

Keeping your home: home owners

What help can I get to pay my mortgage?

What should I do if I can't pay my mortgage?

Can a lender repossess my home?



keepingyourhome.ie

Citizens Information 

provided by the Citizens Information Board

 **mabs**
Money Advice & Budgeting Service

Information and supports: homeowners

Many people who bought houses in recent years are having difficulty paying their mortgages. This leaflet sets out the help available for homeowners who are in difficulty with their mortgages, the legal protections in place and information on repossession. The rules are different for people who are in difficulty with a mortgage on an investment or buy-to-let property.

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Finding out more...

Keepingyourhome.ie, a website from the Citizens Information Board and the Money Advice and Budgeting Service (MABS), provides comprehensive information on the services and entitlements available if you are having difficulties making your mortgage repayments or paying your rent. This leaflet gives an overview and you can get more information from **keepingyourhome.ie** on all the topics covered here. There is also a leaflet for people who are having difficulty paying the rent.



What help can I get to pay my mortgage?



The main payment available is **Mortgage Interest Supplement** under the Supplementary Welfare Allowance Scheme. This is a short-term means-tested payment to help you with your mortgage interest repayments. It only covers your interest payments (not payments towards the capital amount) and it does not help with arrears. It does not apply to consolidated loans (for example, if you extended your mortgage to pay off other loans or to support your business, it will only apply to the portion of the loan used to purchase your property). You apply for the payment to the Community Welfare Officer at your local health centre.

To get Mortgage Interest Supplement you must meet the following conditions:

- You were able to meet the mortgage repayments when the mortgage was taken out
- Your house is not up for sale
- The amount of mortgage interest is not more than a reasonable amount to meet your residential and other needs
- You are habitually resident in Ireland

You do not qualify for Mortgage Interest Supplement if you or your spouse or partner works more than 29 hours a week (there are some exceptions to this rule – mainly for people who are returning to work after unemployment who can keep the payment if they were already getting it). You also may not qualify if you are attending full time education (unless you are taking part in the Back to Education Scheme and were getting Mortgage Interest Supplement).

When you apply for Mortgage Interest Supplement the Community Welfare Officer **assesses your means**. Some of your income is not counted (for example Child Benefit). The amount payable is calculated to ensure that your income, after paying mortgage interest, does not fall below a minimum level. This level is the Supplementary Welfare Allowance minus €24. This means that you must pay at least €24 per week towards your mortgage interest. You may pay more than €24 depending on your means.

You have the right to appeal against a decision if you are not satisfied with the outcome of your claim. You should first ask your Community Welfare Officer for the reasons for the decision in writing. To appeal, you write to the Appeals Officer at your Local Health Office. If this appeal is not successful, you can appeal to the Chief Appeals Officer in the Social Welfare Appeals Office (socialwelfareappeals.ie).

Finding out more...

The Department of Social Protection has carried out a review of the terms of the Mortgage Interest Supplement. Legislation is required to implement any proposed changes.



Other help available

If you are in the first seven years of paying your mortgage, you should already be getting **Mortgage Interest Relief** since this tax relief is usually granted at source. You should check you are getting the right amount with your lender or the Revenue Commissioners. This relief has been extended until 2017 for people whose mortgage interest relief was due to expire in 2010 or after (that is, people who took out mortgages after 1 January 2004).

If you have been made redundant or are ill you can claim on any **mortgage insurance** (these include mortgage protection and mortgage repayment policies) you may have.

You may be able to rent a room in your house for up to €10,000 a year without paying tax on the income under the **Rent a Room scheme**. You do not have to register as a landlord, provide a rent book or ensure that the accommodation provided meets any minimum physical standards. However, if you are renting a room to your son or daughter you cannot get this tax relief.

You may also be able to switch to a cheaper mortgage deal with another provider. This may prove difficult if the property is in negative equity. Contact your lender to negotiate a switch.

Finding out more...

Keepingyourhome.ie has more information on Mortgage Interest Supplement and Mortgage Interest Relief. You can also contact the Revenue Commissioners for information on Mortgage Interest Relief and the Rent a Room scheme, **revenue.ie**



Definitions

You **default** on your mortgage repayments if you don't pay the money due on time.


You are considered in **arrears** on your mortgage as soon as you miss one payment. You are considered a **pre-arrears** case if you inform your bank that you are concerned about missing payments.

Repossession is a legal process whereby a lender takes back a property that is occupied by a debtor.

If you cannot keep up your payments and are considering **handing back the keys** to your lender (also called **voluntary surrender**) you still remain liable for any outstanding debt, including accrued interest, charges, legal, selling and other related costs. 'Handing back the keys' could also have other impacts in relation to, for example, your entitlement to social welfare benefits. In addition your local authority might consider that you have made yourself homeless so you might have difficulty getting a local authority house or flat. You should get independent legal advice before considering this course of action.

Negative equity means the home is worth less than the amount owed to the mortgage lender. While this does not mean you cannot keep up with mortgage repayments, it does have implications. For example, if you wish to sell your home or if your home is repossessed and sold, you continue to owe any outstanding amount to your lender.

What should I do if I can't pay my mortgage?



You must take action – if you do nothing your situation is likely to get worse. Lenders are bound by statutory codes of conduct when dealing with people who are having difficulties paying the mortgage. In addition, the Irish Banking Federation has issued a formal Pledge, which says that its members will not start legal action against customers who have engaged with their lenders and kept to an agreed arrangement.

This means that, if you are in arrears or think that you will have problems making repayments, you should talk to your lender at the earliest opportunity to agree an arrangement. Once agreed and implemented, the arrangement can be reviewed every six months.

The Central Bank of Ireland has two statutory codes of conduct that govern how mortgage lenders should deal with mortgage arrears. They are the **Consumer Protection Code** and the **Code of Conduct on Mortgage Arrears (CCMA)**.

The **Consumer Protection Code** applies to all home loan providers. Under this code your lender must:

- Contact you as soon as it becomes aware that your mortgage account is in arrears, even if the arrears are quite small *and*
- Have in place a procedure for handling accounts which are in arrears

The Consumer Protection Code applies to personal loans and credit cards as well as mortgages. However it does not apply to loans provided by credit unions or by moneylenders.


The **Code of Conduct on Mortgage Arrears (the Code)** applies to all mortgage lenders operating in the State, except for credit unions.

The Code applies to mortgages on **primary residences** only. A **primary residence** is defined as a residential property which you occupy or which is the only residential property that you own. This definition covers borrowers who may have emigrated for work or who are living elsewhere to earn rental income to help with their mortgage repayments.

The Code also covers borrowers in pre-arrears. You are defined as a **pre-arrears** case when you have contacted your lender to tell them that you are in danger of going into financial difficulties and/or are concerned about going into mortgage arrears.

Under the Code lenders must set up the following:

- A **Mortgage Arrears Resolution Process (MARP)** to be used when dealing with arrears and pre-arrears customers.
- An **Arrears Support Unit** to assess arrears and pre-arrears cases.
- An **internal Appeals Board** to consider appeals from borrowers. This appeals process replaces the complaints process under the Consumer Protection Code.



How does the Mortgage Arrears Resolution Process (MARP) work?

A mortgage arrears problem arises **as soon as you fail to make a full repayment on the date it is due**. If you have not paid the arrears within 31 days, your lender must inform you **in writing** of the status of the mortgage account.

The initial letter from your lender must include full details of any payments missed and the total amount now in arrears. It must explain that your arrears are now being dealt with under the MARP; the importance of cooperation; the consequences of non-cooperation; and how missed repayments and repossession will impact your credit rating.

If you cooperate with the MARP process you will not be charged penalty interest. The lender must also send you an information booklet with details on the MARP. (You should also get this if you are in pre-arrears.)

Communicating with you

Under the Code mortgage lenders must handle your case sympathetically and positively. Lenders cannot make more than three unsolicited contacts with you in a month.

All lenders must communicate clearly with you and make sure that you have the information you need promptly. Lenders must provide a dedicated section on their websites for borrowers who are in or facing financial difficulties. This must include an information booklet with details on the MARP, contact points for arrears issues and the addresses of websites with mortgage arrears information, such as **mabs.ie** and **keepingyourhome.ie**

Financial information

All lenders must provide a standard financial statement for you to complete. This statement allows them to assess your financial position and identify the best course of action.

Your lender must tell you that independent advice is available (from MABS, for example) to help in completing the standard financial statement. The lender then passes the completed standard financial statement to its Arrears Support Unit (ASU) for assessment.


Assessment

The Arrears Support Unit (ASU) must base its assessment of your case on your full circumstances. These include your personal circumstances; overall indebtedness; information provided in the standard financial statement; current repayment capacity; and previous payment history.

Resolution

The lender must explore all options for alternative repayment arrangements with you. These options must include:

- Paying interest-only for a specified period
- Arranging to pay interest and part of the normal capital element for a specified period
- Deferring payment of all or part of the instalment repayment for a period
- Extending the term of the mortgage
- Changing the type of the mortgage, except in the case of tracker mortgages
- Capitalising the arrears and interest
- Any voluntary scheme to which the lender has signed up such as a Deferred Interest Scheme



When the lender is offering an alternative repayment arrangement, they must give you a clear written explanation of the arrangement. As well as the basic details of the new repayment amount and the term of the arrangement, the lender must explain any impact on the mortgage term, the balance outstanding and the existing arrears. You **cannot be asked to change from an existing tracker mortgage** against your wishes as part of a repayment arrangement.

The lender must tell you about the interest due as a result of the new arrangements and any impact on your credit rating and, must advise you to take appropriate independent legal and/or financial advice. You must also be given information on your right to appeal the lender's decision, including how to submit an appeal.

The lender must **monitor the arrangement and formally review its appropriateness for you at least every six months.**

If an alternative arrangement is not agreed

If the lender is not willing to offer you an alternative repayment arrangement, they must give the reasons in writing. If they do offer an arrangement, you do not have to accept it. In both cases, the lender must inform you in writing about other options, including voluntary surrender, trading down or voluntary sale, and the implications for you of each option. They must also inform you of your right to make an appeal to their Appeals Board.

The lender must also inform you that the **12-month moratorium on taking legal action does not apply to your case if you do not make an appeal.**

If you breach the terms of an alternative repayment arrangement, the lender's Arrears Support Unit must formally review your case, including the standard financial statement, immediately.

Appeals

The lender's Appeals Board will consider any appeals that you submit and will independently review the ASU's decision, the lender's treatment of your case under the MARP and whether the lender has complied with the requirements of the Code.

The lender must allow you a reasonable period to consider submitting an appeal. This must be at least four weeks from the date you receive notification of the ASU's decision. Your appeal must be decided within eight weeks of receipt.

No matter what your circumstances are your lender must engage with you and must make every reasonable effort to agree a repayment plan with you. If you make a genuine effort to engage and to repay what you owe you will be in a better situation if you have to go to court.

Finding out more

Keepingyourhome.ie covers the codes of conduct in more detail. You can also read the codes of conduct on **centralbank.ie**.

If you feel that your lender has not followed these codes, and if you have exhausted the lender's complaints mechanism, you can complain to the Financial Services Ombudsman, **financialombudsman.ie**.



What happens if I can't pay my mortgage?



If you don't pay your mortgage and don't engage with your lender, your lender may try to repossess your home. While there are relatively few home repossessions in Ireland, they do occur. Repossession is always a last resort and your lender **must always** follow the steps outlined in the *Code of Conduct on Mortgage Arrears* to try to agree repayment of any arrears before starting repossession proceedings.

Other options...

Voluntary surrender: This means that you allow your lender to take possession of the property (You may be asked to sign a legal document to give effect to your decision.) After the sale you remain liable for any outstanding debt (including the costs of selling the property).

Trading down: This means selling your property and buying a cheaper one. Doing this may allow you to reduce your monthly mortgage payments.

Voluntary sale: This means that you sell your property yourself. If you do this your lender can claim the full amount owing on the mortgage from the sale and you continue to owe any remaining balance.



MABS advice on dealing with mortgage arrears

- Continue to pay what you and other family members can afford.
- Don't ignore communications from your mortgage lender or its legal representatives.
- Be prepared - be sure of all facts and figures before you make contact. The first step is to make out your household budget listing your present or expected income and necessary spending. This will help you find out what you can afford to pay. You can get a sample budget sheet from the MABS website (mabs.ie).
- Know what you can afford to pay to clear arrears on top of your mortgage payment. Be very realistic, taking into account the overall cost of running your household. Make a genuine and reasonable offer and don't agree to try to pay more.
- Don't adjust your offer in response to a lender's demands. Restate that your offer is based on your ability to pay.
- Your lender will suggest **alternative repayment options** to you. Make sure you understand how much these will cost and how they will affect your credit rating.
- Ensure that any alternative repayment plan agreed with your lender is put in writing. Under the *Code of Conduct on Mortgage Arrears*, your lender must do this. Keep copies of all your communications. Assure your mortgage lender that should your circumstances change you will make contact with them with a view to reviewing your situation with them immediately.

What happens when a lender wants to repossess a house?

The lender must not apply to the courts to commence legal action for repossession of your property until **every reasonable effort** has been made to agree an alternative arrangement. If you are cooperating with the lender, they must wait at least 12 months from the date your arrears were classified as a MARP case (31 days after the first missed repayment) before applying to the courts. Certain periods are excluded when calculating this 12-month period, for example, any period when you were complying with the terms of a repayment arrangement.

The lender must notify you **in writing** before it applies to the Courts to start any legal action on repossession. Even if court proceedings are started, the lender must still try to maintain contact with you to seek an agreement on repayments, and must put legal proceedings on hold if agreement is reached.

If the issue has to go to court, you are generally liable for the costs of the court action. Proceedings for repossession may be taken in the High Court or the Circuit Court. For mortgages taken out after 1 December 2009, the proceedings must be started in the Circuit Court and a court order is required unless you consent in writing in the seven days before the repossession or sale.



Even if you consent to have your home repossessed you may still have to go to court since your lender is unlikely to find a buyer who would be willing to buy the house unless a **well-charging order** is in place. This is a court order which states that the mortgage is well-charged on the property and allows for the sale of the property.

If you do not consent to repossession your lender may take what is known as a **mortgage suit** against you in the High Court. A mortgage suit is a court proceeding which is taken by the holder of a security on property (for example, your mortgage lender) to recover a debt by forcing a sale of that property. Alternatively, the lender may take proceedings in the Circuit Court and seek an order for possession and a well-charging order. In either case, you may contest the action.

If this happens and you don't want your home repossessed you must go to court and **present your case**. Presenting your case does not mean that you have to defend your case legally – it means that you appear in court and explain your circumstances and what you intend to do about the outstanding debt. If a mortgage suit is successful, the court issues a well-charging order (which usually includes an order for the sale of the property). Generally, the courts allow you time to make arrangements to repay the money owed before making any orders or an order for sale becomes effective.

Under the MARP if your property is repossessed and sold, the lender must write to you promptly with the following information:

- Balance outstanding on your mortgage loan account
- Details and amount of any costs arising from the disposal which have been added to the account
- Interest rate to be charged on the remaining balance



What about arrears on my local authority loan?

If you are having difficulty repaying local authority loans your local authority should use the guidelines issued to local authorities by the Department of the Environment on how to deal with such cases. These are based on the Central Bank's **Code of Conduct on Mortgage Arrears**.

This means that, if you are having problems making your repayments, you should approach the local authority to see if you can make an arrangement to facilitate you paying over a longer term or to restructure the repayments in some other way. You can also pay arrears by instalments.

Finding out more...

Keepingyourhome.ie gives much more information about the legal process of repossession and your options. You can get legal advice (not legal representation) from the Free Legal Advice Centres (FLAC). FLAC operates a network of voluntary legal advice centres around Ireland. Contact FLAC on lo-call 1890 350 250 or **flac.ie**.



You may also be able to get means-tested civil legal aid from the Legal Aid Board, **legallaidboard.ie**.

If you are threatened with repossession, you may be able to get free legal representation from New Beginning, a voluntary service which aims to represent people in this situation, **newbeginning.ie**.

The Courts Service provides information on court procedures on its website, **courts.ie**.

What can I do if I lose my home?

Even if you are faced with losing your home, through repossession, eviction or other circumstances, you have other options.

You can apply to the housing department of your local authority (county or city council). The authority will assess your circumstances and may allocate you somewhere to live, based on their assessment of your need. If you get a local authority dwelling, the rent is based on your ability to pay.

You can apply to more than one local authority if you are living in an area covered by more than one local authority – for example, a county council and an urban district council.

You can also apply to a housing association or to a housing co-operative. These are organisations which provide social housing for people who cannot afford to buy their own homes. Like the local authority, they assess your circumstances and may offer you somewhere to live, based on their assessment of your need. Again, the rent is calculated on the basis of your ability to pay.

If you rent a home from a private landlord, you may qualify for a Rent Supplement to help with the rent. If you are paying tax, you may be able to claim some tax relief on your rent.

If you cannot find anywhere to live straight away, you can apply for emergency or temporary accommodation until you get something more permanent.

Expert Group on Mortgage Arrears and Personal Debt

On 16 November 2010 the Expert Group on Mortgage Arrears and Personal Debt published its final report. Many of the recommendations have been incorporated into the revised Code of Conduct on Mortgage Arrears, described in detail above.

You can read the remaining recommendations on keepingyourhome.ie.

Finding out more...

Contact the housing department of your local authority for more information about housing in your area. You can find contact details for your local authority at environ.ie.



Useful contacts

Financial Services Ombudsman

Lo-call: 1890 88 20 90
financialombudsman.ie

Courts Service

Tel: (01) 888 6000
courts.ie

Free Legal Advice Centres (FLAC)

Lo-call: 1890 350 250
flac.ie

Central Bank

centralbank.ie

The Revenue Commissioners

Lo-call (Form or leaflet request):
1890 306 706
revenue.ie

Department of Social Protection

Lo-call: 1890 66 22 44
welfare.ie

Citizens Information

LOG ON

www.citizensinformation.ie

LO-CALL

1890 777 121*

Mon to Fri, 9am-9pm

DROP IN

260 locations nationwide

* rates charged for 1890 (Lo-call) numbers may vary between service providers.



MABS, the Money Advice and Budgeting Service, provides detailed advice on managing your debts. MABS can advise you in negotiations with creditors, including alternative repayment options for your debts and information on dealing with rent arrears. The MABS helpline **1890 283 438** is open from 9am to 8pm, Monday to Friday. MABS also operates a nationwide network of centres, staffed by specialist money advisers.

For copies of this leaflet contact:

Citizens Information Board Head Office

George's Quay House
43 Townsend St
Dublin 2

t +353 1 605 9000
f +353 1 605 9099
e info@ciboard.ie

citizensinformationboard.ie