfare payments you receive, as well as your spending commitments, other loans and your living expenses may be required. You will have to give your lender honest and complete information about your financial situation. If you do not give your lender information that would have a significant impact on your financial situation or do not give the lender any information they need to assess your financial situation, you can be considered as not co-operating with the lender. If this happens, the 12 month waiting period (moratorium) on

starting legal proceedings for repossession of your property will no longer apply to your case.

**e. Is my lender obliged to come to some arrangement with me?**

No. You can ask for an arrangement, and the lender is obliged to discuss the options with you. But they are not obliged to offer you an arrangement. In practice, most will though.

**f. If my lender will not offer me an alternative repayment arrangement, can I appeal their decision?**

If the lender is not willing to offer you an alternative repayment arrangement, the reasons must be given to you in writing. In these circumstances, the lender must notify you of other options available to you and of your right of appeal to its internal Appeals Board. You will have 20 business days, from the date you receive the lender's decision on your case, to make an appeal to the Appeals Board. If you are still not satisfied with the decision of the Appeals Board, you can appeal your case further to the Financial Services Ombudsman (FSO). You can get information on how to make a complaint to the FSO at [www.financialombudsman.ie](http://www.financialombudsman.ie)

### **3. Repossessions**

**a. Am I likely to have my home repossessed?**

Lenders only repossess homes in extreme circumstances and after exhausting every other way of solving the problem. There are around 800,000 mortgages in Ireland, and in 2010, only 300 homes were repossessed by court order.

**b. My lender is threatening to start legal action to repossess my home; are they allowed to do this?**

Your lender cannot apply to the courts to start legal action for repossession of your home until every reasonable effort has been made to agree an alternative arrangement with you.

Once you enter into discussions with your lender about your mortgage repayment problems, your lender will consider that you are within their Mortgage Arrears Resolution Process. As long as you are co-operating with your lender, they cannot apply to the courts to commence legal action for repossession until at least 12 months after the date you entered into the Mortgage Arrears Resolution Process. However, the calculation of the 12 month waiting period can be complicated as, for example, the time taken by your lender's Appeals Board to consider your appeal is not included in the 12-month waiting period. If your lender agrees a new arrangement and you keep up repayments, the lender cannot start legal action to seek repossession. If you request it, your lender has to tell you how much time is

remaining during which the lender may not commence legal action for repossession of your home.

**Remember, if you do not co-operate with your lender in relation to your mortgage arrears, the lender does not have to wait for 12 months before starting legal action.**

**c. Can my home be repossessed if I miss a payment?**

Your lender cannot apply to the courts to start legal action for repossession of your home until every reasonable effort has been made to agree an alternative arrangement with you. If you are experiencing difficulties with your mortgage repayments, you should contact your lender as soon as possible to discuss your circumstances. Remember though, that if you do not co-operate with your lender in relation to your mortgage arrears, the lender does not have to wait for 12 months before commencing legal action.

**d. If the lender agrees a new arrangement and I keep up repayments can they repossess?**

If the lender agrees a new arrangement and you keep up repayments, the lender cannot start legal action to seek repossession.

Where you do not keep up repayments under the new arrangement, the lender must review your case immediately and try to agree an alternative repayment arrangement with you. If a new alternative repayment arrangement is put in place, the lender cannot begin legal proceedings while you keep to the terms of the new agreement.

If a new arrangement is not put in place, the lender cannot apply to the courts to start legal action for repossession until a 12-month period has passed. However, the calculation of the 12 month waiting period can be complicated as, for example, the time taken by your lender's Appeals Board to consider your appeal is not included in the 12-month waiting period. If you request it, the lender has to tell you how much time is remaining during which the lender may not commence legal action for repossession of your home.

## **4. Complaints**

**a. How do I make a complaint under the Code of Conduct on Mortgage Arrears?**

If you wish to make a complaint about any of the following:

- The terms of any alternative repayment arrangement offered by your lender;
- Your lender's decision not to offer you any alternative repayment arrangement;
- The treatment of your case under the Mortgage Arrears Resolution Process; or

- Your lender's compliance with the Code of Conduct on Mortgage Arrears.

you should first make an appeal to your lender's Appeals Board. If you are not happy with the decision of the Appeals Board you may make a complaint to the Financial Services Ombudsman (FSO). You can find further details of how to make a complaint to the FSO at [www.financialombudsman.ie](http://www.financialombudsman.ie)