



**PIBA submission on the Review of Code of Conduct on Mortgage Arrears  
Consultation Paper CP 63**

The Professional Insurance Brokers Association (PIBA) is the largest representative body for mortgage and insurance 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 63 on behalf of our members.

### **Co-operation and engagement**

PIBA agree with the Central Bank that deliberately delaying to engage in the MARP process is helpful to neither the borrower nor the lender, however we would have some comments in relation to the new proposed insertions.

While we believe that the borrower should respond to the lender in question and relay any information requested we would like to see the timeframes for doing so specified within the Code.

We strongly agree that the borrower should be advised to seek independent advice but we believe that this should be done frequently throughout the process and not only at the stage where the lender is indicating that the borrower will be classified as not co-operating. This may assist in achieving full co-operation earlier in the process.

### **Contact between the lender and the borrower**

We agree fully that contact between both the lender and the borrower is extremely important to facilitating agreement between both parties, however we do not think that an open ended approach to the number of times a borrower can be contacted would be in the best interest of the borrower.

As the mortgage lender may not be the only creditor of the borrower, we believe that the level of contact combined from all creditors, in any particular case, may be excessive. We therefore believe that a cap on the level and frequency of contact, especially in relation to phone conversations, should be set to a specific number of contacts per month but could possibly be increased from the current level.

### **Link between the CCMA and the Personal Insolvency Act**

In order to allow a smooth transition between the MARP process and the Personal Insolvency Bill the borrower should be made aware of their entitlement to enter into the Insolvency process. They should also be given standard information guides on both the MARP process and Insolvency process from the outset.

The borrower should also be made aware of the services provided by a Personal Insolvency Practitioner (PIP) in the Insolvency process and informed of how they may get advice on their options from a PIP.

In relation to the CCMA and the 12 month moratorium, PIBA believe that where a lender deems a borrower's mortgage to be unsustainable, the borrower should be given sufficient time to make alternative arrangements. PIBA does not believe that 30 days is sufficient to allow the borrower to consider other options that may be available to them and therefore believe that in these cases, a 6 month moratorium should be observed.

### **Use of the Standard Financial Statement (SFS)**

In certain circumstances the full completion of the SFS inhibits a lender offering a solution to a borrower, which may exasperate the arrears situation. In these circumstances the lender should be allowed to waive the obligation for the full SFS to be completed in order for them to offer an arrangement to a borrower. We do however agree that this should only be an interim measure and that the full SFS should be sought within three months of the arrangement being put in place.

### **Reviews of alternative repayment arrangements**

In order to insure that the arrangements put in place are sustainable for the borrower it is important to carry out regular reviews. However, we believe that the frequency of such reviews should not be based on the term of the arrangements alone but also on the severity of the arrears.

### **Tracker Rates**

On the issue of the Central Bank's question on whether there is merit in allowing a lender to move a borrower in arrears off a tracker, where the lender has offered a loan modification which is advantageous to the borrower in the long term; PIBA believes that if this option is given to the lender, then strict guidelines should be put in place to protect the

borrower. These should include a requirement for the borrower to obtain independent and qualified financial advice from a regulated mortgage intermediary on the implications of surrendering their tracker rate. The lender should not be allowed to treat the rejection of this option as an indication that the borrower is not willing to enter into an alternative repayment arrangement and a second arrangement option, that involves keeping the tracker rate, should be given to the borrower.

### **Additional Comments**

In addition to the issues raised in the consultation paper, PIBA would like to raise the matter of the “Free Independent Financial Advice for Borrowers in Mortgage Distress” service launched by the Minister for Social Protection, Joan Burton.

This service is offered through accountants who are not regulated to provide mortgage advice under the Consumer Credit Act and disadvantages those borrowers wishing to use alternative advisers such as Mortgage Intermediaries who are regulated by the Central Bank of Ireland. Notably the lender will only pay for the service offered by accountants.

PIBA are concerned about the large-scale advertising campaign that the minister is undertaking to promote this service as we feel it will be confusing for consumers who might inadvertently think that they are receiving Independent Mortgage advice from accountants, who are not authorised to carry out this function.

### **Conclusion**

PIBA welcomes the review of the code and any increased protection for borrowers who are in the process of dealing with lenders in relation to mortgage arrears. However, we are disappointed that regulated experts in this area are not being availed of to assist borrowers and lenders to come to arrangements that will benefit both parties in the long term.

We feel that a better alignment with the new insolvency legislation will make the transition from the MARP process to the insolvency process easier for distressed borrowers.

If you have any questions in relation to the PIBA submission, please contact Rachel Doyle at [rachel.doyle@piba.ie](mailto:rachel.doyle@piba.ie) or (01) 492 2202.

