Debt: Part 1 Mortgages

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Contents

Editorial

There is a changing economic landscape in Ireland with debt consequences for individuals, families and society in general. This is the first of three *Spotlights* looking at indebtedness in Ireland. This *Spotlight* looks at the numbers experiencing problems with mortgages and what can be done to help individuals struggling with mortgage repayments. This *Spotlight* also examines possible policy options to tackle the problem and looks at what other countries have done.

In our second *Spotlight* to be published in April, we focus on personal debt and its consequences and likely social impacts. The third *Spotlight* looks at the imprisonment of debtors in light of the increasing rate of private insolvencies.

24 March 2010
Economics and Enviroment Science Team
Library & Research Service

Introduction

The recent financial crisis has been relatively hard on mortgage holders in many countries. Dramatic falls in house prices, pay cuts and increased unemployment mean that negative equity and mortgage arrears have become an issue for a sizeable number of mortgage holders.

In Ireland there are an approximately 792,893 mortgages held by owner-occupiers. The adjusted value of these mortgages is €118.3 billion. It is estimated that 196,000 of the total number may be in negative equity by the end of 2010 with an average negative equity of €38,000 (Duffy 2010). There are different estimates of the number of mortgages in default. The most widely accepted definition is more than 91 days in arrears. Under this definition there are more than 28,600 mortgages in arrears. This represents 3.6% of all mortgages. However, the number of mortgages with any arrears is nearly double this and could indicate that the number of mortgages in trouble may increase in the near future.

Governments around the world have tried different ways to help mortgage holders avoid default and subsequent repossession. These include:

- renegotiating the interest rate on loans with lenders (USA),
- forbearance i.e. postponing payments and increasing the term of the loan (UK, USA, Netherlands),
- government schemes to temporarily pay mortgages (Australia, UK, Netherlands),
- mortgage to rent or shared equity schemes (UK). Here local councils or social landlords take ownership of all or part of a property and lease it back to the previous owner.
- The introduction of state-backed insurance schemes to prevent property owners who have to sell from having an outstanding balance on their mortgage as is the case in the Netherlands and Canada.

Intervening in the mortgage market is not without problems. Any actions a government may take if not very tightly designed, risks making future housing problems more likely. Also, there are some cases where it is better for the individual to surrender the mortgage and move into rented accommodation. Given the unprecedented nature of the crisis, little research has been done as of yet on which of the above interventions has the most beneficial effects.

Mortgage statistics

Estimating the exact number of mortgages can be difficult. According to the 2006 Census (CSO 2006) there were 1,769,613 housing units in the country on census night (the 23 April 2006). This figure includes holiday homes, vacant apartments and households where the residents were temporarily absent on the night. More recent figures from the Department of the Environment, Heritage and Local Government give an estimate for the total housing stock at the end of 2008 of 1,934,000. A further 26,000 units were completed in 2009; therefore there are an estimated 1.96 million housing units in the country.

Explaining the numbers

In this *Spotlight*, we quote three numbers for the value of mortgages, we explain them here:

€147.6Bn: this is the adjusted level of residential mortgage lending, including mortgages to buy-to-let investors. It includes the value of securitised mortgages.

€110Bn: this is the same as above but excludes the value of securitised mortgages. This is the value of mortgage lending on banks' balance sheets.

€118Bn: this is the value of outstanding owner-occupier residential mortgages held by banks that are regulated by the Financial Regulator. It includes the value of the mortgage plus any arrears, accrued interest, fees and any legal costs.

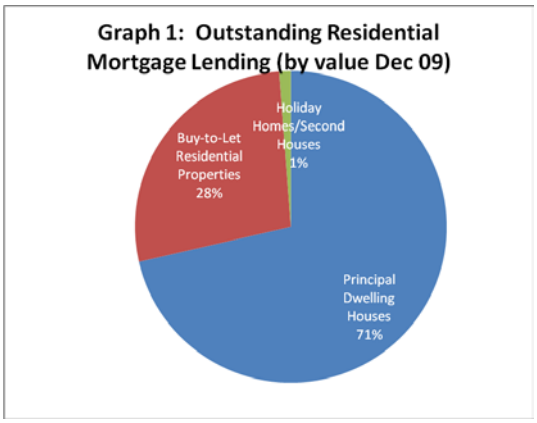
On Census night, there were 1.46Mn households in the country. Of these, 40.58% were either classified as 'owner occupied with a loan or mortgage' or 'being purchased from a local authority'.

According to the ESRI, at the end of 2009 the number of households in the state stood at 1.58Mn. Therefore, if the same proportions from the census hold, there are approximately 645,000 mortgages held by owner occupiers or those buying from a local authority.

However, the most recent and most accurate figures available are those published by the Financial Regulator. They show that at end of the third quarter 2009, there were 792,893 private residential mortgage accounts with a book value of €118.3Bn. The large discrepancy (approximately 148,000) between the estimate based on the Census and those from the Financial Regulator may in part be explained as the Financial Regulator figure includes top-up mortgages and may include second mortgages taken on primary private residences. It is also possible that some of these were taken out to support buy-to-let investments.

Outstanding mortgage debt

Central Bank data show that at the end of December 2009, the total adjusted level of residential mortgage lending (including buy-to-let) stood at €147.6Bn[1].



Graph 1 highlights the percentage share of outstanding mortgage debt. Almost 70% of mortgage debt is on private dwelling houses. Over a quarter is on mortgages to the investor market (buy-to-let) with the remainder supporting mortgages on holiday and second homes.

[1] The unadjusted figure is €110Bn.

New mortgages

Mortgages taken out during the last few years are the most likely to be in negative equity or suffer default. The Irish Banking Federation (IBF) estimate that its members[2] account for 98% of the mortgage market so we can use its figures to examine when mortgages were taken out.

Table 1: Number of Mortgages by type

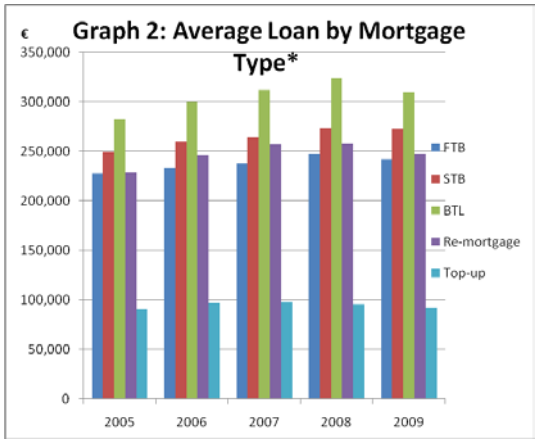
	2005	2006	2007	2008	2009
FTB	37,879	37,064	30,469	19,946	12,684
STB	46,760	45,585	32,864	20,444	9,395
BTL	25,856	28,141	20,861	13,226	3,018
Re-mortgage	25,944	26,565	25,937	21,374	5,774
Top-up	64,821	66,598	47,967	35,315	14,947
Total	201,260	203,953	158,098	110,305	45,818

Key: FTB=first time buyer, STB=second time buyer, BTL=buy-to-let

Source: IBF/PwC (2010).

In 2009 there were 45,818 new mortgages (Table 1) with a book value of approximately €8Bn. The largest market segment by value is the first-time buyer sector which drew down a third of mortgages by value in 2009. Homeowners switching mortgage providers accounted for 14% of total drawdowns. Overall, 62% of mortgage drawdowns in 2009 involved house purchases. The number of mortgages in all categories has fallen from 2005. The number of FTB loans is a third what it was in 2005; STB, re-mortgages loans and top-up mortgages are almost a fifth of what they were in 2005 and the buy-to let sector is only a tenth of what it was.

[2] IBF members include AIB, Bank of Ireland, Bank of Scotland (Ireland)/Halifax, EBS Building Society, First Active, Haven Mortgages, ICS Building Society, KBC Homeloans, Irish Nationwide Building Society, Permanent TSB and Ulster Bank.



* weighted Source: IBF/PwC (2010)

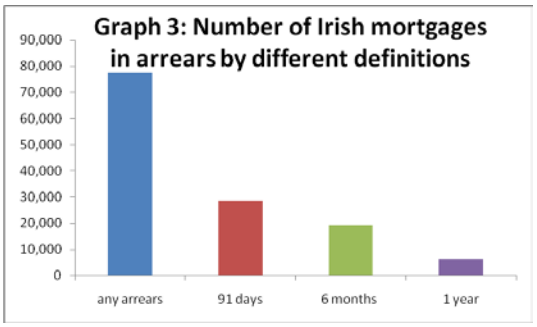
In contrast to the number of loans the value of loans has not changed dramatically (graph 2). It is likely that many of the mortgages taken out in 2005 to 2007 are in negative equity. David Duffy of the ESRI estimates that by the end of 2010 there will be 196,000 people in negative equity (Duffy 2010). However, just because a loan is in negative equity does not mean that the individual with the loan has difficulties paying the mortgage.

Distressed mortgages

A new data series from the Financial Regulator tracks residential mortgage and arrears and repossessions since the start of 2009. Unfortunately, historical data is not available but the series will be updated quarterly. It is not possible to say what arrears there are in the buy-to-let sector.

Using the Financial Regulator's figurers, at the end of December 2009, there were 792,893 residential owner occupied mortgages outstanding with a value of €118.3Bn. This figure includes the value of arrears, accrued interest and any unpaid fess and charges. It also includes legal costs which have been added to outstanding balances.

As well as estimates for the numbers of mortgages in the state there are various estimates for the number of mortgages in default; this is because of the different definitions of default used (graph 3).



Source: Weston 2009, Financial regulator 2010, IBF (2010)

These figures do not count loans which have been renegotiated so may be an underestimate.[3] Extrapolating from CSO data, Weston (2009) puts the number of households in arrears, of any duration, at over 77,500. A report in March on the Irish mortgage market by the credit rating agency Moody's, puts the number of Irish mortgages that had not been paid for a least a year at approximately 6,400 (Slattery 2010).

However, the most widely accepted definition is for arrears of over 91 days. This is the figure released by the Financial Regulator and it shows that at the end of 2009 28,600 mortgages were in arrears of over 91 days, which is 3.6% of the total. Two thirds of those in arrears were in excess of six months. By comparison, at the end of December 2006, there were 11,252 accounts over 3 months in arrears.

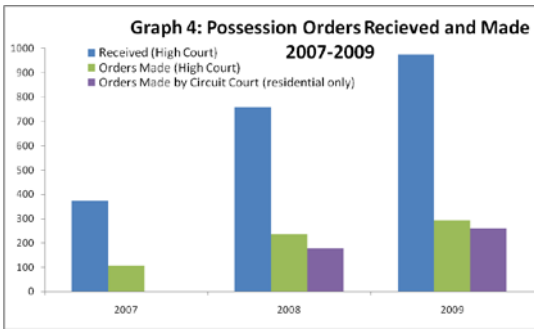
Figures on legal proceedings

Of the 28,600 mortgages in arrears, 8,328 had entered the legal process. When a mortgage goes into arrears the lender can issue a 'formal demand' for repayment. These are cases where demands were issued by solicitors or some other party acting on behalf of lenders seeking repayment of arrears in full but Court proceedings had not been issued. Figures from the Financial Regulator highlight that at the end of

[3] We do not have a figure for the number of renegotiated mortgages in Ireland. However, the AIB said it had €4.5bn worth of renegotiated loans at the end of 2009, compared to €154m at the end of 2008. If these had not been renegotiated some of these would have counted as mortgages with arrears (Irish Independent Tuesday, March 16 2010).

2009, a total of 5,096 formal demands had been made and arrears were still outstanding. The next stage is where applications had been made to the court for repayment or repossession. At the end of 2009 there were 3,232 applications to the courts were repayment or renegotiation had not been agreed. That figure includes 233 new cases in quarter four (481 cases Q3).[4]

The next stage is where the lender applies for an *Order for Possession.* Applications brought before the High Court for *Order for Possession* have increased over the last three years (graph 4). In 2009 there were 974 *Orders for Possession* received by the High Court. This was an increase of 28% from 2008.



During the fourth quarter 2009, 375 *Order for Possession* cases were concluded. Of these 152 resulted in an *Order for Possession* being issued while a further 36 were either abandoned or voluntarily surrendered. Almost half 180 (48%) of all settled cases came about due to a renegotiation of the terms and conditions of the mortgage.

Orders for Possession do not equate with actual repossessions. At the start of the fourth quarter 2009, there were 331 residential properties in banks' possession and by the end of the quarter this had increased to 397. Over a third of these were in banks' possession for less than six months. The main cause of the increase during the quarter was not due to the execution of an *Order for Possession* (+27) but rather the number of voluntarily surrendered or abandoned properties which added 74 properties to the total. Banks disposed of 35 properties during the quarter, giving a total of 397 properties in possession at the end of December 2009. In comparison between January 2005 and June 2008 banks had in their possession a total of 128 properties.

Who is bringing the cases?
Figures from the IBF show that in the third quarter of 2009, IBF members initiated 84% of the enforcement proceedings before the courts and were responsible for 58% of all executed possession orders. With an estimated 2% of the total mortgage market, subprime lenders accounted for 42% of all executed possession orders.

Case study: "Mary" talks about losing her home after it was repossessed
Imagine this, two weeks before Christmas, you and your partner have already lost your jobs, and just when you think things couldn't get any worse, you lose your home as well. This is precisely what happened yesterday when an order for possession was granted at the High Court against a couple who lost their jobs when Waterford Crystal closed down. "Mary", the mother of the 17-year-old special needs boy told the High Court yesterday that the family had been to "hell and back" with lender Stepstone Mortgage Funding. […] The couple had taken out a 277,000 euro mortgage with an interest rate of nearly 11% with the lender, Stepstone Mortgage Funding, for their Waterford home in early 2008. The couple put an additional 70,000 euro in savings towards the purchase and later adapted the house for their special needs son. The couple were both let go at Waterford Crystal last year but were left facing mortgage repayments of 1,900 euro a month. They then offered to pay 800 euro a month, including all the carer's allowance, but the lender refused in court to accept the offer.
http://www.newstalk.ie/news/mary-talks-about-losing-her-home-after-it-was-repossessed/

[4] Figurers are provided by the Courts Service. Cases may be brought before either the High Court or the Circuit Court. Figures for orders received and orders made are given for the High Court. However, only figures for orders made are provided by the Circuit Court.

Irish supports for mortgage difficulties

So what are the current options available to owner-occupiers who are experiencing difficulty with mortgage payments on their principal private residences (PPR)? The first stage is to ensure that all tax relief and insurances are being claimed.

Mortgage Interest Tax Relief
Mortgage interest tax relief at source (MITR) is granted to mortgage holders at the standard rate of tax and is applied by the mortgage institution. Interest relief is also available for non-secured loans used for the purposes of home improvement. The amount of relief varies between first-time buyers and non-first-time buyers and it is only available for mortgages taken out after 1st January 2004. The Finance Bill 2010 abolishes MITR from 2017. MITR should continue even when an individual's circumstances change.

Mortgage Protection
Mortgage Protection is a private insurance, usually taken out at the same time as the mortgage is arranged, designed to cover risk of death of the borrower or one partner in a couple. Serious illness cover may also be taken out to cover other health related risks or redundancy or dismissal. These types of protection are forms of private insurance and are subject to the terms and conditions of any individual policy.

Money Advice Bureau (MABS)
Mortgage holders can then approach advisory support groups such as MABS. MABS is a national, free, confidential and independent service for people in debt or in danger of getting into debt. There are 53 MABS companies delivering a service in 65 different locations. The MABS helpline is available form 9am to 8 pm Monday to Friday at Lo-call 1890 283 438.

MABS agreed a protocol with the Irish Banking Federation (IBF). Under the protocol the IBF agreed not to commence or continue legal action against customers who are taking part with MABS to agree a repayment plan or who are complying with an agreed payment plan.

Mortgage Interest Supplement
Mortgage holders may be eligible for Mortgage Interest Supplement (MIS). MIS is a means-tested social welfare payment administered by the Health Service Executive. It is available to individuals and couples who are working less than 30 hours per week.[5] It pays only the interest element of the mortgage payments on a primary residence. No help is given paying off the actual loan or house insurance. However, many individuals are not eligible for the payment because their spouse or partner is still in employment. MIS is subject to several conditions including that:

- The mortgage repayments were affordable when the loan was taken out (this clause may rule out many subprime mortgages).
- The house is not for sale.
- The Community Welfare Officer (CWO) considers the amount of interest reasonable.
- It is reasonable to award mortgage interest supplement given arrears on the loan.

Some income is not taken in account by the CWO when calculating the amount of MIS an individual will receive (see Citizens Information, 2010 for full details).

The conditions under which Mortgage Interest Supplement is calculated have been criticised on two grounds. First MIS is argued to be too restrictive. Second, critics argue that there are different interpretations by CWOs across the country (FLAC 2009a). The MIS is currently being reviewed by the Department of Social and Family Affairs

[5] Some back to work schemes do not count as work for the purpose of this benefit.

and a report is due before Easter (Smyth 2010).

Household Budget Scheme
The Household Budget Scheme is a scheme that helps those getting certain social welfare payments to spread the cost of some household bills over the year. Under this scheme, a fixed amount is deducted from the individual's social welfare payments each week. The mortgage is among the bills that can be deducted in this way. Therefore this scheme does not reduce mortgage payments but can help individuals from getting into difficulties.

The scheme is operated by An Post and in order to qualify, the individual must be getting certain social welfare payments and the payment must be paid through the local post office. The scheme is free of charge.

The individual can opt to cover the full amount of the bill however, not more than 25% of the individual's total weekly social welfare payment can be deducted under this scheme.

Renegotiation of loan
The borrower can attempt to renegotiate the terms of the mortgage. The bank may agree to an extension of the loan, a switch to interest-only payments or a moratorium on repayments altogether.

In February 2009, the Financial Regulator invoked its statutory powers to oblige regulated entities operating in Ireland to comply with a statutory *Code of Conduct on Mortgage Arrears*.[6] Up to that point only a voluntary code pertained which applied to members of the Irish Banking Federation. The statutory code of conduct follows the voluntary code closely but adds a moratorium on repossession proceedings in certain cases. Since 17 February 2010 the code increased the moratorium from 6 to 12 months for all regulated entities (i.e. banks, building societies and "sub-prime" lenders). These are obliged, by law, to comply with the Code, which is to be read in conjunction with the *Consumer Protection Code*. In general, the Code requires a flexible approach to be adopted in dealing with mortgage arrears and for procedures to be aimed at assisting the borrower as far as possible in his/her circumstances.[7] The lender can enforce a mortgage in cases of fraud or breach of contract. The Free Legal Advice Centres (FLAC) (2009b, p.2) notes that even a minor or technical breach of the mortgage deed could potentially absolve the lender from engaging with the Code.

Under the Code, a lender must communicate promptly and clearly with the borrower as soon as arrears arise, to establish the reason for the mortgage payment failure and the means of rectifying the situation. The lender must continue to try to contact the borrower where contact has not been established. All options open to the borrower must be considered. If a third repayment is missed, the lender can issue a formal demand, including a demand for possession of the property.[8] However, it is only after **twelve months** since the arrears first arose that the lender can commence proceedings to repossess the borrower's home.[9] Any such action must be notified to the borrower.

Even where lenders can distinguish "can't pay" borrowers from "won't pay" borrowers, each arrears problem must be addressed on its individual merits and lenders must look to the borrower's circumstances in establishing ability to

[6] This Code was issued under section 117 of the *Central Bank Act 1989*.

[7] The management of arrears mandated by the Code has been described as a "graduated escalation process" (McCann Fitzgerald, 2009).

[8] The lender must write to the borrower about the arrears, any interest penalty and potential consequences.

[9] As noted by FLAC, the Code does not require "cumulative arrears" but simply that such a period has passed since the arrears first arose. A recently published report by the Houses of the Oireachtas Joint Committee on Social and Family Affairs (JCSFA) recommended a 24 month moratorium.

pay. The lender must explore at least one of a range of possible options:

- an adjustment of the monthly repayment;
- deferral of instalments or parts of instalments for a specified period;
- extending the mortgage term;
- changing the type of mortgage;
- capitalising the arrears and interest.

Where it is deemed appropriate under the circumstances, the lender must refer the borrower to MABS. Alternative possibilities should also be made known to the borrower in appropriate circumstances, such as trading down, voluntary sale or refinancing through another lender.[10]

The lender should not seek repossession of the property until every reasonable effort has been made to come to an alternative arrangement to repay, though where the borrower is deliberately non-cooperative, repossession may proceed in the absence of such engagement. Where repossession is sought through a court order, the lender is still obliged to try to maintain contact with the borrower and continue to try to reach an agreement. Where an arrangement is reached and repayments are being maintained, court proceedings must be put on hold. The lender must inform the borrower that he/she will remain liable for any outstanding debts and related costs following repossession of the property. In relation to compliance, the Code has been issued by the Financial Regulator and alleged breaches of the Code must be investigated by the Financial Regulator.[11]

FLAC, states "the broad thrust of the code in terms of imposing an obligation on mortgage lenders to pursue alternatives to legal proceedings in arrears cases is welcome" (FLAC, 2009a, p2). However it described the Code as "deeply disappointing". It criticised the lack of engagement with consumers' interests, the Code's narrow scope,[12] the absence of compulsory referral to MABS, the lack of consideration of situations where a person voluntarily hands over the property in terms of valuation[13] and the "vague and ambiguous language" which it claimed would leave much discretion to the lender and would make the investigation of alleged breaches very difficult. While the Law Reform Commission welcomed the Code, it has criticised that its application is limited to arrears situations only and has recommended that guidance be provided in pre-arrears circumstances (LRC, 2009). The OECD (2009) has commented that the Code will help with the increasing number of home repossessions but that "banks should be encouraged to allow portability of mortgages, while support for the unemployed to meet mortgage payments should be made more effective" (pp11-12).

The Master of the High Court, Edmund Honohan, in February last year felt it "necessary to confirm, (in case banks, building societies or sub-prime lenders think otherwise,) that possession orders are made at the discretion of the Court"

[10] Recently in the High Court, Mr. Justice Brian McGovern is reported to have stated that lenders should explain to borrowers how they can surrender their homes without legal advice (Gartland, 2010a).

[11] The Code must be read in conjunction with the Consumer Protection Code, which, in relation to compliance states: "*A regulated entity must, upon being required by the Financial Regulator to do so, provide to the Financial Regulator records evidencing compliance with this Code for a period prior to such requirement as the Financial Regulator may specify (up to a maximum period of 6 years)*" (p.20). On this point, the JCFSA (2010) have recommended that the Code be issued as a statutory instrument so that consumers might be able to take direct action against breaches.

[12] The Code only covers "the provision of finance for the primary residence". This, according to FLAC may rule out those who, for example, mortgaged their house to finance their business or farms.

[13] FLAC states that the Code makes no provision for homes in negative equity, and what steps are to be taken to ensure best value for borrowers on the disposal of the property.

and that default on the part of the borrower does not entitle the lender to repossess in the absence of judicial assessment of the merits (*GE Capital Woodchester Home Loans Limited v Patrick Connolly and Paula Connolly,* p.1). Master Honohan went on to say that the lender's behaviour may determine the outcome and that in the case of sub-prime lenders, the high rates of interest chargeable may mean "that the lender accepted the risk of default or at the very least could be said to have agreed to share that risk with the borrower" (p.6). Other factors taken into account when considering a sub-prime lender's claim for possession include: "failure to stress test the application; failure to require insurance cover for critical illness or unemployment, the commissions paid on the transaction and the published profits of the lender" (p.6). Furthermore, the court will look at compliance with good general banking codes with regard to rescheduling and/or debt forgiveness. More recently, Mr. Honohan is reported to have voiced his concern about institutions' compliance with the Code, again stressing its mandatory nature. He is reported to have circulated copies of the Code to members present in the courtroom and have said that cases without evidence of compliance would not proceed, i.e. the Code must be verified (Gartland, 2009). The Financial Regulator claimed to be closely monitoring the Code and had pointed out that its breach carried penalties of up to €5 million (Black, 2009). [14]

In February an article in the *Irish Times* (Gartland, 2010b) commented on an apparent move away from the public repossession of family homes in the High Court in recent weeks, citing reluctance by lenders to be exposed to negative publicity as a possible explanation. One lender is reported to have explained that due to media publicity, borrowers in difficulty are now more likely to contact the lender to settle their arrears. Gartland (2010b) suggests that lenders might also be more proactive in making new arrangements with homeowners or in agreeing voluntary surrender of properties.

Finally, there is evidence that lenders are accepting revised payment arrangements when a consumer is in financial difficulty and has a willingness to repay the mortgage (Irish Financial Services Regulatory Authority, 2008).

Additional policy options and initiatives

A February 2010 report for the Joint Committee on Social and Family Affairs made a number of recommendations with regards to increasing mortgage arrears. They include: extending the current 12 month moratorium to 24 months; exploring equity sharing arrangements with the bank and/or the State and banning the charging of penalty interest on arrears.

The Government has set up an expert group to investigate the issue of increasing mortgage arrears in line with a Renewed Programme for Government commitment. The options the group will explore include reduced interest rates, longer maturity dates, rolling-up of outstanding interest, the bank taking equity in the house and the bank taking ownership and leasing back the property to the resident with rent payments coming off the loan. The group will present its work to the Minister for Finance on a regular basis.

These proposals and others have been used in other countries to tackle problems in the mortgage market. Table 1 lists the approaches in a number of countries.

[14] The LRC (2009) has recommended that a debtor might be able "to raise a breach of the Code in court proceedings to avoid an order for possession being made" (p.231) or "a creditor could be required to demonstrate compliance with the Code as a precondition for obtaining a possession order" (p.232).

Table 1: Schemes to assist homeowners: international examples

Country	Scheme
Australia	A state funded mortgage relief scheme operates in some states. It provides an interest free loan to people having difficulty making mortgage payments. The objective is to tide them over when there is a good chance of recovery and it allows people to remain as home-owners. The scheme operates on a discretionary basis with loans advanced to distressed borrowers who are assessed as being likely to be able to recover their position
Belgium	Flanders operates a government insurance scheme that provides some assistance with mortgage payments after a waiting period. The scheme was closed to new applicants in the summer of 2008.
Canada	High (loan-to-value) LTV mortgages are insured via Canada Mortgage and Housing Corporation and there are some assistance programmes for low income home-owners. The public policy motivation is to encourage lending to more marginal households.
Finland	In the severe housing market recession of the early 1990s a temporary interest subsidy was introduced to help distressed home-owners. Around 6,600 households were assisted.
Netherlands	A National Mortgage Guarantee (NHG) is sold by the Security Fund for Owner-occupied dwellings (WEG). Households must pay 0.45% of the mortgage and it results in lower mortgage interest rates. It does not protect them against foreclosure, but does clear household's outstanding debts in the event of foreclosure. This scheme is sometimes mischaracterised as insurance against falling house values. In addition, prior to the guarantee being paid out the mortgagee must engage with their lender with respect to alternative options. The Netherlands also has local government run welfare schemes similar to Mortgage Interest Supplement for those in temporary difficulty.
United Kingdom	Schemes in the UK include • a Scheme Support for Mortgage Interest, • a buy and leaseback scheme and • a shared equity scheme. The Scheme Support for Mortgage Interest is similar to Irish Mortgage Interest Supplement. In the sale and leaseback scheme the home is sold to a housing association and rented back to the previous owner. In the shared equity scheme a proportion of the home is sold to a housing association and when the house is sold the housing association is repaid. If the house rises in value in the future the housing association gets a proportion of the rise. In addition, the Government also introduced a forbearance scheme whereby at least 30% of the interest is paid with the rest added to the loan and after a maximum of two years full repayments must recommence. Additionally the UK's Nationwide Building Society launched a 125% mortgage for existing customers in negative equity but who want to move.
United States	The Housing and Economic Recovery Act 2008 assists distressed home-owners if their mortgage repayments exceed 31% of income. They may apply for a mortgage 'writedown' from an approved Federal Housing Agency (FHA) lender. If the existing lender agrees the balance of the original mortgage is repaid and a new 30 year fixed rate mortgage is issued for the smaller affordable amount. The scheme is discretionary, i.e. the original lender is not obliged to participate. The Obama administration introduced additional measures in 2009, including the extension of mortgage terms, refinancing at lower interest rates, limiting repayments on qualifying mortgages to 38% of household income. Cash incentives for lenders are used to encourage participation.

Source: Oireachtas Library & Research source based on Stephens (2009) p. 8, Directgov (n.d.), US Department of the Treasury (2009), Irish Times 22/3/2010 and Bramley et al (2009).

Finally, IMF staff recommend that US judges be allowed to modify loan terms in bankruptcy cases (Kiff and Klyuev, 2009). There may be a case for allowing Irish judges do likewise in repossession cases. After a recent Supreme Court ruling, High Court Judges in examinership cases can alter the terms of a company's leases. However, in most repossession cases there is usually a failure to engage with the lender in Ireland and an inability to repay rather than a need for a compulsory modification of mortgage terms. However, it is possible that allowing the modification of loan terms in repossession cases may make banks more likely to engage with defaulters earlier and perhaps be more circumspect in their loan criteria.

Potential effects of mortgage interventions

Government intervention in helping to resolve the problems in the mortgage market may have the following effects:

- Moral hazard – if the government allows individuals to renege on their (mortgage) contracts it may lead to the expectation that in the future there will also be further bailouts. Therefore in the future these individuals (and perhaps the wider public) may engage in riskier borrowing. See Kiff and Klyuev (2009).
- Deadweight loss – if borrowers who can afford to pay their current repayments are not effectually excluded from any scheme then they will pay less, with additional costs and few benefits to society and the State.
- Property market – it is possible that a mortgage arrears scheme will reduce the flow of properties coming on the market and therefore slow markets adjustments.
- Rental market – if government intervention to keep people in their homes works as intended it will reduce the number of people entering the private rental market. However, it will also stop individuals from looking for social housing and thus reduce the pressure on the social housing lists.
- Mortgage backed bonds – bonds backed by Irish mortgages may suffer if the legal framework for mortgage arrears is changed dramatically (see Barrington, 2009). This will affect Irish banks in two main ways. First, if they have guaranteed some of the bonds the banks will have to honour these. Second, they will find it more difficult to issue mortgage backed bonds in the future thus limiting their access to funds for further lending.
- Recapitalisation – if writedowns of mortgage debt are introduced banks will have to record these as losses, thus reducing their capital base and increasing the level of recapitalisation required.

Government intervention is often to help those with temporary financial difficulties remain in their homes until they can afford to pay their mortgage. Reduced interest rates, extending the terms of loans, mortgage interest supplement, payment holidays and wider efforts to increase employment help in this regard.

However, as Edmund Burke said (albeit it a different context) "There is a limit at which forbearance ceases to be a virtue", for those whose financial difficulties are not temporary and where arrears are increasing it may be necessary to make it easier and faster for banks to repossess.

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