

MAKING A DEAL WITH YOUR BANK

**An Insider's Guide to
Managing Your Mortgage Debt**



Fran Dalton

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Preface

It's not your ability to take the punches that defines your character. It's your ability to take the punches and keep moving forward.

**Rocky Balboa, character in *Rocky*, created by
Sylvester Stallone**

There is a championship contest coming and it involves you. You're probably feeling anxious, stressed and worried as you consider the strength of the opposition – a seasoned pro with substantial financial muscle, studied responses and well-rehearsed moves. Their punch is formidable but – for now – restrained.

You may be tempted to go into the ring unprepared and short of match fitness. You will throw a few weak punches, fall to the floor and return to your corner. After consoling yourself that you did your best against insurmountable odds, you give up. But in this contest not being match fit is not an option – neither is giving up. Your success or failure will determine the financial future for you and your dependants.

In your corner you also have formidable firepower: the people who developed the championship rules; those who are prepared to coach you; and a referee who may be the final judge. But they are not in the ring – you are. And it is how well you have prepared that will decide whether you win, lose or draw. To be fair to your opponent, they may secretly prefer to have a stronger challenger; a robust exchange might achieve a better result in the long term than a quick knockout.

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The championship I refer to is the resolution of the mortgage arrears and personal debt crisis that is having an impact on the lives of so many of our citizens and will place a drag on any economic recovery. The dilemma facing us was outlined concisely by the Governor of the Central Bank of Ireland in his speech to the Limerick Law Society on 14 March 2012:

For the private sector, the debt burdening many firms and families, who have got caught up in unaffordable levels of debt, hampers their ability – and even, in some cases, motivation – to resume their economic role in society at full potential.

So there is a link between the mortgage arrears problem that faces the economy and the prospect of a financial recovery for the country.

In response to the crisis, our Central Bank has introduced a code to be followed by your lender when dealing with mortgage arrears in relation to a person's primary residence. This is called the Mortgage Arrears Resolution Process (MARP). It outlines the process that lenders should follow with customers who are in difficulties with their mortgage.

MARP will be discussed at greater length in Part II of this book, but at this point it is worth noting that if your difficulties are properly managed, with full engagement with your lender, I estimate that you will gain up to two years, and possibly more, before your worst fears can be realised. This provides plenty of time to achieve an acceptable solution with your lender and perhaps get your life back on track.

Significant support has been provided to those in difficulty on the private residence front, and this will ensure that the sale of these properties will be slow – if they are sold at all. However, this support does not immediately address the issue of personal debt and its negative impact on emotional well-being or on the ability of many people to get back to

a reasonably acceptable lifestyle. This may be addressed by the new insolvency legislation, but, again, this will take time. Based on current estimates of the number of people who will take the insolvency route, it is clear that many people will have to resolve their situation by direct negotiation with their lender.

Despite the processes provided to deal with the personal debt crisis there is a sense of a lack of sufficient progress by the banks in dealing with the problem, particularly for homeowners with unsustainable mortgages. In response to this the Central Bank is now seeking real delivery from the banks on this critical issue of mortgage arrears and will introduce specific targets which the banks must adhere to or suffer sanctions which may result in them having to raise new capital. It is envisaged that these specific performance targets for banks will ensure borrowers in arrears will be put on more sustainable solutions tailored to their individual situation. The banks for their part have indicated that some of the MARP terms have impeded their ability to deal with mortgage arrears, in particular those terms concerning customer contact and engagement. The Central Bank has issued a consultation paper on possible adjustments to MARP and is inviting responses from interested parties by 11 April 2013. Following this consultation period some alterations are likely.

A document, entitled Review of the Code of Conduct on Mortgage Arrears, which deals with the proposed changes is available on the Central Bank's website. A significant proposed change focuses on encouraging customer co-operation and engagement with their lender, and if this is not forthcoming the proposed change will make it easier for the lender to proceed to repossession. The objective of the consultation paper is to update the mortgage arrears process so that it continues to provide protection to customers who co-operate with their lender while facilitating and promoting the resolution of arrears cases. This may mean a tougher approach towards those who do not co-operate. As I stress throughout

this book, those who fully engage with the process stand to gain from it and will have less to fear from any changes. The consultation process will also consider whether there is merit in allowing a lender to move a borrower in arrears off a tracker rate, where the lender has offered an alternative arrangement which is advantageous to the borrower in the long term. Arrangements involving debt forgiveness may be one example but, again, the criteria seem to be that it must be advantageous and agreeable to the borrower.

This new dynamic being injected into the process has its positives and negatives. On the positive side it puts pressure on your lender to make a deal; however, the pressure to hit the targets may lead to 'one-size-fits-all' type solutions. Your requirement is unique, so you must know what fits you. On the negative side once the push for solutions kicks off, if you are not informed and have not done your homework you may accept a deal which looks good now but is not a good long-term solution. This new target-based approach is welcome, but those people who are best informed and know what they need to achieve may fair best. The framework applies to ACC, AIB, Bank of Ireland, KBC Bank, permanent tsb and Ulster Bank. It applies to both principal dwelling homes and buy-to-let mortgages. If your lender is other than these banks they may have a different approach.

This book is a guide to help you deal with a worrying and traumatic situation. I am confident that it will help you to deal better with your own situation or, if you yourself are not directly affected, to help friends, relations or loved ones through a difficult period.

You will probably need professional help to resolve your situation, but this book will help you understand the processes, provide you with the confidence to address the situation and give you plenty to consider as to how you might resolve it. It explains, briefly and with as little jargon as possible, the various processes that have been put in place to help you.

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You should inform yourself about the rules of the negotiations with your lender that will play out in the coming months and years. A mentor of mine once pointed out to me that in business, as in any organisation, you need to 'play the game by the rules' in order to achieve your objective. I was asked to imagine going into a rugby match and playing by the rules of GAA; it was rightly suggested that if I did that I would more than likely end up in the sin bin. Knowing the rules and what impact they can have on you, and realising that achieving your goal can take time and patience, will help you get the result you need.

Unless your problem is temporary and you can see light at the end of the tunnel, you would be well advised to seek professional help. However, even if you do seek professional assistance, you should remain in control of the resolution to your problem, as you will have to live with it for many years to come. Making your own assessment of the outcome you want, and remaining active in the process, can help reduce stress and make it easier to get to the right deal with your bank.

When I tell you that I am a former banker, who spent over 30 years lending to individuals, small and medium-sized businesses, and large corporate entities, you may wonder why I have written this book. Well, I still consider myself a banker, so this is not an anti-bank book. In fact, as I will argue when we discuss the longer-term solutions to mortgage arrears being considered by banks, I believe this approach will yield the best results, if managed properly. I also believe that the more informed both parties to a negotiation are, the better the result.

The world has changed dramatically in the last number of years and what was considered normal some years back is now very far from normal. The work environment is much less secure, job stability is a thing of the past, and wages and salaries are either falling or remaining stagnant. Retirement planning is now being left to the employee as businesses

jettison defined benefit pension schemes in favour of the more predictable cost of defined contributions. Many people have not provided adequately for retirement, which some commentators consider another emerging crisis.

All of which means that we all need to increase our knowledge of financial matters and how they impact on our lives. In the new environment you will have to make your own financial future and, in a sense, this book is part of that education. That is why I would encourage you not just to look at your current financial situation in terms of staying in your home, but also to take the long view to ensure that any solution is adequate for your long-term future. In doing this I will be drawing on my interest in lifelong learning, which has taken me from my early studies of economics at University College Dublin through academic studies in accountancy, marketing, banking and personal finance.

Over my career I have gained an understanding of how increasing your knowledge can set you on the path to success. In life in general, those who know most about how the system works, or have the resources to hire professionals who can help them, fare better and achieve more. This is not to say that they do not deserve what they achieve, only to reiterate the old adage that information is power. This book will provide a low-cost entry point to resolving your difficulty and, perhaps, help level the playing field a little for those who do not know how to approach the solution to their personal debt and mortgage arrears difficulties.

The taxpayer has, through various austerity measures, recapitalised some lenders to allow for debt forgiveness, and these lenders have been entrusted with distinguishing between those who can pay their mortgage commitments and those who cannot. This will result in a robust interaction, which you should be prepared for. In fairness, it is not as easy as it seems for the banks to decide who deserves help, and the taxpayer is not in the mood to provide more funds if they are too generous. As I will demonstrate in this book,

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many possible solutions may defer your problem rather than solve it, and you have to be able to recognise when this is the case before agreeing to any proposal. Some people will achieve what they deserve, and others may even get more than they deserve, yet other people will struggle on and not get anything.

It is rather like going out for a meal with a number of friends who decide to split the bill at the end of the evening. If you are a non-drinking vegetarian you may end up paying more for your meal than the person who has had a fillet steak, a nice French wine and the cheese board. The point is that there is a pot of funds available to resolve your financial problem, but it is limited. If you are a deserving case you need to consider your options. The lenders, for their part, need to get innovative, avoid letting cases 'go legal' and work with those deserving cases to ease the burden through sensible debt deferment, interest forgiveness and, ultimately in some cases, debt forgiveness.

Talking to people about financial matters tends to induce a 'glazed eyes' reaction, so I am hoping that by setting out this book as simply as possible, with as little jargon as the subject allows, will encourage you to read it through. To make it even more accessible, I have dealt with most of the content through a series of questions you may want to have answered. I also provide examples based on fictitious people and situations to explain some points. For those who want an even quicker read, there are summaries and key points at the end of each chapter.

Of course, this book simply could not deal with your individual problem, so please seek advice from a qualified professional before taking any action. What the book *can* do is introduce you to the processes that are available to assist you with your difficulties and to enhance your financial knowledge. It may also be of interest to people who are looking to enter the property market to purchase a family home, or small business owners who are seeking finance. It

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will go some way to explaining the changing dynamic that has risen from the new codes and legislation.

The various codes and legislative changes are, in a sense, retrospective, as they are designed to resolve a problem that has already occurred, at a time when the rules of engagement between lenders and borrowers were different. The codes that are now designed to keep people in their homes will impact on the lenders' view of mortgage lending in the future.

As a result of the changed employment market, the call for more stringent analysis of mortgage loans and a Code of Conduct on Mortgage Arrears that makes realisation of security more difficult, many potential borrowers may find it more difficult to get mortgages in the future. At the very least, mortgage conditions may be more onerous.

The same may be true for many small businesses, which traditionally relied on the provision of guarantees or the equity value in homes and property to attract bank support. The new codes, insolvency legislation and bankruptcy laws will dilute the value of these supports to a lender and may have an impact on the level of facilities they are willing to lend. This may only be a short-term issue, and over the next number of years lenders may have to develop new lending models to cope with the changed environment while at the same time dealing with the legacy of the boom years.

These issues are not your concern. Neither are promissory notes, Troika reports, fiscal cliffs and all the other issues raised in the media that serve to distract people with debt problems from their primary goal: you need to focus on your challenge, your match fitness, your game plan and your solution.

I hope that this book will help you on your journey to resolve your particular situation.

Fran Dalton

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