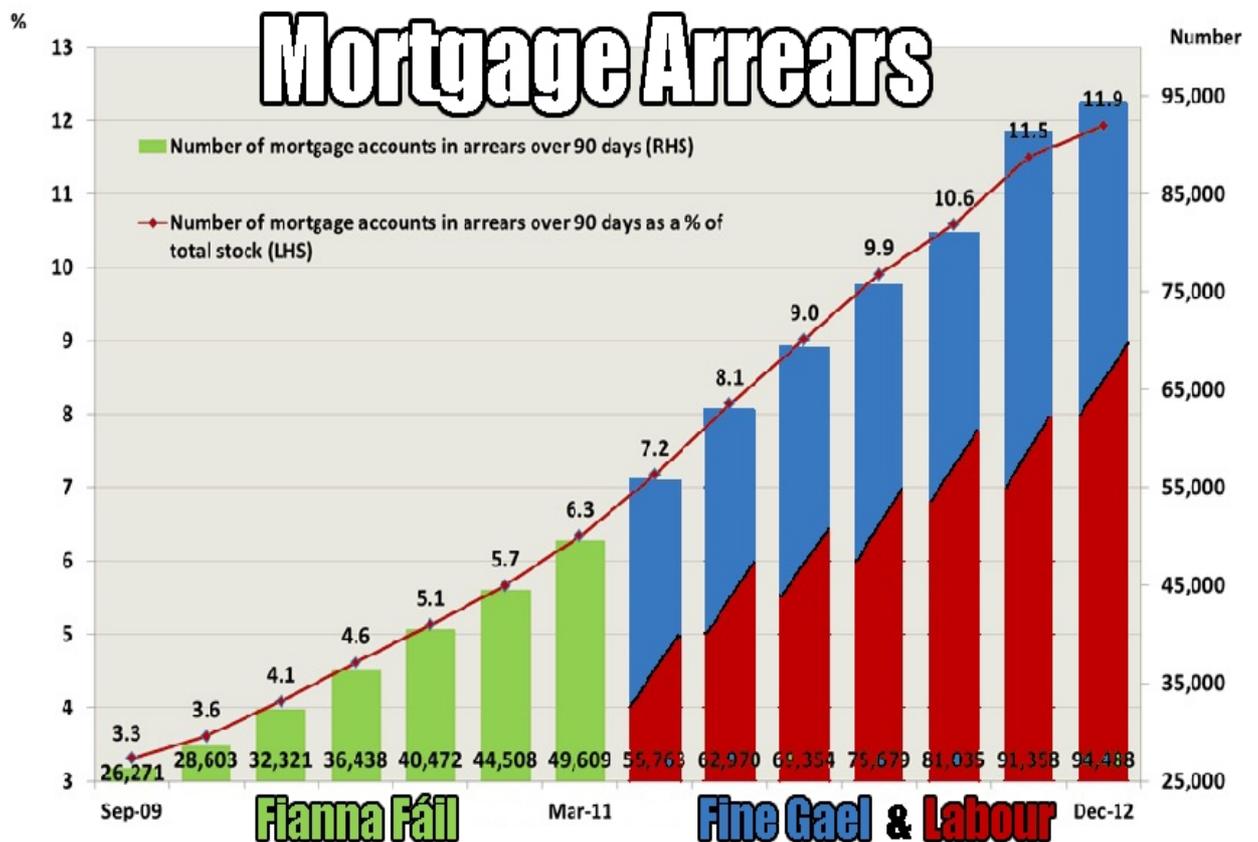


Sinn Féin Submission on the Review of the Code of Conduct on Mortgage Arrears



Time for a F.A.I.R. Approach on Mortgages

Family home first, with Adjudication which is Independent leading to Resolutions.

Summary:

The mortgage crisis is one of the most important issues facing Irish people in 2013.

Sinn Féin would:

- 1) take the final say off the banks,
- 2) use political pressure to make banks face the reality of the size of this crisis, socially and economically,
- 3) Make more use of write-downs as an option on a case-by-case basis
- 4) and added protection in law for the Family Home.

Sinn Fein would deal with the mortgage crisis in a comprehensive way by:

- providing in legislation for the independent adjudication and enforcement on mortgage distress cases, through a new category of agreement to be known as 'independent agreement on mortgage distress' which will be adjudicated by a 'mortgage restructuring panel' appointed by the Minister, who would have the statutory power to agree and impose agreements on lending institutions where the panel believes that such agreements would enable the mortgage holders to remain in the family Home
- include the possibility of write downs on portions of the mortgage debt as well as other options such as debt for equity swaps, mortgage to rent and short selling in the options available when reaching 'mortgage restructuring agreements';

- take more direct action in cooperation with the Central Bank to force lending institutions to adopt a more proactive and lender friendly approach to the mortgage crisis;

Sinn Fein believes that in the vast majority of cases the problem is not that people do not want to pay- it is that they cannot pay! Tinkering with a Code of Conduct will not change that situation.

We note that this decision to “review” comes from the Troika and has a pre-determined outcome. It will:

1. Make it easier for banks to move to repossess homes by lifting the 12 month moratorium and
2. Make it easier for banks to harass people struggling to pay.

This review is designed to facilitate repossession as a tactic of the banks. By pushing this so-called review the Central Bank and government are clearly siding with the banks.

It is clear to us that this this “review” will not deal with the root cause of the mortgage crisis. Neither will it force the banks to deal in a fairer way with clients. We are concerned too that the knock-on effect of the new rules on other real economy lenders like Credit Unions.

In this submission Sinn Fein puts forward the case for a more people-friendly and socially responsible approach.

Mortgage arrears code of conduct consultation

In the following response to the consultation document, we set out our over-riding concerns regarding the CCMA and then respond to the sections in the review.

1. The first issue with the CCMA is that it is not overseen by an Independent arbitrator from outside the banking world.
 - 1.1 The second issue with the code is that this consultation will be the second time it has been changed (written in '09, changed in '11) in 4 years. Over the course of those 4 years, the mortgage arrears crisis has become exponentially worse and the consultation document seeks to actually weaken the code, rather than strengthen it.
 - 1.2 The premise of reviewing the code now is based on the Expert Group's recommendation that the MARP and appeals process should be reviewed after 18 months and the fact that the Personal Insolvency Act is due to be published. We are concerned that the government and other stakeholders

are pushing a declaration of bankruptcy as a solution to households in mortgage distress.

On the basis of these observations the over-riding recommendation has to be that a CCMA is developed that is mandatory and that is overseen by an independent arbitrator. In addition, we do not believe that bankruptcy should be seen as the first solution to dealing with mortgage distress.

2. Co-operation and engagement.

2.1 While we accept that co-operation between the lender and the borrower is key to the CCMA, and we accept that the definition of co-operation has to be clarified, the review document does not clarify it.

2.2 The use of the term 'reasonable timeframe' is pointless. What is a 'reasonable timeframe'? To one lender this may be two weeks. To another two months. If the review wants to clarify what non-co-operating entails, it must set out an actual 'fair and reasonable' timeframe.

2.3 It is only when these timelines are set out and it can be proved that a borrower has not attempted to co-operate during it that the provision relating to the restriction on imposing charges on arrears can be examined.

2.4 Because of the seriousness of being deemed to be un-cooperative, the Central Bank stresses in the review that a borrower should be given one further opportunity to re-engage so as to be considered to be co-operating again. It is our view that this opportunity is only practical if the

independent body we recommend is involved at this stage.

Leaving the decision as to whether someone is co-operating or not in the hands of the bank, given the serious repercussions, is not acceptable.

3. Contact between the lender and the borrower.
 - 3.1 The review seeks here to lift the limit of three contacts per calendar month, but claims that the lender must still act in a way that is proportionate and not excessive.
 - 3.2 What is 'proportionate and not excessive' is not stated.
 - 3.3 There are anecdotal stories aplenty that reveal not all banks abide by the three contact rule. Families have made statements of continual harrassment from their banks. TDs are contacted about this regularly.
 - 3.4 The lender should not have to make continual contacts to a borrower over a long period of time. If a relationship has broken down between lender and borrower, this is the point where the independent arbitrator should be involved.

4. Link between the CCMA and the Personal Insolvency Act.
 - 4.1 Our key concern on this section is the recommendation that the 12 month moratorium on repossessions should be lifted where a lender has deemed a mortgage unsustainable.
 - 4.2 Despite the CCMA's many flaws, at the heart of the original CCMA and the amended version, appeared to be an acceptance that the maintenance of the family home was a core principle.
 - 4.3 This section is inviting banks, in our view, to see repossession as an acceptable first step. Bearing in mind the targets that have now been set out for dealing with mortgage arrears cases, this is a worrying recommendation.
 - 4.4 We strongly believe the 12 month moratorium must remain and in that time, the independent arbitrator must explore all options with the lender and borrower to attempt to prevent a route which will lead to repossession. We oppose the suggestion that processes can be put in train after a 30 day period.
 - 4.5 We oppose the move to allow lenders to begin the process of

repossession after only 30 days because they deem a client to be uncooperative.

5. Treatment of appeals and complaints.

5.1 We do not believe the current requirement for lenders to set up an Appeals Board is adequate. It lacks the independence required. The fact that two of three of the Board are employees of the lender shows that is not a genuinely independent process.

5.2 The suggestion by lenders that two of the three potential areas of conflict should be further removed from independent scrutiny by dealing with them through the lender's complaints department should be resisted.

5.3 The point of an independent arbitrator would be to ensure that appeals and complaints were dealt with effectively, transparently and fairly. Leaving this process particularly in the hands of the bank is proof positive of the lack of support being accorded to borrowers and the unending faith awarded to banks in this process.

6. Tracker mortgages.

- 6.1 The scope for abuse of this recommendation where lenders could move a borrower from a tracker mortgage if the borrower is offered a loan modification is too great.
- 6.2 The original recommendation of the CCMA that prevented lenders from transferring borrowers from tracker mortgages must stand.
- 6.3 Tracker mortgages, at this point, offer borrowers fair rates of interest based on ECB current levels. Fixed and variable rate mortgages are in the most part at punitive interest rates because banks are still seeking to improve their capital levels and return to profitability.
- 6.4 The notion that any bank would be allowed to make greater gains from the interest paid on a mortgage classified as being in distress, just because that borrower has received a deal which places them in less distress, is unpalatable.

