

Opening Statement by Brendan Burgess to Oireachtas Finance Committee

Matters relating to the Resolution of Non-Performing Loans

17th May 2018

The number of non-tracker mortgage holders:

300,000

The extra interest paid on a €200,000 mortgage in Ireland:

€3,000

These are the two key figures which you should keep in mind whenever you are discussing mortgage related issues. If you are considering making it even more difficult for lenders to deal with non-payers, keep these figures in mind. When you call in the banks or the Central Bank or the Finance Minister, keep these figures in mind.

Because there is no effective sanction in Ireland for the 10,000 or so irresponsible borrowers, the 300,000 responsible borrowers pay their mortgages for them.

Non-payment does not hurt the lenders – it hurts the other borrowers. The lenders use the difficulty in repossessing houses as an excuse for charging more. When overseas lenders look at the Irish market and see that it takes year to repossess a home from a defaulter, they stay well away.

Some other numbers...

Number of PDH borrowers <i>over two years</i> in arrears	24,000
Number of PDH borrowers <i>over five years</i> in arrears	10,000
PDH NPLs currently being sold by Ulster Bank and permanent tsb	11,400
Number of PDH mortgages rescheduled by lenders since 2009	120,000
Number of PDHs repossessed by court order since 2009	2,476
Many of these were empty and abandoned.	

Most borrowers take their responsibilities seriously

- They engage with their lender and they get an arrangement
- They pay the revised amount and they get back on track
- When the borrower is paying what they can but the lender is being unreasonable – the courts protect the borrower

But a small minority – around 2% - or 10,000 borrower – exploit the fact that there is no sanction for not paying their mortgage.

Case studies from last Thursday 11th May in the Dublin Registrar's Court

Borrower	[REDACTED]		
Original lender	Start	Irish Nationwide	Irish Life & Permanent
Current owner	Start	Mars Capital	Havbell (linked to a commercial loan)
Mortgage drawn down	2008		2003
Original amount	€267,000		€260k
Balance today	€350,000	€879k	€335k
Arrears	€83k	€430k	€75k
Payments in arrears		7 years	4 ½ years
Last payment	6 years ago	6 years ago	3 years ago
Start of these proceedings	2014	2017	2017
Outcome	Order granted	Adjourned	Order granted with consent of one borrower

[REDACTED] in more detail

- While legal proceedings began in 2014, this would have been only after two years of the Mortgage Arrears Resolution Process.
- Showed up at every court appearance since the proceedings started
- Some years ago she said she hoped to be in a position to start paying soon, so she got an adjournment. But she paid nothing anyway.
- She got another adjournment on the grounds that she was engaging with MABS. But she did not engage, so they came off record.
- She spoke to a PIP – but unlikely to be a candidate for a Personal Insolvency Arrangement.
- She lodged a formal complaint with the lender that she was not receiving correspondence from them.
- This time she was hoping to look at Mortgage to Rent, but she had got adjournments on that basis before and it had come to nothing
- Anyway, if she has not paid her mortgage for 6 years, why would she start paying her rent to the Council or Local Authority?

Some more cases from last Thursday...

In one case, the borrower had gone to Germany and could not be served with notice of the proceedings. The proceedings were effectively struck out.

In another case, the lender could not serve the summons because the borrower refused to answer the door – that too was effectively struck out.

In 7 other cases, where the lender applied for an adjournment due to problems in serving the borrower or other problems with the paperwork, adjournments were refused, and the cases were effectively struck out.

The only other order granted last Thursday was against the joint executors of an estate. The borrower had died in 2013. The executors didn't take out probate until 2016. One of the executors was living in the house and refusing to leave. The other wanted the house sold and the mortgage paid off.

We should make vulture funds redundant by allowing lenders to fast-track repossessions where the borrower is paying nothing.

The lenders don't want to sell non performing loans. But they have no choice. If the borrowers won't pay and the lenders can't repossess the property quickly, they have to sell the loan.

We could make the vulture funds redundant by fast-tracking the repossession of homes where the borrowers pay nothing.

We should protect responsible borrowers from legal action

The arrears in many of the 26,000 cases over two years are old arrears. The borrower lost their job or was sick 5 years ago and fell into arrears. They have since recovered and are making the normal monthly repayment in full. But they do not have the resources to pay off the old arrears.

These borrowers need protection. The lenders should be prevented from taking legal action against any borrower who has paid, on average, [3%] of the balance on their mortgage, every year for the past 5 years. (That is the principle – it would have to be fine tuned to allow the banks pursue people who can pay more but won't.)

We should pay a “Mortgage Assistance Payment” to those who genuinely can't afford to pay their mortgage who would otherwise qualify for Housing Assistance Payment

If someone would qualify for Housing Assistance Payment if they were renting, then we should be prepared to pay that amount as a Mortgage Assistance Payment if they have a mortgage.

A borrower who can't pay their mortgage gets no assistance at all from the government. However, if they sell their home to an investor, and rent it back from the investor, they will get help with my rent.

This makes no sense for anyone apart from the investor

- The home owner loses ownership of their home
- The home owner loses the opportunity for capital appreciation
- The tax payer pays a lot more in Housing Assistance Payment than they would in a Mortgage Assistance Payment.
- A home owner who retains ownership is more likely to recover and no longer need the MAP.
- The lender has probably had to write off the mortgage shortfall

The Mortgage Assistance Payment in the UK is treated as a loan and not a social welfare payment. It becomes a second mortgage on the home. When the house is eventually sold, if there is a surplus after paying off the bank mortgage, the MAP is repaid to the government.

A Mortgage Assistance Payment would be far cheaper and simpler to organise than Mortgage to Rent

A MAP would cost the taxpayer much less

- Take a house worth €300k with a mortgage of €300k. Under Mortgage to Rent, the government pays about €18,000 rent. Mortgage interest would be about €12,000 if it's an SVR mortgage or as low as €3,000 if it is a tracker.
- With a Mortgage Assistance Payment, the owner remains responsible for maintaining and insuring their home. Under MTR, the Housing Agency or Local Authority bears these costs.
- The MAP can be set up as a loan rather than a social welfare payment, so the cost to the taxpayer is further reduced

A MAP would be much easier to set up.

- Mortgage to Rent is unbelievably complicated as there are so many qualification criteria and legal procedures involved in a change of ownership of a property
- Because of this complexity and cost, the qualification criteria are necessarily very high.
- A MAP is relatively simple, it requires a housing needs assessment and a social welfare assessment

A MAP can be a part-payment, MTR is all or nothing

- If a person qualifies for MTR, they get their housing free with only a token contribution. But someone who could afford half their mortgage, could get the other half via a MAP.

A MAP can be terminated when it's no longer needed – MTR is forever

- Once a person gets social housing via the MTR, they keep it forever. In many cases, they can pass it on to their children. If their circumstances improve, they can buy the property back at a discount.
- If the circumstances of a person in receipt of MAP improve, the MAP can be terminated. In fact, as it would be a loan, there would be an incentive for the mortgage holder to terminate it as soon as possible.

The MAP could help far more people

- MTR is expensive, it's all or nothing and it is forever. If someone who should not qualify for Mortgage to Rent, gets it, it's an expensive mistake for the administration and can't be undone. So the qualification criteria are rightly very tough.
- If a person is granted a Mortgage Assistance Payment in error, the potential cost of the error is much lower and it can be rectified easily

Appendix 1 Data sheet on non performing loans and planned sales to vulture funds

Compiled by Brendan Burgess for the Oireachtas Finance Committee 15th May 2018

	Total	Banks	Retail credit firms	Vulture funds
Total mortgages	608,000	568,000	30,600	9,200
2 years arrears +	24,000	18,000	2,100	3,800
90 days arrears +	40,000	30,000 (5%)	5,000 (16%)	4,600 (50%)
Restructured		16%	18%	21%

Source: Central Bank [Mortgage Arrears Statistics](#) December 2017

Central Bank figures are for accounts. I have adjusted them to refer to homes. Each home has, on average, 1.2 mortgage accounts.

Retail Credit Firms include : Dilosk (who bought ICS mortgages), Start and Pepper. These are regulated by the Central Bank.

The Vulture funds include : Tanager, Mars Capital, Cerberus and Shoreline Havbell

Danske sold 10,000 performing loans in October 2017 to Proteus, a vulture fund. However, they are included under Retail Credit Firms because, as the Central Bank explains: **“The 10,000 accounts you refer to are not legally owned by an unregulated loan owner, but rather by another institution, with the beneficiary ownership been held by the unregulated loan owner.”**

Family homes on the market at present

	Number	Years in arrears	Average arrears
Ulster	3,600	3 1/2	€52,000
Ptsb	7,800	4	€29,000
Total non-performing	11,400		
BoSI performing	22,742	Performing loans	Most are PDHs, but some Buy to Lets

What permanent tsb has said about its planned sale

7,800 PDH loans are typically owned by customers who have not engaged with the Bank, whose mortgages are unsustainable or who have been unable to meet the terms of various treatments put in place. Of this portion of Project Glas, some account holders have not engaged with the Bank for over 7 years and on average the loans are 3.9 years in arrears. 1,560 paid nothing at all in 2017.

What Ulster Bank has said about its planned sale

Average arrears: 3 ½ years. €52,000 73% cent of these mortgage holders first went into arrears between seven and nine years ago and have entered on average three forbearance arrangements.

What the Central Bank has said

- There were 24,000 family homes in arrears over two years (Peak was 32,000)
- 10,000 of these are over 5 years in arrears
- 3,000 of these are making the full mortgage repayment
- 10,000 are not engaging

Appendix 2 Who sold what to whom

Irish Nationwide merged into IBRC

Sold some performing mortgages to Bank of Ireland

Mars Capital serviced by Acenden (not in arrears) or Mars (arrears cases)

Oaktree serviced by Pepper

Lone Star serviced by Pepper

[Shoreline](#) bought a group of former Irish Nationwide mortgages from IBRC.

They were the owners, but they appointed Pepper to administer those loans on their behalf. Shoreline, not Pepper, then sold on the performing ones to Bank of Ireland.

Bank of Scotland Ireland

Sold mortgages in arrears to Tanager serviced by Lapithus

Sold mortgages to Lone Star

Danske Bank

In 2016, [non performing loans sold to Cerberus aka Ptomontoria - the Pluto portfolio](#)

13,000 performing loans sold October 2017 to Goldman Sachs aka [Proteus Funding DAC](#) - serviced by Pepper - 10,000 family homes; 3,000 buy to lets [source](#)

Ulster Bank

[Sold loans in heavy arrears to Cerberus](#)

About 900 home loans

€2.15 billion face value - 19% buy to let, 10% owner occupied

95% in arrears of two years or more

Springboard (owned by ptsb)

Mars Capital paid about €250m for these sub-prime loans - serviced by Acenden (not in arrears) or Mars (arrears cases)

Start Mortgages

Still trading as Start Mortgages, but [Investec sold the company](#) to Lone Star

ICS

[Sold €223m to Dilosk](#)

GE Capital

[Sold to Pepper](#) - in 2012 - 3,500 mortgages worth €600m

Permanent tsb

Sold commercial real estate loans, but some of these loans had residential properties linked to them and so were sold as well.

