

**Statement by the Minister for Finance and Public Expenditure and Reform
at the
Joint Oireachtas Committee on Finance
16 January 2018**

Check against delivery

Introduction

Thank you Chairman.

Firstly, I would like to thank you and the Committee for the opportunity to attend before the Committee to discuss the tracker mortgage issue and also the “Our Public Service 2020” initiative.

I would also like to acknowledge the considerable work and public service this Committee and its members have carried out in bringing the tracker scandal to the fore, and in particular in hearing the testimony of people who have been significantly harmed by the unacceptable actions of banks.

I can assure Committee members and the public that the Government is treating this matter very seriously and that it is determined to see the situation resolved to the satisfaction of impacted customers as quickly as possible.

Owing to the work of the Central Bank, particularly in its implementation of the industry wide Tracker Mortgage Examination, it has been clearly demonstrated that mortgage lenders have failed significantly in their regulatory and contractual responsibilities to many of their tracker mortgage borrowers.

The failure of the banks in this regard has imposed significant harm on their customers. It is now their responsibility to put that right and to do so without further delay.

Background

The fair treatment of consumers is a key requirement of the financial services regulatory framework and of the Central Bank Consumer Protection Code. The Code requires all residential mortgage lenders to act honestly and fairly in the best interests of their customers, and not to mislead customers about the products they provide.

It also requires lenders to make a full disclosure of all relevant information to a consumer in a way which seeks to inform the consumer and to enable a consumer to make an informed decision before entering into, or changing, a loan or other financial services agreement.

Through their treatment of some of their mortgage customers, lenders have shown a complete disregard for the Code, and have demonstrated that within these financial institutions ethical cultural issues still remain.

The Central Bank has for some time made clear to lenders that they had and have a duty to act in the best interests of their consumers when recommending that a borrower switch a tracker mortgage to another type of mortgage product.

Prior to the commencement of the industry wide tracker investigation, the Central Bank identified and pursued a number of tracker related failings with a number of mortgage lenders.

These failings related to issues ranging from a lack of transparency for the borrower, a failure to fully inform customers of the consequences of switching from a tracker mortgage, the application of incorrect tracker rates and a failure to afford customers their contractual entitlements to specified tracker interest rates.

At the same time, the Financial Services and Pensions Ombudsman was receiving individual tracker related complaints. The Ombudsman was adjudicating on these cases and in addition some of these cases were also coming before the Courts.

Central Bank industry wide examination

The growing number of issues arising relating to tracker mortgages raised concerns in the Central Bank that there may be other tracker related issues which could be impacting upon borrowers across the system. As a consequence of this the Central Bank announced in October 2015 that it had commenced a broader industry wide examination of tracker mortgage related issues. This systems wide review was intended to cover, amongst other things, the transparency of communications with, and the contractual rights of tracker mortgage borrowers.

Over time the Examination has grown to become the most complex and significant consumer protection review ever undertaken by the Central Bank. It covered fifteen mortgage lenders who may at any time have sold a tracker mortgage product to a consumer borrower from the time the lender commenced selling tracker mortgages until December 2015, and involves the review of more than two million mortgage accounts by lenders.

As such, it covers both banks and other regulated mortgage lenders, and also includes lenders who are no longer providing new mortgage credit. It also covers mortgages which have been redeemed or borrowers whose tracker mortgage has been transferred to another creditor.

The industry wide examination requires all lenders to examine the extent to which they have been meeting their contractual obligations to their tracker mortgage customers or their compliance with their obligations under the Central Bank's Consumer Protection Code and other consumer protection regulatory requirements.

Central Bank progress update on the examination

Since it commenced its industry wide examination, the Central Bank has published a number of update reports the latest of which was on 20 December last.

That latest update indicated that approximately 26,600 customers have been identified as having been impacted pursuant to the industry wide examination. This is an increase of 13,600 on the position as outlined in the earlier October update. The acceptance of further impacted tracker mortgage accounts by lenders, such as the 6,000 additional impacted accounts accepted by Bank of Ireland in November, is proof that the Central Bank's strategy of continuously challenging lenders is having important benefits for consumers.

In total circa 33,700 customers have now been identified as being impacted owing to tracker mortgage failings. This includes the 7,100 impacted tracker borrowers that were identified prior to the commencement of the industry wide examination.

While the Central Bank now believes that the vast majority of impacted tracker customers have now been identified, it will continue to review, challenge and verify the work undertaken by lenders.

Redress and compensation

Following the Central Bank's October progress update report - and owing to both my and the Government's concern relating to very slow progress in the provision of redress and compensation to impacted customers - I met with the CEOs of the five main banks at the end of October and made it very clear to them that all affected customers are to be identified and provided with appropriate redress and compensation as a matter of urgency.

While some payments had been made at that time, these were small in number and many impacted borrowers were still unclear if or when they would hear from their lender.

Following these meetings, the banks in question made certain and specific commitments with regard to the payment of redress and compensation to impacted customers. I note that, in its December update report, the Central Bank confirmed that the five main mortgage lenders were on course to meet their October 2017 commitments, and also that known issues around disputed groups in respect of certain lenders have been resolved to the satisfaction of the Central Bank.

As at end-December, approximately €250 million in redress and compensation has now been paid to 12,900 impacted customers as identified from the industry wide examination, and this includes payments to 3,700 impacted accounts identified since last September.

This is additional to €47 million in compensation and redress which was paid for impacted cases identified before the commencement of the Central Bank industry wide examination.

The prompt payment of remaining redress and compensation payments to outstanding impacted borrowers is now a key requirement, and indeed it will be a practical demonstration of the regret that banks are now expressing for the harm they have inflicted upon their impacted tracker borrowers.

It is the case that the level of compensation offers are, in the first instance, a matter for the individual mortgage lender. It is the lenders which caused the harm to their own customers and therefore the primary responsibility for putting that right should also rest with them. The level of compensation offered should of course be proportionate to the level of harm and stress which was incurred, and individual lenders should have regard to this when they make compensation payments to their own customers. The provision of fair and appropriate compensation offers up front will minimise the risk of causing further inconvenience and hurt for impacted customers and will go some way towards giving a practical expression to the words of regret which have been heard in recent months.

Of course in the more difficult cases, such as where people lost their homes, the lender will need to consult closely with the impacted borrower on the level of detriment which has occurred and therefore the total level of redress and compensation which is appropriate in their particular circumstances.

However, urgent consideration should also be given to these cases by the banks and they should not be deferred or put to the end of the line for payment.

It is also important to have an independent appeals process in place to deal with customers who are dissatisfied with any aspect of the redress package that they receive from lenders, and the Central Bank Tracker Redress Framework provides for this. This will give any customer the right to challenge any aspect of the redress and compensation offered; this can, in the first instance, be to the appeals panels set out under the tracker framework but of course impacted tracker borrowers also have the right to take their case to the Financial Services and Pensions Ombudsman or ultimately the courts.

Of course, a fundamental element of the redress and compensation process is that the upfront payment which is made by a lender cannot be reduced by any subsequent appeal that may be made by the borrower, either to the appeals process under the Tracker Examination framework or ultimately the Ombudsman or the courts.

The detailed appeals process set out in the Central Bank's framework for the Tracker Examination allows borrowers to take the matter further, without risk to them, if they consider that the level of the upfront payment is not appropriate in their particular case. This appeals process will also allow the individual borrower to set out their full individual circumstances and to set out in detail the

full harm which was imposed upon them by their lender, and consequently why a higher level of payment may be appropriate in their case.

Enforcement

In terms of enforcement, I believe the existing supervision and enforcement powers of the Central Bank are strong and should be used to punish wrong doing where supported by the evidence. The Central Bank has already demonstrated that it is willing to use the full extent of its powers as evidenced by its imposition in 2016 of a monetary penalty of €4.5 million on Springboard Mortgages Limited for serious failings in its obligations to its tracker mortgage customers.

The Central Bank has advised that it is also pursuing enforcement investigations in relation to Permanent tsb and Ulster Bank Ireland, and that they have commenced another enforcement investigation. The Central Bank has also stated that it expects all the main mortgage lenders will face enforcement investigations in due course.

It is also important to note that the Central Bank also has statutory reporting obligations to An Garda Síochána or another relevant statutory agency where information obtained by it at any stage prior to, during, or after an investigation, gives rise to a suspicion that a criminal offence may have been committed.

Other Actions Taken

In light of the appalling behaviour of mortgage lenders, I have taken a number of actions with the interest of consumers in mind.

As Minister for Finance, I have mandated the Central Bank under section 6A of the Central Bank Act 1942 to prepare a report on:

- the current culture and behaviour and the associated risks in the retail banks, and
- the actions that may be taken to ensure that banks prioritise customer interests in the future.

On foot of this report - which is expected to be provided in the second quarter of this year - the Government will determine whether any additional legislative and regulatory changes are needed that would enhance accountability in the banks to ensure customer interests are prioritised.

In addition, following the publication of the Central Bank December update report, I announced two additional measures to further promote the interests of consumers and which are to:

- double the level of compensation – to €500,000 – that the Financial Services and Pensions Ombudsman may award to a consumer who has been adversely affected by the action of a financial services provider.
- appoint two new members to the Central Bank Commission who will have a strong consumer protection profile.

I also note – and indeed welcome – the initiative from the banking industry to establish an Irish Banking Standards Board which will broadly mirror the approach adopted in the UK. However, this is an initiative from the banking sector itself and it will not minimise or reduce any existing or proposed legislative or regulatory measure.

Conclusion

This Examination has laid bare the fact that very poor cultural and governance issues still exist within lending institutions in Ireland post the banking crash and that if banks are to regain the trust of customers than they must be prepared to change their attitudes significantly. Customers of these lenders have been treated appallingly and in some severe cases have even lost their homes, either directly or indirectly, due to the shameful behaviour of their lenders. This behaviour is simply unacceptable.

This Government will continue to support the Central Bank in its efforts to complete the Tracker Examination as quickly as possible, and it looks forward to receiving a further update report from the Central Bank in due course on the basis of end-March 2018 data. If further sufficient progress regarding the payment of redress and compensation to impacted customers has not been made at that point, the Government will be prepared to consider further possible actions.

Turning now to the “Our Public Service 2020” initiative

Item (ii) *Our Public Service 2020*

Introduction

I am pleased to have the opportunity now to address you on the second item of business today. Last month I launched the new framework for development and innovation in the public service, *Our Public Service 2020*.

There has been much progress since the first reform programme was started in 2011, in areas including procurement, shared services and civil service renewal, and public service reform continues to play a key role in Ireland's development.

A recent report by the Institute of Public Administration includes many positive findings. For example,

- Ireland's Public Administration comes first in the EU28 for being the most professional and least politicised.
- Ireland comes 6th in the EU28 for the quality of its public administration (a relatively consistent score over last three years)

These results are very encouraging and provide a strong foundation for the next phase of reform set out in *Our Public Service 2020*.

Our Public Service 2020

So how does this reform framework differ from what has gone before? In reflecting on the previous phase of reform, including through an OECD Assessment, a number of lessons for this framework came into focus:

- a greater emphasis on the outcomes of reforms;
- improving the linkages between reform and expenditure;
- a stronger emphasis on innovation and on working collaboratively and working better across whole of government;
- a strengthened model of governance including a Public Service Leadership Board; and
- the importance of digital delivery and data in achieving greater efficiency.

These are all important themes that we have taken into account in developing *Our Public Service 2020* and I will return to them in a moment.

The framework itself is built on three pillars and includes both new initiatives and actions that expand on and embed reforms already in place. The three pillars are;

Delivering for our public, which includes for example, the continued development of digital services under the Public Service ICT Strategy to deliver improved public services;

Innovating for our future to support and encourage new thinking and innovative solutions; and

Developing our people and organisations to improve strategic human resource management to ensure the right mix of skills and tools are there to support public servants in delivering quality services.

In addition to reflecting the lessons from previous reform initiatives, these pillars were developed following an intense process of engagement with the public and public servants themselves – for it is they who will be responsible for putting the actions in this framework into practice.

Outcomes focus

The approach we have taken in *Our Public Service 2020* is to first identify six high level outcomes which we are aiming to achieve in the public service in the long term and to which this Framework can significantly contribute. These include:

- Increased customer satisfaction
- Increased public trust
- Greater use of digital tools

- Better government effectiveness
- Quality of public services
- Greater employee engagement

Within my Department we have recently established a Reform Evaluation Unit to focus on monitoring and evaluating the outcomes of reform as well as creating greater links between expenditure and reform.

Innovation

One element of *Our Public Service 2020* that I would like to highlight is the need to foster a culture of innovation across the public service.

Globally, innovation in the public sector is becoming increasingly important as a means of effectively meeting new challenges.

It is my view that if we act in an innovative way we can develop different solutions that are both cost effective and citizen-centred. Public service organisations need new ways of working, new ways of interacting with citizens, new ways of gathering and using data to keep up with a rapidly changing status quo. *Our Public Service 2020* will be instrumental in achieving this aim.

Public Service Leadership Board

To oversee and provide collective leadership for public service reform and development a new Public Service Leadership Board will soon be established. This Board will include Secretary General/CEO level participation drawn from

the Civil Service Management Board and representation from a broad range of public service organisations.

Government Reform

Finally, on the related reform matter of Government Reform, the Committee will recall that we are trying to progress the Public Sector Standards Bill and the Data Sharing and Governance Bill. Committee stage on the Public Sector Standards Bill commenced in April 2017 and the briefing requested by the Committee was provided. In light of the public interest in implementing the Mahon Tribunal recommendations and the central role of this Bill in underpinning public trust and confidence in the ethical standards of public officials, I am asking that committee stage of this Bill be completed promptly. The Data Sharing and Governance Bill is another priority. We need to deliver more digital services and we need to ensure that public bodies share data in a manner that complies with the enhanced data protection regime under the forthcoming General Data Protection Regulation. Work is well advanced on drafting the Bill and has been informed by the findings and recommendations in the Committee's report on the pre-legislative scrutiny. I expect the Bill to be published in the first quarter of this year and I am asking the Committee to support the Bill and prioritise its passage through the Oireachtas.

Conclusion

The context in which the public service operates is becoming increasingly complex and challenging. It is very important we support better collaboration, innovation and joined-up approaches across the public service to respond to

future challenges while making best use of emerging technology. We have designed *Our Public Service 2020* with this to the forefront of our minds.

Thank you for your attention and I look forward to your comments and questions.