



Consumer Protection Codes Division,  
Central Bank,  
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Dublin 2.

April 10, 2013.

Please find below a range of submissions relating to the Review of the Code of Conduct on Mortgage Arrears and the call for submissions based on the consultation paper published last month.

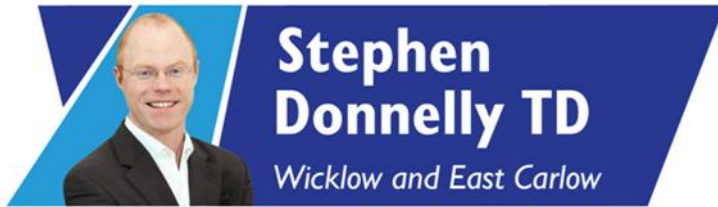
Could you please indicate the next steps in this process, whether there will be further consultation with those who have made submissions and how you intent to respond to the issues raised herein?

Kind Regards,

A handwritten signature in cursive script that reads 'Stephen Donnelly'.

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Stephen Donnelly TD



### **Under Cooperation and Engagement**

1. The updated CCMA should remove the ability of a lender to classify a borrower as non-cooperating. The CCMA is a code of conduct for negotiation. It is therefore, inequitable for the CCMA to force one party to remain within the bounds of co-operation as defined by the other party.

### **Under Contact between Borrower and Lender**

2. The updated CCMA should specify that Voicemail should not be considered a successful form of communication for the purposes of contact between the lender and the borrower, as the lender has no way of ascertaining whether the borrower has heard the message.
3. The updated CCMA, and not the banks, must define what constitutes a proportionate and not excessive number of successful communications. This is vital to ensure consistency within individual banks and across all lenders. The Central Bank of Ireland or the Minister for Finance is best placed to provide an overarching definition of what is proportionate and not excessive, which can be included in the CCMA.
4. The updated CCMA should preclude lenders from using auto-dial systems to contact borrower. Auto-dial systems give the impression that communication is impersonal and automated, and at odds with the stipulation that “the tone of communications must be sympathetic and encouraging”.
5. The updated CCMA should not remove the limit of three contacts per calendar month. Three contacts are sufficient for current requirements. Removing this limit opens the door to harassment; we have already heard numerous stories of banks operating at the margins of what is currently allowed.



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

6. It is completely unacceptable for the 12-month moratorium to no longer apply in instances where the lender has deemed a borrowers' mortgage to be unsustainable. The updated CCMA must be unequivocal on this point. Removing the moratorium in this instance, would be a removal of protection where it is most needed. Repossessions will be necessary by exception, but it is important that borrowers are afforded sufficient time to make alternative living arrangements.

### **Under treatment of appeals and complaints**

7. Having a bank hear appeals against its own conduct in this instance is contrary to natural justice and removes important oversight and transparency. The updated CCMA should provide borrowers with the protection of an independent and impartial appeals body. The central bank or Department of Finance should set up or nominate a review & appeals body, independent to individual lenders' internal Appeals Board. This intention should be signalled in the updated CCMA.

### **Under tracker Mortgages**

8. Under no circumstances should the lender be given powers to move borrowers from a tracker rate. The updated CCMA must clearly specify that in any instance where the borrower in arrears is to be moved off a tracker rate as part of an advantageous loan modification offered by the lender, e.g., a debt write off, the borrower must agree to the loan modification and the new rate.

### **Miscellaneous**

9. In the interests of consistency, the updated CCMA should include a definition of what constitutes a "sustainable level of repayments", as specified by the Minister for Finance.
10. Similarly, the updated CCMA should include a definition of what constitutes a "reasonable standard of living", as specified by the Minister for Finance.



11. The updated CCMA should include the full set of financial products (Debt for Equity, Split Mortgages, etc.), as defined by the Minister for Finance, which lenders can offer borrowers in arrears.
12. To provide important oversight for the Central Bank and the Oireachtas, the updated CCMA must specify that all lenders publish exact details of each of these products, and how many have been availed of by lenders in arrears.
13. The updated CCMA should ensure that details of those borrowers who are in arrears are not published on a public register, or shared with the Irish Credit Bureau or any other credit reference agency or credit register which will then publish the details, as any such public naming and shaming will act as a disincentive for participation.
14. While accepting the importance of full and frank disclosure, the requirement of borrowers to give detailed levels of personal information may impinge on civil liberties and should be removed from the updated CCMA.
15. The updated CCMA must clearly instruct lenders to consider borrowers' full debt position. Lenders should be precluded from insisting borrowers clear all other outstanding debts before engagement, or prioritising repayment of one debt to the exclusion of another debt.