

Keeping your home: home owners

What help can I get to pay my mortgage?

What can I do to deal with the problem?

Can a lender repossess my home?



keepingyourhome.ie

Citizens Information 

provided by the Citizens Information Board

 **mabs**
Money Advice & Budgeting Service

Information and supports: homeowners

Many people who bought houses in recent years are having difficulty paying their mortgages. This leaflet sets out the help available for homeowners who are in difficulty with their mortgages, the legal protections in place and information on repossession. The rules are different for people who are in difficulty with a mortgage on an investment or buy-to-let property.

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Finding out more...

Keepingyourhome.ie, a new website from the Citizens Information Board and the Money Advice and Budgeting Service (MABS), provides comprehensive information on the services and entitlements available if you are having difficulties making your mortgage repayments or paying your rent. This leaflet gives an overview and you can get more information from **keepingyourhome.ie** on all the topics covered here. There is also a leaflet for people who are having difficulty paying the rent.



What help can I get to pay my mortgage?



The main payment available is **Mortgage Interest Supplement** under the Supplementary Welfare Allowance Scheme. This is a short-term means-tested payment to help you with your mortgage interest repayments. It only covers your interest payments (not payments towards the capital amount) and it does not help with arrears. It does not apply to consolidated loans (for example, if you extended your mortgage to pay off other loans or to support your business, it will only apply to the portion of the loan used to purchase your property). You apply for the payment to the Community Welfare Officer at your Health Service Executive (HSE) local health centre.

To get Mortgage Interest Supplement you must meet the following conditions:

- You were able to meet the mortgage repayments when the mortgage was taken out
- Your house is not up for sale
- The amount of mortgage interest is not more than an amount the HSE considers reasonable to meet your residential and other needs
- You are habitually resident in Ireland

You do not qualify for Mortgage Interest Supplement if you or your spouse or partner works more than 29 hours a week (there are some exceptions to this rule – mainly for people who are returning to work after unemployment who can keep the payment if they were already getting it). You also may not qualify if you are attending full time education (unless you are taking part in the Back to Education Scheme and were getting Mortgage Interest Supplement).

When you apply for Mortgage Interest Supplement the Community Welfare Officer (CWO) **assesses your means**. Some of your income is not counted (for example Child Benefit). The amount payable is calculated to ensure that your income, after paying mortgage interest, does not fall below a minimum level. This level is the Supplementary Welfare Allowance minus €24. This means that you must pay at least €24 per week towards your mortgage interest. You may pay more than €24 depending on your means.

You have the right to appeal against a decision if you are not satisfied with the outcome of your claim. You should first ask your Community Welfare Officer for the reasons for the decision in writing. To appeal, you write to the Appeals Officer at your Local Health Office. If this appeal is not successful, you can appeal to the Chief Appeals Officer in the Social Welfare Appeals Office (**socialwelfareappeals.ie**).

Other help available

If you are in the first seven years of paying your mortgage, you should already be getting **Mortgage Interest Relief** since this tax relief is usually granted at source. You should check you are getting the right amount with your lender or the Revenue Commissioners. This relief has been extended until 2017 for people whose mortgage interest relief was due to expire in 2010 or after (that is, people who took out mortgages after 1 January 2004).

If you have been made redundant or are ill you can claim on any **mortgage insurance** (these include mortgage protection and mortgage repayment policies) you may have.

You may be able to rent a room in your house for up to €10,000 a year without paying tax on the income under the **Rent a Room scheme**. You do not have to register as a landlord, provide a rent book or ensure that the accommodation provided meets any minimum physical standards. However, if you are renting a room to your son or daughter you cannot get this tax relief.

You may also be able to switch to a cheaper mortgage deal with another provider. This may prove difficult if the property is in negative equity. Contact your lender to negotiate a switch.

Finding out more...

Keepingyourhome.ie has more information on Mortgage Interest Supplement and Mortgage Interest Relief. Note that Mortgage Interest Supplement is currently being reviewed by the Department of Social and Family Affairs and some of the rules may change.



What should I do if I can't pay my mortgage?

You must take action – if you do nothing your situation is likely to get worse. If you are in arrears or think that you will have problems making repayments contact your mortgage lender as soon as you can. Lenders are bound by statutory (legally binding) codes of conduct when dealing with people who are having difficulties paying the mortgage. In addition, the Irish Banking Federation has issued a formal Statement of Intent, indicating that its members will not initiate legal action against customers who engage with their lenders and keep to an agreed arrangement.

The **Financial Regulator's Consumer Protection Code** applies to all home loans, personal loans and credit cards. However it does not apply to loans from credit unions or moneylenders. Under this code your lender must:

- Contact you as soon as it becomes aware that your mortgage account is in arrears even if the arrears are quite small *and*
- Have a procedure in place for handling accounts which are in arrears

The **Financial Regulator's Code of Conduct on Mortgage Arrears** applies to all mortgage lenders, not just banks. It applies only to mortgages on principal private residences. Under this code lenders must wait for 12 months from the time mortgage arrears on your home loan arise before taking any legal action.

Under the code of conduct lenders must also follow these procedures:

- If you don't make a repayment on the date it is due your lender must contact you to find out why the repayment has not been made. Your lender must then try to address the situation – for example by coming to an agreement with you for repaying the arrears. This agreement might include extending the term of the mortgage, allowing you to pay interest only for a period or allowing a temporary payment break. Any arrangements must take account of your circumstances. MABS recommends that any new arrangement be set out by the lender in writing, and include details of any negative consequences (for example, a moratorium will have the long-term effect of increasing your repayment amount and/or term).
- If you miss a third repayment, and have not engaged meaningfully with your lender, the lender may issue a formal demand. This demand may be for the full amount due on the mortgage or for possession of the property. This formal demand must include (in writing):
 - » The total amount of arrears
 - » Any extra interest charges and the basis for these charges
 - » Any other charges
 - » What may happen if you don't respond, including the potential for legal proceedings and loss of your property, and an estimate of the costs to you of such proceedings

- If arrears continue to build up, and you have not engaged meaningfully with the lender, the lender may enforce the mortgage agreement (this means that they may start legal action against you to recover the money lent to you). However your lender cannot look for repossession until every reasonable effort has been made to agree an alternative repayment schedule. If you do not engage with the lender, it may seek to repossess your home. Your lender must also tell you when it starts any legal action for repossession. **The lender must wait 12 months from the time arrears first arise before starting legal action.**

Finding out more...

Keepingyourhome.ie covers the codes of conduct in more detail. You can also read the codes of conduct on the Financial Regulator's website, **financialregulator.ie**. If you feel that your mortgage lender has not followed these codes, and if you have exhausted the lender's complaints mechanism, you can complain to the Financial Services Ombudsman, **financialombudsman.ie**.



What can I do to deal with the problem?

No matter what your circumstances are your lender must engage with you and must make every reasonable effort to agree a repayment plan with you. If you make a genuine effort to engage and to repay what you owe you will be in a better situation if you have to go to court.

Money Advice and Budgeting Service (MABS) advice on dealing with mortgage arrears

- Continue to pay what you and other family members can afford.
- Don't ignore communications from your mortgage lender or its legal representatives.
- Be prepared - be sure of all facts and figures before you make contact. The first step is to make out your household budget listing your present or expected income and necessary spending. This will help you find out what you can afford to pay. You can get a sample budget sheet from the MABS website (mabs.ie).
- Know what you can afford to pay to clear arrears on top of your mortgage payment. Be very realistic, taking into account the overall cost of running your household. Make a genuine and reasonable offer and don't agree to try to pay more.
- Don't adjust your offer in response to a lender's demands. Restate that your offer is based on your ability to pay.
- Your lender may suggest **alternative repayment options** to you.
- Ensure that any alternative repayment plan agreed with your lender is put in writing. Under the *Code of Conduct on Mortgage Arrears*, your lender must do this. Keep copies of all your communications. Assure your mortgage lender that should your circumstances change you will make contact with them with a view to reviewing your situation with them immediately.

Alternative payment options

Some of the options open to you (by agreement with your lender) might be:

- Pay interest only for a period of time.
- Extend the term of your mortgage (for example from 25 to 30 years) to reduce the cost of monthly repayments.
- Request a temporary payment break (sometimes called a moratorium).
- Ask for your arrears to be capitalised. This means that they become part of the money borrowed and are paid off over the remainder of the mortgage.

Before deciding on any option you should ask your lender what it will cost in the short, medium and longer term and ask if your credit rating will be affected. Note that the Government is looking at other options to help homeowners who are in difficulty with their mortgages.

What happens if I can't pay my mortgage?

If you don't pay your mortgage your lender may try to repossess your home. While there are relatively few home repossessions in Ireland, they do occur. Repossession is always a last resort and your lender must engage with you to try to agree repayment of any arrears before starting repossession proceedings.

Definitions

You **default** on your mortgage repayments if you don't pay the money due on time.

Repossession is a legal process whereby a lender takes back a property that is occupied by a debtor.

If you cannot keep up your payments and are considering **handing back the keys** to your lender (also called **voluntary surrender**) you still remain liable for any outstanding debt, including accrued interest, charges, legal, selling and other related costs. 'Handing back the keys' could also have other impacts in relation to, for example, your entitlement to social welfare benefits. In addition your local authority might consider that you have made yourself homeless so you might have difficulty getting a local authority house or flat. You should get independent legal advice before considering this course of action.

Negative equity means the home is worth less than the amount owed to the mortgage lender. While this does not mean you cannot keep up with mortgage repayments, it does have implications. For example, if you wish to sell your home or if your home is repossessed and sold, you continue to owe any outstanding amount to your lender.



What happens when a lender wants to repossess a house?

If you haven't agreed a repayment plan with the lender or you have been unable to meet the payment arranged by a repayment plan your lender generally must get a court order to repossess or sell your house.

If the issue has to go to court, you are generally liable for the costs of the court action. Proceedings for repossession may be taken in the High Court or the Circuit Court. For mortgages taken out after 1 December 2009, the proceedings must be started in the Circuit Court and a court order is required unless you consent in writing in the seven days before the repossession or sale.

Even if you consent to have your home repossessed you may still have to go to court since your lender is unlikely to find a buyer who would be willing to buy the house unless a **well-charging order** is in place. This is a court order which states that the mortgage is well-charged on the property and allows for the sale of the property.



If you do not consent to repossession your lender may take what is known as a **mortgage suit** against you in the High Court. A mortgage suit is a court proceeding which is taken by the holder of a security on property (for example, your mortgage lender) to recover a debt by forcing a sale of that property. Alternatively, the lender may take proceedings in the Circuit Court and seek an order for possession and a well-charging order. In either case, you may contest the action.

If this happens and you don't want your home repossessed you must go to court and **present your case**. Presenting your case does not mean that you have to defend your case legally – it means that you appear in court and explain your circumstances and what you intend to do about the outstanding debt. If a mortgage suit is successful, the court issues a well-charging order (which usually includes an order for the sale of the property). Generally, the courts allow you time to make arrangements to repay the money owed before making any orders or an order for sale becomes effective.

Finding out more...

Keepingyourhome.ie gives much more information about the legal process of repossession and your options. You can get legal advice (not legal representation) from the Free Legal Advice Centres (FLAC). FLAC operates a network of voluntary legal advice centres around Ireland. Contact FLAC on lo-call 1890 350 250 or **flac.ie**.

You may also be able to get means-tested civil legal aid from the Legal Aid Board, **legalaidboard.ie**.



What can I do if I lose my home?

Even if you are faced with losing your home, through repossession, eviction or other circumstances, you have other options.

You can apply to the housing department of your local authority (county or city council). The authority will assess your circumstances and may allocate you somewhere to live, based on their assessment of your need. If you get a local authority dwelling, the rent is based on your ability to pay. You can apply to more than one local authority if you are living in an area covered by more than one local authority – for example, a county council and an urban district council.

You can also apply to a housing association or to a housing co-operative. These are organisations which provide social housing for people who cannot afford to buy their own homes. Like the local authority, they assess your circumstances and may offer you somewhere to live, based on their assessment of your need. Again, the rent is calculated on the basis of your ability to pay.

If you rent a home from a private landlord, you may qualify for a Rent Supplement to help with the rent. Rent Supplement does have a number of qualifying conditions, for example, you need to have been a tenant for at least six months, or have been placed on a local authority housing list, or have moved from accommodation for homeless people. If you are paying tax, you may be able to claim some tax relief on your rent.

If you cannot find anywhere to live straight away, you can apply for emergency or temporary accommodation until you get something more permanent.

Finding out more...

Contact the housing department of your local authority for more information about housing in your area. You can find contact details for your local authority at **environ.ie**.



Changes to debt law

An expert panel appointed by the Government is looking at the issue of mortgage debt for families so the supports outlined here may change.

Useful contacts

Financial Services Ombudsman

Lo-call: 1890 88 20 90
financialombudsman.ie

Health Service Executive (HSE)

Callsave: 1890 24 1850
hse.ie

Free Legal Advice Centres (FLAC)

Lo-call: 1890 350 250
flac.ie

The Financial Regulator

Tel: (01) 224 4000/(01) 671 6561
financialregulator.ie and
itsyourmoney.ie

The Revenue Commissioners

Lo-call (Form or leaflet request):
1890 306 706
revenue.ie

Citizens Information

LOG ON

www.citizensinformation.ie

LO-CALL

1890 777 121*

Mon to Fri, 9am-9pm

DROP IN

260 locations nationwide

* rates charged for 1890 (Lo-call) numbers may vary between service providers.



MABS, the Money Advice and Budgeting Service, provides detailed advice on managing your debts. MABS can advise you in negotiations with creditors, including alternative repayment options for your debts and information on dealing with rent arrears. The MABS helpline **1890 283 438** is open from 9am to 8pm, Monday to Friday. MABS also operates a nationwide network of centres, staffed by specialist money advisers.

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