

No Consent No Sale Bill - David Hall submission

21st March 2019

Part A

1. The problem is that many families are still in mortgage arrears and can't pay their mortgage. They are facing repossession. The banks are allegedly under pressure to reduce their percentage of non-performing loans. The fastest way to do this, having failed to offer realistic restructures, is to sell to Vulture Funds. This, as can be seen from the loan sales last year by PTSB and Ulster Bank is a quick fix.

A point to note is that many of the loans sold last year to Vulture Funds by PTSB and Ulster Bank, (based on details both banks provided) had in fact engaged with the bank and given all the information requested. This shows that the spin by the banks and their unofficial mouthpieces is indeed wrong, this issue is about people not being able to pay.

By way of example Ulster Bank stated that of the loans they sold, 2,300 had been restructured on average three times. This hardly shows non-engagement.

The key issue here is how many of these mortgage holders' loans could have been restructured successfully if the discount given to the Vulture Funds was passed to the customer.

This requires urgent attention as it is essential that the truth is known about Vulture Funds. Many Vulture lovers and indeed very concerningly, Ministers and the Taoiseach, seem to have been wrongly briefed about Vulture Funds. Vulture Funds do not provide the same restructuring options as banks do. Although these restructuring options offered by banks are not exactly spectacular, they are something to offer mortgage holders in distress.

Two of the Vulture Funds, Mars Capital & Pepper do make some effort but is wholly inadequate.

Banks that have failed to allow fair restructures will now sell family homes at big discounts to Vulture Funds. Just to highlight, **NO** offer of this discount has been given to the homeowner.

This is very serious, for example, if a house worth €200,000 has a loan of €275,000 and the bank looks at restructuring options, it uses the value of €200,000. If the mortgage holder is unable to pay (using this calculation) the house is repossessed. However, if the bank allowed the same discount to be passed to the mortgage holders that they will sell to a Vulture, then there is a much greater chance the mortgage holder will stay in their home. The calculations for a solution would then be around the new price which the bank would sell for example €100,000.

It's completely false to state that because a Vulture Fund buys a house at a cheaper price, it is, therefore, better positioned to do a deal. You have some chance if you want to lose your home and have the debt written off but as mentioned above, the Vulture Funds don't do restructures and therefore repossession is and will be inevitable.

2. This is an extremely important point which is not covered by any other Bill before the houses of the Oireachtas. A number of bills exist around restructuring and also around consideration re someone's situation but not around this most basic point of consent.

3. There is no international/ EU context other than banks have failed to honestly restructure loans and are now willing to pass on massive discounts to foreign Vultures rather than allow the discount to be passed to those who are in mortgage distress.

Implications and Implementation of the Bill's proposals

Policy implications/implementation

4. The approach in the Bill reflects the intended action by the Central Bank albeit on a voluntary basis. The former Minister for Finance also stated this voluntary rule should be adhered to by all lenders. This Bill would force banks to restructure mortgages in arrears in a meaningful manner and offer this to those in mortgage arrears.

5. The alternatives proposed have not yet progressed and have been stalled within the Oireachtas while loan sales to Vulture Funds continue. The Government launched the Abhaile scheme which allows for those in arrears have someone speak on their behalf in court, but this, in fact, is not sufficient enough and the actuality is a need for full legal aid. Also, the Abhaile scheme allows for those in arrears to meet a personal insolvency practitioner. While the number of people seeking help proves the debtor's intent, the scheme does not address their inability to pay and the need for radical restructuring.

6. None of the current proposed pieces of legislation address this issue or achieves the same.

Such is my concern about the tsunami of repossessions that there could be merit in gathering everyone who is currently sponsoring a bill, to propose a simple realistic bill helping those in mortgage arrears.

7. To put it simply, this bill will not suit banks. Debtors borrowed money from a bank/lender. It is completely reasonable that their consent is sought before their loan is transferred to someone with less favorable solutions/behaviors on restructuring. The greatest lie being told is that all the protections stay in place. This is factually incorrect as Vulture Funds don't restructure the same as banks do and the person whose loan has been transferred is at a significant disadvantage.

8. No, banks sell loans at a significant discount to Vulture Funds so having the borrower' s permission sought would force the bank to restructure the loan. It's important to remember that the majority of those in arrears have actually engaged with banks and the banks know their circumstances. Banks know what is needed to help keep people in their homes but have chosen to not take this path and instead pass on massive discounts to Vultures. This is a systemic cultural issue within banks. Actually, it is worse than this as they torture debtors by seeking information that does not change their options to restructure.

9. Why would it? There is an ongoing housing and homeless crisis in Ireland and its time our politicians and Government moved to protect our citizens, as banks have been consistently chosen over citizens.

10. The good part of this Bill is its simplicity. Those lenders seeking to sell loans would be required to write to affected customers and seek their written consent. Templated letters, of which there are many, could be created to cover this off.

11. This could be done easily. X lender sells Y loans, Central Bank or Department can audit by asking for copies of the consent letters for all those being sold.

Cost Evaluation

12. Nothing significant, as lenders cannot sell unless consent sought and received. Any breach means loan brought back to the original lender.

13. Any costs would be borne by the Central Bank and therefore funded from the banks so Exchequer should not be burdened.

14. Unaware of any such analysis. Those loans already sold onto Vultures would not have the benefits of this bill.

15. I believe so. Borrowers contracted with banks to take out a loan. What could be unconstitutional about the reasonable expectation they would be consulted to seek consent to be sold.

16. The Central Bank 1991 had this provision, so one has to imagine this was compatible. It must be supporting ECHR legislation protecting the consumer.

17. Not in my view

18. Not in my view

19. Not my area of expertise se.

20.

Many Thanks

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