



**PIBA submission on the Review of Code of Conduct on Mortgage Arrears
Consultation Paper CP 46**

SEPTEMBER 2010

The Professional Insurance Brokers Association (PIBA) is the largest representative body for insurance and mortgage brokers with nearly 900 member firms throughout Ireland. This submission outlines a response to the proposals contained in the consultation paper on the review of Code of Conduct on Mortgage Arrears - CP 46 on behalf of our members.

Level of communication

PIBA welcomes the proposals in relation to restricting the level of contact that a lender can make to a borrower to 3 communications per calendar month as currently borrowers are been put under immense pressure by lenders in an already stressful period in the borrowers lives. We feel that the timeframes as set down by the Consumer Protection Code for making contact with clients i.e. contact can only be made between 9am – 9pm Monday to Saturday excluding bank and public holidays should be more readily enforced.

Arrears

PIBA believes that the definition of “mortgage arrears” under the CCMA should be amended as the current definition provides that a borrower is deemed to be in mortgage arrears where they fail to make a full mortgage repayment, or only makes a partial mortgage repayment, by the due date. Given the serious consequences on an individuals credit rating of been classified as being in mortgage arrears, PIBA proposes that a borrower should only be deemed to be in mortgage arrears 30 days after the missed payment date. This would protect borrowers who may be experiencing temporary cash flow problems and as a result not been able to make the payment on the due date but can do so after (i.e. within 30days). PIBA also proposes that where borrowers are making genuine efforts to make partial repayments they should not be deemed to be in mortgage arrears. We would suggest that a benchmark for what is deemed to be an acceptable partial repayment be set as a percentage of the full mortgage repayment.

Primary residence

PIBA proposes that the wording for what constitutes a “principal private residence” and “primary residence” under the CCMA should be revised to take into account the various scenarios as contained in the consultation paper.

PIBA believes that the protections of the CCMA should apply to all borrowers who purchased the property as a Private Dwelling House (PDH), for example, in cases where the borrower has moved out of the house in order to let it out to generate an income to meet the mortgage repayments provided that the borrower does not have a residential investment property elsewhere.

Appeals

PIBA would strongly recommend that an independent external appeals mechanism be set up for borrowers to appeal lender's decision outside the current Financial Services Ombudsman route. There are two reasons for this recommendation; firstly the Financial Services Ombudsman is receiving a high volume of complaints so the process can take a long time to reach a conclusion meaning that borrowers can find themselves in limbo for a number of months. Secondly, PIBA believes that if a statutory group is set up consisting of representatives from the Irish Banking Federation and MABS who have a practical knowledge in the area they would be better placed to assess the case and reach a solution amicable to both sides.