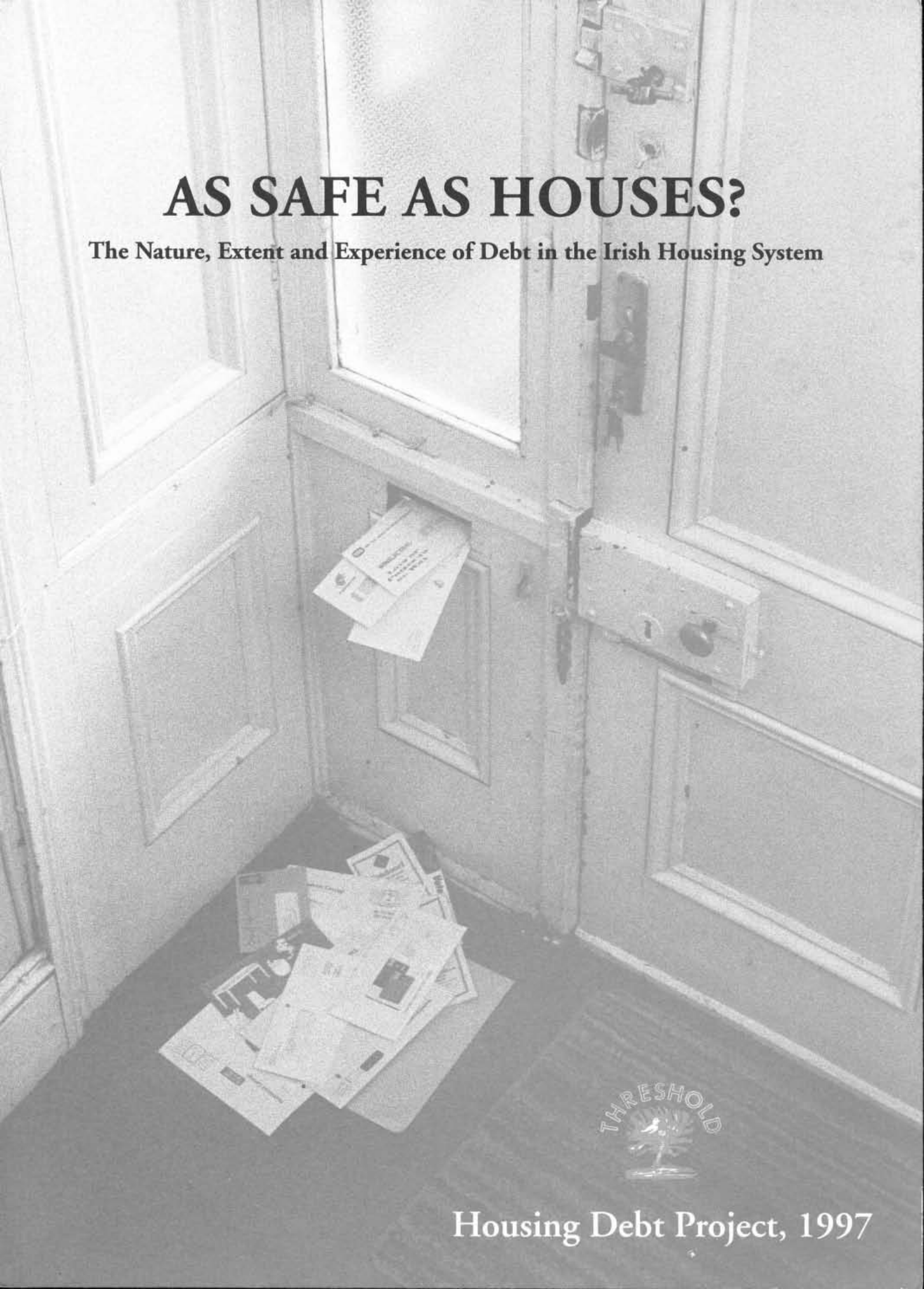


# AS SAFE AS HOUSES?

The Nature, Extent and Experience of Debt in the Irish Housing System



Housing Debt Project, 1997

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### Threshold's Housing Debt Project

Established at Threshold in July 1994, the Housing Debt Project (HDP) is directly funded by government via the Department of Social Welfare until 1998. Initially designed to build on Threshold's expertise in the area of housing debt advice, the project now aims to share this expertise more widely through research and publication, policy analysis and recommendation, and liaison with key public, private and voluntary agents. Through its research and publication role in particular, the HDP aims to improve public information on affordability and debt in relation to the consumption of housing, and to act as a source of informed debate on the phenomenon and consequence of debt in the Irish housing system. Finally, the project also aims to encourage and help develop best management practice among the mortgage finance industry, building societies, banks and local authorities in relation to debt.

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## 1

## INTRODUCTION

BY BRINGING TOGETHER IRISH, British and other European research, as well as a considerable amount of previously unpublished data and findings from research conducted by Threshold itself, this report sets out to provide a coherent and comprehensive explanation of the nature, extent and experience of debt in the Irish housing system since the early 1990s.

Some of the major questions this report seeks to answer in the sections which follow include: what is meant by the term housing debt? How do we understand housing debt and the way it operates in the housing system? How does housing debt relate to the current private housing boom and also to wider social and economic trends affecting Ireland? What is the extent of housing debt in Ireland? What are its causes, both real and perceived? How is it experienced and managed? How is it resolved?

To answer these questions this report contains a diversity of material on the phenomenon of housing debt as it relates to owner-occupation and the private housing market; banks, building societies and the mortgage finance industry; the institutional and personal management of housing debt; repossession and the role of the legal system in resolving housing debt and also the impact housing debt has on social housing.

In doing so this report aims to provide a very practical resource for any professional or agency working in the area of housing policy, administration or law. In addition this report will be of interest to professionals in banking and finance, as well as those from the fields of economics, geography and other social sciences directly concerned with housing provision and consumption. Undergraduate and post-graduate

students will find this report a unique contemporary research resource. Finally this report will, of course, have particular relevance for those involved in the field of housing and in debt management.

The report contains six different sections each of which contain a set of practical, and also policy-oriented recommendations based on the evidence presented in each section. The six sections are also supported by a number of appendices.

Section 2 introduces housing debt and explains how it can be distinguished from other forms of debt by its fundamentally different nature. It develops two different, yet related definitions of housing debt which are used to assist our understanding of the phenomenon throughout the rest of the report. The first is an operational definition. The second is a conceptual definition, which in turn is relied upon to make a number of observations relating to the wider social and economic trends affecting Ireland and their implications for housing debt. Section 2 then proceeds to examine current trends in the private housing market, mortgage finance, house prices and housing affordability. It concludes by demonstrating how the affordability of private new housing is declining and argues that a growing negative affordability gap between new house prices and incomes can lead to an affordability crises in the housing market, particularly for new entrants to owner-occupation. It suggests that the capacity for increased housing debt, measured by the incidence of default, arrears and repossession, is now greater than ever.

Section 3 relies upon a variety of different sources to present a descriptive analysis of the extent of debt in the Irish housing system from the

late 1980s to the mid-1990s<sup>1</sup>. It examines the trends in mortgage arrears and repossession for banks, building societies, and local authority administered housing loans. It also presents data on local authority rent arrears.

Section 4 seeks to explain the causes of housing debt by firstly examining the findings of British and other European research into the phenomenon of housing debt. This section then tackles the role different perceptions of debt play in providing explanation for the incidence of housing debt. It explores the differences between perceptions of the causes of housing debt among Irish banks, building societies and local authorities as well as a sample of Irish households in housing debt.

Section 5 explores the institutional protocols for dealing with housing debt and also the strategies that may be adopted by private individuals to manage housing debt. It examines established institutional procedures, notes recent changes in practice and attempts to explain why these changes have occurred. It also details the impact of recent changes in consumer legislation and considers the possibilities for future

improvement in institutional arrears management practices. Finally this section comments upon the experience of living with housing debt.

Section 6 looks in detail at the process of house repossession by examining two major aspects of possession. Firstly, it describes the legal basis for compulsory repossession by modelling the various stages of the legal process, and also presents a critique of their cost-effectiveness and consequences. Secondly, it examines the course and consequence of voluntary possession and questions the effect possession has upon borrower's attitudes to home ownership.

Finally, section 7 examines housing debt in social housing. It presents findings on housing debt in this tenure, in particular on local authority perception of the main causes of housing debt among both tenants and borrowers. In addition, the housing management practices of local authorities in relation to rent default and arrears are presented and their impact on wider strategic housing management considered. Lastly, this section reviews the recently established guidelines on best practice in housing management and comments upon the success of their implementation.

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<sup>1</sup> Due the significant difficulties in compiling a sampling frame of registered landlords willing to participate in survey research this report does not contain data on the extent of rent arrears in the private rented sector.

2

# THE NATURE OF HOUSING DEBT AND RECENT TRENDS IN IRISH HOUSING

## Introduction

**D**EBT IS NOT NEW to the capitalist system. From the early periods of mercantile and industrial capitalism, to today's stages of late capitalism, debt has been a regular, and arguably necessary component of capitalism's mode of production, exchange and consumption. Being in debt is no longer anathema to the value-system of contemporary society. Unlike the Victorian era, defaulters are not immediately gaoled in purpose built debtor's prisons. People who do not pay up on time today firstly incur the wrath of increased interest or penalty charges on the sum owed. Such charges increase the cost of debt and the time taken to clear it. Perhaps in order to protect against complacency in repayment, imprisonment for debt has not been prohibited, and remains the ultimate sanction against borrowing.

The actual management of debt and indebtedness is now akin to a service industry, offering, as it does, numerous different options for borrowing and regimes of repayment. Almost perversely, the opportunity to borrow, to avail of credit and become indebted, is now regarded as a sought after option which operates to confirm an individual's credit-worthiness and thereby their financial worth. Yet unlike the majority of credit advanced to allow individuals to increase their consumption of all types of consumer goods, from foreign holidays to high street fashions and new cars, housing debt is distinguished by its fundamentally different nature.

Firstly, housing debt does not represent the credit-based consumption of a non-investment

good. On the contrary, mortgage finance allows an individual to borrow not only on the basis of his or her imputed income, but also against the future value of the asset under purchase. In other words, housing is consumed as an investment good. For many Irish citizens, borrowing to purchase a dwelling represents a strategic investment 'guaranteed' to rise in value (if only on paper). The historical bias of Irish housing policy towards maximal home ownership, by way of tax subsidies and financial grants to the tenure, means that owner-occupation literally represents 'a stake in the system' of Irish society. But it must also be recognised that for the great majority of Irish people, raising a mortgage on a dwelling represents the most attractive available option to provide a most basic human need; shelter. Therefore housing is also consumed as a social good. It fulfils the need for shelter by allowing for the daily reproduction of peoples' intellectual and physical self and that of their families.

Secondly, another aspect that distinguishes housing debt is its longevity. The supply costs of housing guarantee that its market value is enormously higher than what can be afforded outright at any one time by the majority of people. Therefore the majority of new mortgages are taken against properties for a minimum of twenty five years in order to spread the costs of repayment. This does not mean that repayments are even. The highest costs occur during the first ten to fifteen years while the capital sum borrowed is large, and the consequent cost of interest charged on the capital is also high. In other words, the cost of a mortgage is front-loaded.

*"Housing debt is distinguished by its fundamentally different nature"*

Thirdly, the character or nature of housing debt over a period of time will be determined by a complex synthesis of related, yet distinguishable, processes. Socio-economic and political processes operating at both global and local levels, as well as economic changes over time and space and changes in a borrower's individual circumstances combine to produce a dynamic synthesis ensuring constant change in the nature of housing debt.

Fourthly, housing debt cannot afford to be considered in isolation from the broader conceptual system in which it is implicated or apart from another social and economic indicator with which it has a direct relationship, namely housing affordability. Just as an understanding of darkness is incomplete without an understanding of light, housing debt cannot be fully comprehended without understanding the concept of affordability and how the relationship between the two determines their mutual nature or character at any one time. Understanding the nature of housing debt and its relationship with housing affordability is a key objective of this section. Evidence demonstrating how the affordability of private new housing has diminished since the beginning of the housing boom in 1993 will be presented here alongside other evidence to show how many new homeowners who have purchased at the height of the boom face a potential affordability crisis which could lead them into housing debt.

However, this section's first objective is to explore how our understanding of the nature of housing debt and its meaning can be established by the adoption of two complimentary types of definition. This, in turn, is followed by an analysis of recent trends in the Irish housing market, mortgage finance and housing affordability which considers their likely implications for future housing debt.

#### **Understanding Housing Debt**

This report examines the phenomenon of housing debt by relying upon two different, yet related,

types of definition. The first is an operational definition of housing debt and the second is a conceptual definition. Arguably the most recognisable definition is the operational one. In other words, housing debt defined by how it operates and is experienced in the housing system by borrowers, lenders and tenants. For example, the everyday and practical experience of mortgage and rent default and arrears, as well as compulsory and voluntary possession are perhaps the most widely recognisable 'ingredients' of the operational definition. An advantage of defining housing debt operationally is that it allows each ingredient or component to be explored in turn while also providing a distinction between housing debt and other forms of debt (e.g. consumer debt). The operational definition of housing debt is the basis upon which specific sections of this report, namely 5 and 6 and 7, interrogate housing debt. However, a major disadvantage of an operational definition is that little contextual understanding of the processes influencing debt in the housing system are provided. Put simply, operational definitions of housing debt fail to shed much light on what housing debt means in terms of wider economic and social trends now taking place in Ireland. To deliver such meaning, a definition of the concept of housing debt and the broader conceptual system within which it is implicated must be elaborated upon. This, the second type of definition relied upon in this report, is especially useful to have when the causes of housing debt are under scrutiny (section 4) and the implications for housing debt of current trends in the housing market are examined (second part of this section).

To construct our conceptual definition we can begin by consciously grouping together a range of *processes, variables and components* under the umbrella term of housing debt. Processes are socio-economic and political and operate on global, national and local levels. They include, for example, economic growth and development, wealth creation and distribution and the

“Housing debt cannot afford to be considered in isolation”

establishment of supra-national political entities to underpin the stability of economic markets (for example EMU<sup>1</sup>, the European Union's project for a single currency to deliver low inflation and low interest rates among member states)<sup>2</sup>. The variables that can be incorporated are numerous and tend to change at different times and in different places. They include the historic development of housing tenures, the role and function of the mortgage finance industry, the influence of international financial markets, inflation, interest rates and currency exchange rates, the influence of government housing subsidies, fiscal and social policies, and wage levels. Finally, the basic components of our concept will include numerous individual and household causes of default and arrears, as well as private and institutional arrears management strategies. It is the interaction or *synthesis* of these three categories that defines the concept of housing debt used in this report and

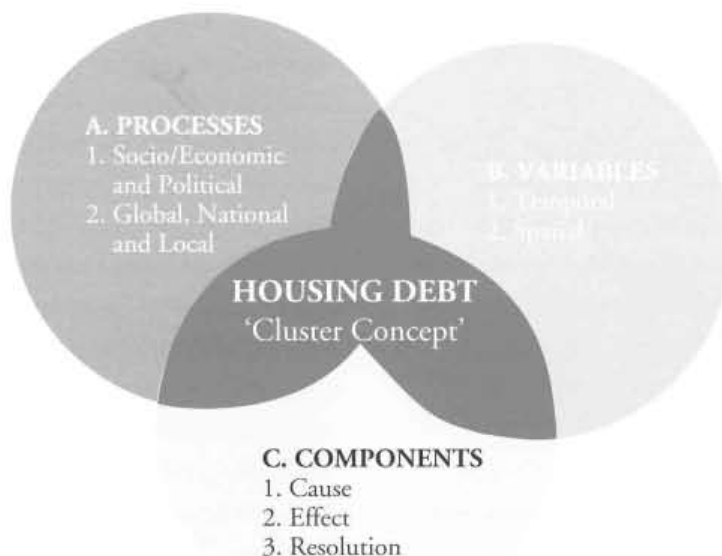
allows us to argue that the nature of housing debt differs substantially from other forms of general consumer debt.

A significant implication of our two types of definition is that there exists more than just one meaning to the term housing debt. That is, the meaning of housing debt is multifarious and depends upon how the phenomenon is experienced by individuals and institutions (operational definition) but also how it is explained and understood (conceptual definition). Recognising this in turn demands that we regard housing debt as some form of *cluster concept*, capable of supporting different meanings. Figure 2.1 is a model of housing debt defined as a cluster concept and demonstrates the synthesis between the three spheres of processes, variables and components.

Using this model to interrogate the phenomenon of housing debt a number of

“Housing debt can be regarded as a cluster concept”

Figure 2.1 Defining Housing Debt as a Cluster Concept



<sup>1</sup> Economic and Monetary Union.

<sup>2</sup> Other political agreements in this category include the GATT (General Agreement on Trade and Tariffs) agreements as well as other bi-lateral political agreements.



important observations about the synthesis of our three categories can be made. These observations relate to the wider social and economic trends now becoming established in Ireland.

Firstly, in terms of socio-economic and political processes (category A in Fig. 2.1), the emergence of a global economy alongside parallel changes in the nature of economic production and consumption, changes in the nature of employment, changes in global communications and the advent of global cities whose influence on international finance is critical<sup>1</sup>, are arguably among the most significant influences on the nature of housing debt in the 1990s. In other words, changes in how we work and what we work at, as well as how and where we live, hold implications for the nature of housing debt. These changes, operating at both global and local levels, have come to be regarded as the end of the organised capitalist regime known as Fordism and the beginning of a regime of flexible capitalist accumulation characteristic of an increasingly post-Fordist world economy<sup>2</sup> (Halal, 1986; Lash and Urry, 1987). It was through the Fordist labour process and regime of accumulation that the golden age of Western capitalism was built during the post-war era. However, world energy and economic crises of the 1970s marked the beginning of a shift from one period of capitalist economic development to another. Mass production for mass consumption has since given way to increasingly differentiated designer goods produced for niche markets. In parallel, the provision of standardised collective goods and services, the hallmarks of the

Keynesian welfare state, has come under sustained political attack and been eroded by neo-liberal, free-market economics of the New Right (Harvey, 1985).

Additionally, the patterns and structures of production in Western capitalist economies during the 1990s increasingly operate under a regime of flexible specialisation which emphasises the complex, variable and contingent connections between technology, institutions and politics. Alongside this, the de-regulation of international financial services and its use of information technology to speed transactions, has secured the financial sector a commanding influence over national economies to the extent it is capable of threatening the authority of the nation-state<sup>3</sup> (Jessop, 1982).

The international labour market has been affected accordingly. Previously secure 'jobs for life', for example utilising specialised skills with branch plants of MNCs<sup>4</sup> or in the public sector, are disappearing. In their place employment increasingly occurs on a short-term, contractual basis (Institute of Personnel Management, 1986; Lipietz, 1986). Labour now has to be 'flexible', capable of juggling various life-cycle demands of health, education and housing privately. This on-going economic transformation holds major implications for housing debt, particularly in owner-occupation. Home ownership, the dominant tenure in Ireland, is a mode of housing consumption suited to the set of economic and social arrangements characteristic of the Fordist era. In other words, the structure of the mortgage

*“Changes in how we work and what we work at, as well as how and where we live, hold implications for the nature of housing debt”*

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<sup>1</sup> For example the stock exchanges, money markets and other commodity markets of cities such as New York, London, Frankfurt, Tokyo and Hong Kong.

<sup>2</sup> For a critique of the argument that changes in the world economy represent a shift to a post-Fordist regime of accumulation see Sayer, 1989.

<sup>3</sup> A recent example was the British monetary crisis of 1992, otherwise known as Black Wednesday, which saw sterling forced out of the European Monetary System as a result of international financial speculation. This occurred despite the intervention of the British Chancellor of the Exchequer and the Bank of England to stop the run on the sterling lead by the international financier Mr. George Soros.

<sup>4</sup> Multi-National Corporations

repayment regime in owner-occupation remains based on the key assumptions of the past that long-term, uninterrupted working careers would be available to all those who sought them (i.e. full employment). Yet as casual, part-time and contract employment grows, so too does the vulnerability of home owners to financial fluctuations. Interruptions to employment are accordingly critical in terms of paying for housing. Arguably, owner occupation, the mass tenure of mass employment, is becoming increasingly incompatible with the realities of the contemporary labour market (O'Connell, 1994).

Secondly, alongside structural economic changes, a host of meso-economic variables (category B in Fig. 2.1) influence the experience and also the understanding of housing debt. Characteristically these variables are subject to change and will be different over time and space i.e. between different places. Particularly important is the influence of inflation, interest rates and currency exchange rates. However, these housing debt variables are increasingly determined by the influence of the wider system of financial markets than by the operation of key financial institutions such as central banks. The elimination of exchange controls, together with the evolving single market in financial services and the general easing of regulation means that, more and more, Irish finance is becoming integrated into an increasingly seamless world financial market (Baker, Duffy and Duggan, 1997: 77). The volatile nature of financial markets guarantee differences will occur over time and space in these housing debt variables. This in turn influences the temporal and spatial nature of housing debt. In other words, how it is experienced and ultimately what it means to different social groups in different regions and locales over time. Thirdly, the actual components of housing debt (category C in Fig. 2.1); its particular cause in any one instance; its effect on borrowers and tenants; on private and institutional strategies for its

resolution, are all influenced to some extent by changes occurring in categories A and B.

Adopting this model of housing debt as a cluster concept allows us see how changes at different levels combine to influence the nature of housing debt at any one time. It also goes some way towards understanding why, despite often shared criteria used to define it operationally, housing debt can be understood differently by individuals and institutions. The term housing debt can therefore hold different meanings among individuals and institutions, an assertion supported by the research findings presented in section 4. A capacity to impose or oppose any one meaning or understanding of housing debt relates to the operation of power in society, a full consideration of which is beyond the scope of this report. Nevertheless when considering the phenomenon of housing debt as a cluster concept it is worth bearing in mind Connolly's (1983: 14) insight that,

We often find various people jointly employing a cluster concept weigh the importance of shared criteria differently; they may also interpret the meaning of particular criteria jointly accepted in subtly different ways; and some persons might find it advantageous to add new criteria to, and drop old criteria from the established list, while other groups object to this move. When one or more of these conditions prevail we have the makings of a conceptual dispute.

### Trends in the Irish Housing Market, Mortgage Finance, House Prices and Affordability

Having articulated an understanding of housing debt at two levels the remainder of this section seeks to highlight how current trends in the private housing market will affect the dynamic of current and future housing debt in Ireland. Of particular importance to this discussion is housing debt's sister concept of housing affordability and the implicit assertion that decreasing affordability can lead to increasing housing debt.

*“The volatile nature of financial markets guarantee differences will occur over time and space in housing debt.”*

### The Irish housing market

After a period of sustained growth since 1993 the Irish market in private housing (i.e. owner-occupation) is now booming. Two major factors can be identified which help explain the current housing boom. They are (a) demographic change and household formation (b) economic growth.

#### (a) Demographic change and household formation:

Demographic changes are transforming Ireland's society and economy. The educational attainment of the labour force is increasing rapidly with greater numbers than ever staying on until Leaving Certificate level and continuing onto a third level educational institution. This trend will continue with forecasts projecting 40 per cent of the labour force attaining second level education, and 30 per cent having third level qualifications by 2011. The rising educational attainment of the labour force is underpinning the transformation of Irish society and is having a very important direct effect on the economy. It is a key factor driving the rapid rise in female participation in the labour force; it is affecting migration – Ireland is currently experiencing net in-migration composed mainly of returning emigrants; it has an indirect effect in the birth rate – currently falling; and through enhancing the earning power of the population it is contributing directly to economic growth. The supply of labour is forecast to grow by around 2 per cent per annum in the 1990s and the rising education of the labour force is contributing directly at least 0.5 percentage points a year to the increase in Irish economic productivity. The falling birth rate combined with the ending of net emigration means that the ratio of the number of people not working to those in employment – the dependency ratio – is falling rapidly. By 2010

Ireland's dependency ratio will have fallen from being the highest in the EU to among the lowest (Duffy, FitzGerald, Kearney and Shortall, 1997).

All of these changes have implications for household formation and the demand for housing over the next 15 years. The forecast rise in the number of young adults with good labour market expectations will place continuing pressure on the housing market due to increased household formation, resulting in a combination of increases in dwelling construction output and increases in prices. When the projected fall in headship rates<sup>7</sup> to the current EU average is included, and assuming that demand for housing for replacement and other reasons continues at the early 1990s rate, there is likely to be a need for approximately 32,000 new dwellings a year over the rest of the decade, falling to around 28,000 a year in the first half of the next decade (see Table 2.1).

#### (b) Economic growth:

The second major factor that helps explain the current housing boom is the strong growth the Irish economy has experienced since 1994. The Irish housing boom has relied for its current longevity upon an economic growth rate of six per cent in 1996, which was on top of an eight per cent growth rate in 1995. This achievement has attracted much attention abroad, spurring one international commentator to label Ireland's economy an 'Emerald Tiger' and to pronounce:

"No need to search the Far East. The best answers to Europe's economic problems are much closer to home.

Ireland is booming."

(*Newsweek Magazine*, December 1996)

Domestic economic analysis confirms the extent of Ireland's economic renaissance. Conclusions of the 1997 ESRI<sup>8</sup> Medium-Term

"Demographic changes are transforming Ireland's society and economy."

<sup>7</sup> Headship rates refer to the proportion of the adult population in each age cohort who are heads of household.

<sup>8</sup> The Economic and Social Research Institute.

Review, which contains comprehensive economic forecasting up until 2003, expect economic growth, as measured by the rise in GNP<sup>a</sup>, to average five and a half per cent per annum over the rest of the decade and five per cent in the early years of the next century.

Such economic growth rates have sent money pumping through the economic system, and not without effect. Each of the two major banking

groups is estimated to have made profits in the regions of £375 million in 1996. In 1990 Irish consumers spent £16.3 billion on goods and services. In 1996, even taking inflation into account, the Republic's consumers are likely to have spent in real terms over £4 billion more than they did in 1990. Economic growth has brought positive changes in the summary of total fixed investment since 1994 (see Table 2.2).

Table 2.1 Contribution to Demand for Dwellings

*Average Annual Number of Dwellings required due to:*

	Demographic Change	Change in Headship	Replacement etc.	Total
1971 – 1981	10900	7600	5900	24400
1981 – 1986	9400	3800	13000	26200
1986 – 1991	7900	2700	8300	18900
1991 – 1996	13000	6800	4400	24200
1996 – 2001	16000	10000	5000	31000
2001 – 2006	17000	5000	5000	27000
2006 – 2010	18000	2000	5000	25000

Source: Duffy, FitzGerald, Kearney and Shortall, 1997: 31

“Economic growth rates have sent money pumping through the economic system, and not without effect”

Table 2.2 Summary of Total Fixed Investment, 1995, 1996<sup>a</sup>, and 1997<sup>f</sup>

CATEGORY	1995 £M	Percentage Change in Volume	Percentage Change in Price	1996 <sup>a</sup> £M	Percentage Change in Volume	Percentage Change in Price	1997 <sup>f</sup> £M
Building and Construction	3,823	10.75	3.5	4,380	8	4.5	4,946
Machinery and Equipment	2,208	6.75	2.5	2,416	5.75	2.5	2,619
TOTAL	6,031	9.25	3.25	6,796	7.25	3.75	7,565

<sup>a</sup> = estimate; <sup>f</sup> = forecast.

Source: Central Bank, 1996

<sup>a</sup> Gross National Product.

Significantly, growth in fixed investment in building and construction since 1995 has been higher than other fixed assets. From £3,823 million in 1995, investment is forecast to rise by twenty nine per cent, to reach £4,946 million in 1997. House building and new residential construction accounts for the largest proportion of this growth.

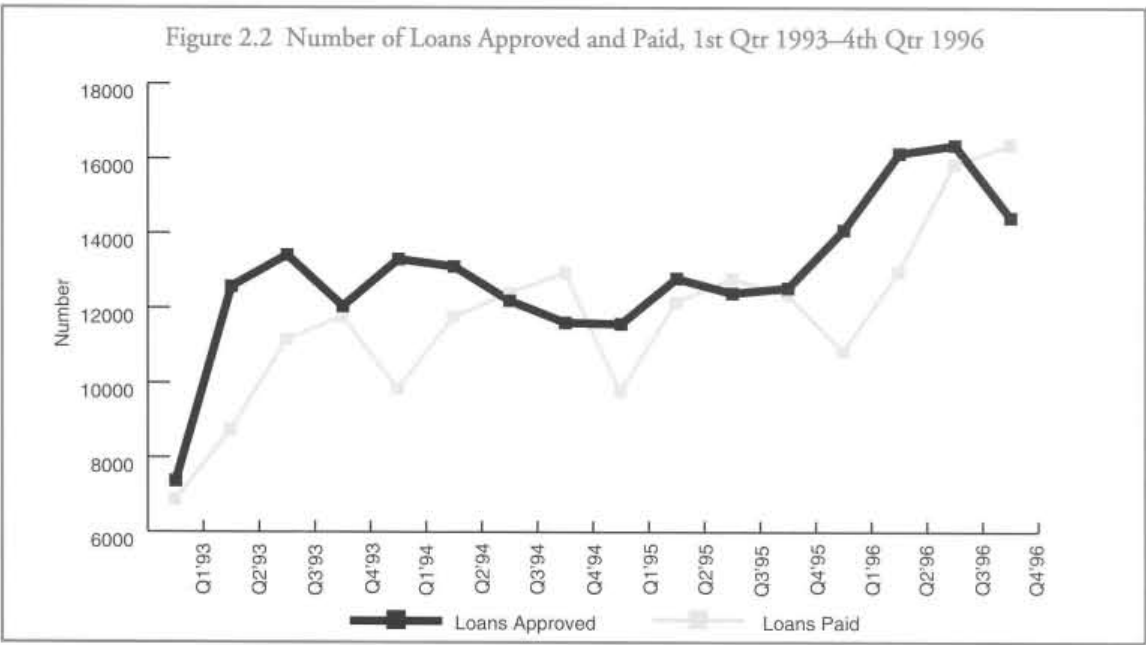
Mortgage finance and house prices

The extent of Ireland's housing boom is further indicated by the sharp acceleration in mortgage lending. The number of loans approved in the last quarter of 1995 rose thirty one per cent from 12,534 to 16,363 by the second quarter of 1996 before tailing off slightly at the end of the year to finish at 14,417 in the final quarter (see Figure 2.2). An equivalent rise occurred in the value of these loans. In the final quarter of 1995 a total £570.8 million was approved in loans for housing. This rose to £791.1 million in the second quarter of 1996, again falling back to £741.9 million by the third quarter and to £707.9 million by the end of 1996.

The slight reduction in demand for housing loans at the end of 1996 can initially be explained by borrower's fear of a pending increase in interest

rates by the Irish Central bank which was engaged in an interventionist strategy on the money markets to defend the punt's currency exchange rate against sterling. Nevertheless the total value of loans paid out by all lending agencies exceeded £2bn for the first time ever in 1996. Figure 2.2 also indicates how the current housing boom can be traced back to 1993. Following a period of relative stability after 1993, albeit at a relatively high level, the number and value of loans approved again increases rapidly at the beginning of 1996 to over twice their original 1993 level. Movement in the range of housing loans paid for new and second houses throughout the country between 1993 and 1995 is further evidence of the growth in mortgage lending. In 1993 twenty four per cent of loans paid were between £25K and £35K, twenty per cent were between £35K and £45K and eleven per cent were between £45K and £55K. Only nine per cent were greater than £55K. By 1995 the percentage of lower-range loans between £25K and £35K had dropped by more than a half to eleven per cent. Loans in the range of £35K to £45K had increased to twenty two per cent. However the biggest relative increases were in loans of £45K to £55K and above £55K which increased by seventeen per cent respectively.

“The extent of Ireland's housing boom is indicated by the sharp acceleration in mortgage lending.”



Source: DoE, Housing Statistics Bulletin

Significantly since the beginning of the housing boom in 1993, the international trend in interest rates has been downward, and the first two months of 1996 saw a continuation of the downward movement in European interest rates. Irish rates have fallen significantly but at a slower pace and wider differentials. Against this background credit institutions have been making it cheaper to borrow from them. For example, credit institutions reduced their retail interest rates in December 1995. This was followed by a reduction in most lending rates of 0.5 per cent. The exception were banks' variable mortgage rates which generally fell by 0.25 per cent. By the end of 1996 mortgage rates for both banks and building societies had fallen from between 6.85–7.79 per cent at December 1995 to between 6.60 and 7.45 per cent, (see Table 2.3). Nevertheless, if the housing market continues to show signs of overheating and poses risks to the wider economy, the Central Bank will repeat its surprise action of May 1997 when it raised interest rates by half a percentage point, causing a knock-on rise in mortgage interest rates.

Central Bank figures for Spring 1996 confirm that one of the main factors driving Irish pound credit growth in late 1995 was residential mortgages<sup>10</sup>, and that licensed banks and building societies contributed £150 million each to the rise of £338 million in the residential mortgage business of all credit institutions during the same period. The tremendous growth in the residential mortgage asset base of all lending institutions is illustrated by Table 2.4.

Growing mortgage lending activity and increases in the ranges of loans paid on new and second hand houses are mirrored by rising house prices. Figure 2.3 shows how house prices have risen since the beginning of 1993. Interestingly by the second quarter of 1996 both second hand house prices in Dublin and in the country as a whole were higher than new house prices, indicating that a significant section of the housing market is currently trading upwards. When the figures are adjusted for inflation we find that new house prices rose by 4.1 per cent in 1994, 7.2 per cent in 1995 and 11.8 per cent in 1996 (DKM, 1997).

“Since 1993, the international trend in interest rates has been downward.”

Table 2.3 Variations in Building Societies' and Banks' Mortgage Lending Rates, December 1993 – December 1996

Lending Institution	December 1993	December 1994	December 1995	December 1996
Building Societies Basic Mortgage Rate				
Annuity	7.75 – 8.45	6.85 – 7.25	6.85 – 7.79	6.60 – 7.00
Endowment	7.99 – 8.45	7.15 – 7.35	7.10 – 7.79	6.65 – 7.35
Associated Banks House Purchase Loans				
Annuity	7.25 – 8.40	6.7 – 7.45	7.15 – 7.50	7.10 – 7.45
Endowment	7.25 – 8.40	6.7 – 7.45	7.15 – 7.50	7.10 – 7.45

Source: Central Bank, 1996

<sup>10</sup> The other was lending to the Agricultural Intervention Agency

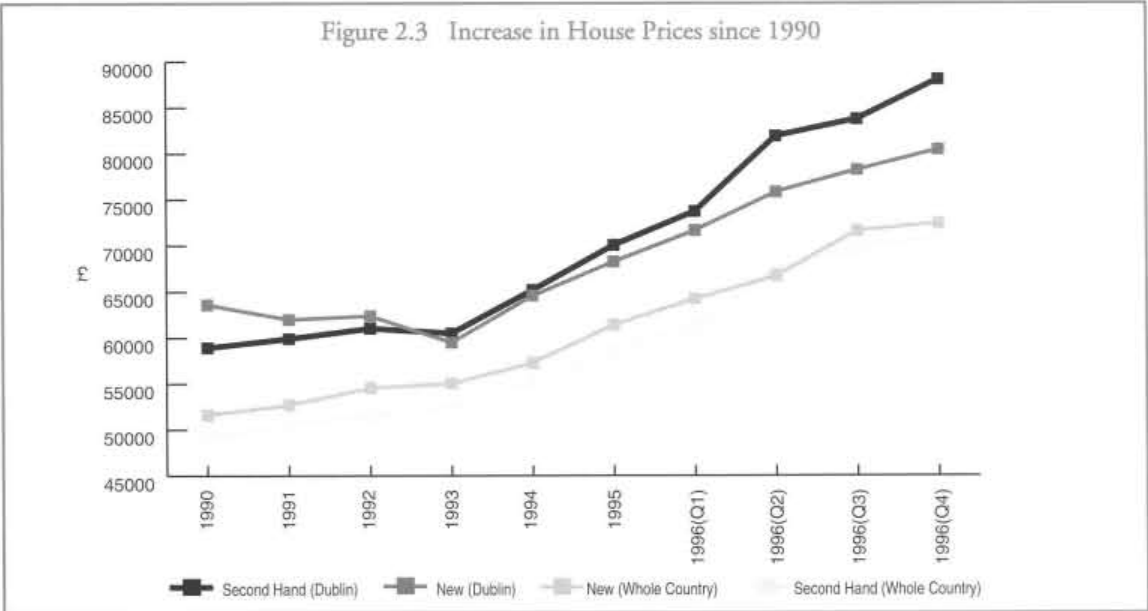


**As Safe As Houses?** The Nature, Extent and Experience of Debt in the Irish Housing System

Table 2.4 All Credit Institutions: Growth in Personal Credit Advances for Housing, August '95 – November '96, IR£M.						
Category	Aug.'95 IR£M	Nov.'95 IR£M	Feb.'96 IR£M	May'96 IR£M	Aug.'96 IR£M	Nov.'96 IR£M
House Mortgage Finance	8,985.6	9,274.2	9,577.5	9,983	10,417	10,819
Bridging Finance for House Purchase	73.4	73.3	71.1	79	81	78
Other Housing Finance	112.6	127.3	125.6	133	152	159

Note: The definition of credit institutions corresponds with that of the EEC First Banking Directive. In the Irish case resident credit institutions comprise licensed banks, building societies, ACC Bank, ICC Bank, ICC Investment Bank and TSB Bank.  
Source: Central Bank, 1996.

“An important indicator of the housing market's buoyancy is the number of first-time buyers entering the market.”



Source: DoE, Housing Statistics Bulletin.

An important indicator of the housing market's buoyancy is the number of first-time buyers entering the market. The first-time buyer is a key player in the market, indeed arguably they drive the market as the absence of first-time buyers means housing chains and transactions could not be completed. The number of first time buyers in the housing market is increasing, as confirmed by the number of first-time buyer grants paid out by the State which doubled between 1991 and 1995.

The number of grants increased in 1995 by 25 per cent and again in 1996 by 5 per cent to reach a record level of 10,826 in 1996. This represented a total cost to the State of £32.4 million.

The present rapid rise in house prices can be said to reflect these pressures in the housing market. It is not expected to affect the standard of living of those currently working in the major urban centres who already own a dwelling.

However, for returning emigrants, new immigrants, those moving location within Ireland and those wishing to form new households, this rise represents a significant increase in the cost of living in Ireland. Although rising house prices do not have a significant direct impact on the consumer price index, they could in time have some indirect effect through increasing pressure for higher pay settlements and through encouraging a greater volume of personnel borrowing for general consumer purposes. These dangers can be averted through rigorous adherence to the pay terms of Partnership 2000<sup>11</sup> and through responsible behaviour by the lending agencies, but excessive rises in house prices carry the threat of damaging consequences in their own right. The acquisition of a high level of housing debt by a substantial proportion of households, particularly in a period of when nominal incomes are likely to increase only moderately, exposes those households to a degree of risk if conditions change in the future (Baker, Duffy and Duggan, 1997: 28).

### Housing affordability

With Ireland's economic boom forecast to continue and the rise in numbers in good employment set to increase, the demand for housing will continue apace. Where the forecast total of 236,000 dwelling units required between now and the middle of the next decade are located, and in what form, are crucial issues for medium-term sustainable planning. However, what is most pressing for many first time buyer's today is that buying a starter home is becoming increasingly difficult due to spiralling house prices. Estate agents' discourse currently wields such phrases as 'spectacular growth', 'extraordinary performance' 'very healthy' and 'buoyant' when commenting on the housing boom, yet in the experience of many

aspiring first time buyers the term 'unaffordable' has now entered the housing lexicon.

Defining affordability remains a complex task for a number of reasons. Initially housing affordability can be seen strictly in terms of housing costs to income. However using a single ratio measure of affordability (i.e. payment of housing costs to household income) to focus policy debate can lead to the difficulties in defining housing costs being ignored. Measuring housing costs therefore becomes paramount to any discussion of affordability. Yet housing is a complex good. It provides shelter, living space (even work-space for some), a neighbourhood context and accessibility to various sites in a region, including the workplace. Houses within an area also vary in the number and quality of attributes they possess and, since they are all of value to households, house prices, and therefore costs, vary. (see MacLennan et. al., 1990). The measurement of Irish housing costs in the 1990s is beyond the scope of this report therefore with the above cautionary note in mind this report relies upon single ratio measures of affordability.

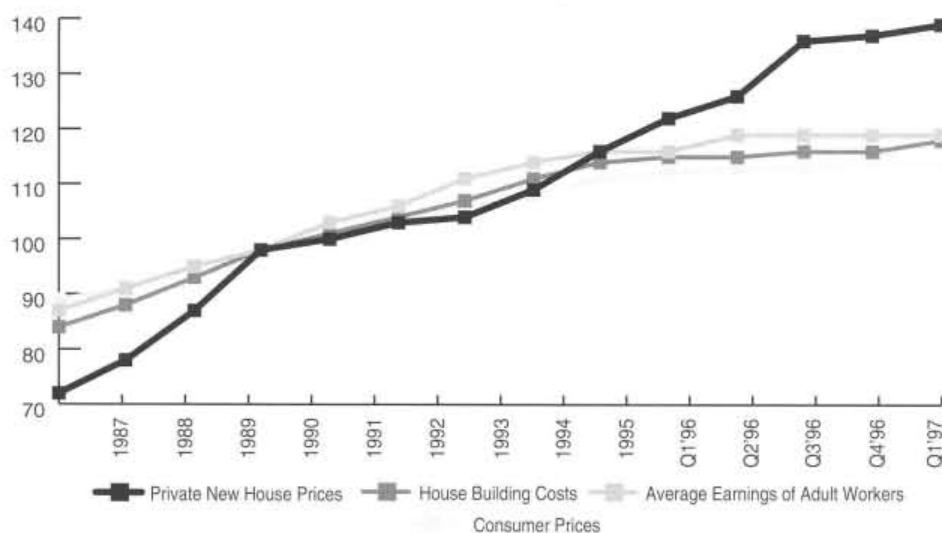
In general the affordability of new house purchase has been declining significantly since 1994 and will continue to do so, although at a slightly lesser rate in 1997. This can be demonstrated by comparing the indices of private new house prices to earnings, house building costs and consumer prices since 1986, as in Figure 2.4<sup>12</sup>. This figure demonstrates how the effects of the recession in the 1980s depressed new house prices, which only began to rally at the end of the decade. It also records how during the early 1990s new houses were nominally affordable. In other words, between 1990 and 1995 the index of new house prices stayed below the index of average earnings of

*“In the experience of many aspiring first time buyers the term ‘unaffordable’ has now entered the housing lexicon.”*

<sup>11</sup> In place since December 1996, Partnership 2000 is the latest national agreement between government and the social partners covering commitments in many important areas of public expenditure, taxation and wage rates. It is due to last three years.

<sup>12</sup> The base year for these indices is 1990 hence the equalisation of values

Figure 2.4 Price/Earnings/Costs Indices; Trends in private new house prices, earnings, house building costs and consumer prices, 1987–Q1 1997



Source: DoE.

“In general the affordability of new house purchase has been declining significantly since 1994.”

adult workers. The highest level of affordability was reached in 1993 when there existed a seven point difference between the two indices. In other words new house purchase was at its most affordable in 1993, the year that also marked the beginning of the house price boom. This positive affordability gap was reversed in 1995 when, for the first time, the index of private new house prices rose above that of average earnings. By the first quarter of 1997 the new house price index has risen to stand twenty points higher than the average earnings index. This represents a fall since 1993 of twenty seven points in the average earnings index relationship to the new house price index. In other words there now exists a large, and growing, negative affordability gap between new house prices and average adult earnings.

The affordability of new house purchase will

continue to decline in 1997 due to a much stronger growth in house prices than in personal incomes and further reductions in mortgage relief. Changes to personal taxation and PRSI payments announced in 1997's budget mean net incomes will increase by an average of just under six per cent on top of an increase in gross pay. However, new house prices are likely to increase between ten and fifteen per cent in 1997, thereby outstripping increases in net income which will also be adversely affected by the application of the new standard rate of tax (26%) to all mortgage relief<sup>14</sup>.

## Housing Affordability and the Implications for Housing Debt

In light of the above trends two crucial questions arise. Firstly how are first-time buyers bridging the affordability gap? And secondly what implications

<sup>14</sup> Other changes relating to home purchase and owner occupation announced in the 1997 budget include changes in the structure and rates for payment of Stamp Duty on property transactions and the abolition of Residential Property Tax. These changes do not impact on the scenario which relates to first time buyers of new property. They will, however, affect those trading up or purchasing substantial second-hand dwellings, particularly in the Dublin region where prices are highest and buyers are more open to liability to Stamp duty payments. Stamp Duty is now payable at 7% for houses valued between £150,000 to £160,000, 8% for those valued between £160,000 and £170,000 and 9% for those selling at more than £170,000. Most of the benefits arising to those trading up from the abolition of Residential Property Tax will be swallowed up by the new Stamp Duty regime.

does decreasing affordability hold for housing debt?

Answering the first question is not simple. There exist a variety of ways that individuals may overcome the current affordability gap. The first is through the use of savings and investment or inheritance. An important trend among middle-class household formation is the use of a parental 'gift' as a deposit on a property. Central Bank figures recorded a twenty five per cent increase in personal housing finance borrowed other than housing mortgage finance between November 1995 and 1996. This increase may be explained by households re-financing an existing mortgage to release equity for use as a parental gift. It may equally represent finance for a house extension or renovation, the course of action of many home-owners unable or unwilling to trade-up.

However when the above actions are discounted it appears the only way the majority of first-time buyers are bridging the affordability gap is by borrowing the money required to do so. This conclusion has given rise to fears that mortgage finance institutions have become too zealous in their pursuit of new customers and are prepared to both over-lend and alter their lending criteria. Indeed the prudential concern that the financial system might respond too willingly to the financing of an unsustainable property boom cannot be neglected (Duffy, FitzGerald, Kearney and Shortfall, 1997: 79).

Media allegations and comment on over-lending has become more regular (e.g. see Irish Times 14/03/1997 or Sunday Tribune 16/03/1997). For individuals employed in the financial services and information technology sectors of the Irish economy, where salaries are higher than the average wage indicated in Figure 2.4, and imputed income growth is greater,

borrowing money over three times the amount of a person's income has allegedly become well established. Also the criteria used to calculate future imputed income have allegedly been expanded to include potential income from leasing or letting part of the property to a lodger or tenant. The danger is that such lending practices could be applied to the market as a whole thus replicating the lending conditions of the British market in the late 1980s. While banks and building societies insist that they do not in any circumstances over-lend, there is now a battle for market share and many are prepared to lend a bit more to secure the business. However, in response to allegations of over-lending the IMSA points to the fact that Department of Environment statistics for 1996 record the average building society loan as £38,700<sup>14</sup>. On this evidence the IMSA argues that it is the housing market which is overheating and not the mortgage market (IMSA, 1996).

Nevertheless historically low interest rates have compounded the affordability crisis for aspiring new home-owners by making the purchase of a dwelling as an investment good highly attractive. Cheap money has attracted speculation in the housing property market and in turn is helping to push up house prices to an unaffordable level for many aspiring first time buyers. Media reports claim that, privately, leading bank and building society lenders admit about a quarter of all applications for loans to purchase houses are coming from investors (Sunday Tribune, 27/04/1997).

Notwithstanding allegations of over-lending, low interest rates and high demand for housing have wrought significant changes in the lending regimes of Irish banks and building societies between 1993 and 1996. Overall the average maximum loan that can be raised from building

*“There exists a variety of ways that individuals may overcome the current affordability gap.”*

<sup>14</sup> At the same time the average new house price in Dublin in 1996 was £80,000 (£72,000 nationwide) and the average second hand house price was £88,000 in Dublin (£71,000 nationwide).

societies against the market value of a dwelling has increased by 2 to 5 per cent from an industry average of 90 per cent in 1993. Equally banks have increased their maximum loans by approximately 5 per cent from an average of 90 per cent. In addition two Irish building societies have increased the term length of a mortgage loan to thirty years from twenty five. Perhaps most significantly the multiplier used to calculate the maximum amount that can be borrowed against a person's income has also increased by half a point on joint mortgages (see Appendix A for more details). Taken together this means that potential home-owners can now borrow more against their income for longer periods than before while reducing the amount of deposit they need to save in order to cover the difference between the size of their mortgage and the market value of the property desired.

However it is the range of fixed rate mortgage products now available to first-time buyers that hold one of the greatest threats for an increase in housing debt. During 1996, fixed rate mortgages amounted to 55 per cent (up from 38 per cent in 1995) of all building society lending (IMSA, 1996). Currently the fixed rate terms vary from one to five or even ten years, with the choice to revert to the existing variable rate when the term expires, or take another fixed rate term. A sample survey of 13 institutions covering almost 100 fixed-rate products in April 1997 found the average one year fixed rate for new business is approximately 6 per cent (equivalent to £7.15 per £1,000 per month, assuming a twenty year term). The corresponding average variable rate quoted was just under 7 per cent. This compares very favourably with the average variable rate of 10.65 per cent that prevailed over the period 1985 to 1990 and 9.65 per cent over the period 1991 to 1995. For a five year fixed term mortgage the 1997 rate was 7.5 per cent (equivalent to £8.03 per £1,000 per month) rising to 8.75 per cent (or £8.80 per £1,000 per month) for a ten year fixed rate term (Irish Times, 03/03/1997).

These rates must be considered unusually low, by historical standards (DKM, 1997). Although the major advantage of fixed term mortgages is that they protect borrowers from the impact of mortgage rate increases, the current situation holds out the possibility of an enormous 'payment shock' facing first-time buyers at the end of their fixed rate term. Repayment adjustments required at the end of a fixed term due to increases in both house prices and mortgage rates that occurred in the meantime would constitute a large payment shock to many borrowers and could easily lead to a significant increase in default, especially during the current period of low income inflation. An increase in existing fixed rate mortgage products from current rates of 6 to 7 per cent back to the rates prevailing in the early 1990s of approximately 11 per cent would guarantee an increase in housing debt.

So what are the prospects for affordability and the implications for future housing debt? Three possible scenarios, shown in Table 2.5, are developed using findings from the DKM Housing Affordability Index (DKM, 1997). The impact on affordability (defined here as the ratio of house price to income) is examined for the following three scenarios:

1. An increase of 20 per cent in average new house prices to give a house price of £92,508, and a house price of £100,000, all other factors remaining unchanged.
2. An increase in mortgage rates to 8.5 per cent, 10 per cent and 12.5 per cent, all other factors remaining unchanged.
3. A 20 per cent increase in house prices and a 10 per cent increase in mortgage rates, all other factors remaining unchanged.

The above scenarios are calculated for average annual earnings at £17,131, which are assumed to increase by 3 per cent per annum. Each scenario is calculated for a first-time buyer on average

*“Interest rates must be considered unusually low, by historical standards.”*

Table 2.5 Sensitivities of the DKM Affordability Index

	Case 1 First Time Buyer on ave. earnings borrowing 90% of new house price.	HP/I Ratio	Case 2 Existing Owner on twice ave. earnings borrowing 75% of new house price.	HP/I Ratio
March 1997 (house price = £77,090)	37.4%	4.5	18.3%	2.3
<b>Scenario 1 Increase in House Prices</b>				
+20% on house price (house price = £92,508)	46.7%	5.4	24.6%	2.7
House price = £100,000	51.2%	5.8	24.6%	2.9
<b>Scenario 2 Change in Mortgage Rates</b>				
8.5%	41.9%	4.5	20.3%	2.3
10.0%	48.0%	4.5	22.6%	2.3
12.5%	57.5%	4.5	27.6%	2.3
<b>Scenario 3 Combination of House price and Mortgage Rate Changes</b>				
+20% on house prices and 10% mortgage rates	59.0%	5.4	28.3%	2.7

Source: DKM, 1997

earnings borrowing 90 per cent of a new house price (Case 1) and also for an existing owner on twice average earnings borrowing 75 per cent of a new house price (Case 2).

In all three worked scenarios shown in Table 2.5 projected changes in house prices and mortgage rates have a greater adverse impact on the first time buyer whose borrowing is highly geared. In other words a greater percentage of the first time buyer's net income is expended on mortgage repayments in all three scenarios. In contrast the impact on the existing home-owner borrowing 75 per cent of the new house price is much less severe. This is partly due to the higher mortgage borrowing of the first-time buyer, but also reflects the single income only in Case 1 compared with a joint income in Case 2. The impact of the 20 per cent increase in house prices on affordability is worse for both buyers than the increase in

mortgage interest rates to 8.5 per cent. An increase in the house price to £100,000 has close to the same effect as an increase in interest rates to 10 per cent.

Nevertheless the second and third scenarios demonstrate the affordability crisis faced by the first time buyer in particular if both house prices and mortgage interest rates rise. If mortgage interest rates were to rise to 10 per cent then the net mortgage payments as a percentage of net income demanded of the first time buyer rises to almost 48 per cent, in other words almost half the net income of the borrower. This compares with the current rate of 37 per cent. The worst case scenario for the first time buyer is when house prices rise by 20 per cent and mortgage rates rise to 10 per cent. If this occurs then 59 per cent of the first-time borrowers income will have to be spent to maintain the mortgage. If the latter two

*“A rise in the incidence of mortgage payment default and housing debt threatens the security of home ownership as a tenure”*



scenarios were to occur then without doubt the affordability of home-ownership for a large proportion of first-time buyers would plummet and the incidence of housing debt among those new entrants with highly geared borrowing would quickly rise.

The stark conclusion is that a further rise in interest rates, continued house price increases, an interruption to employment or the political and economic failure of pending European Monetary Union can trigger a significant rise in the incidence of mortgage payment default and housing debt thus threatening the security of home ownership as a tenure and challenging the belief that living in owner occupation is as safe as houses.

#### Summary

The consumption of private housing as both an investment good and a social good over a long period of time distinguishes housing debt from other forms of credit based consumption. Although commonly defined operationally, a more comprehensive meaning can be delivered to the term housing debt by regarding the phenomenon as a cluster concept. This allows us to explore the influence of global and local processes and meso-economic variations on the components that make up the phenomenon of housing debt.

Currently, the Irish private housing market is booming. Although directly related to significant economic growth since 1994, the extent of the housing boom has also been influenced by changes in the availability of mortgage finance since 1993. Current international trends in interest rates have underpinned recent changes in the regime of lending criteria operated between banks and building societies. All credit institutions have significantly increased the size of their residential mortgage asset base since 1993. However, the

sustainability of these changes is questionable in light of two particular dynamics. Firstly, the shift in capitalist economies away from the Fordist economic settlement has demanded increased flexibility of international labour markets. One result has been to increase the vulnerability of many households to financial instability. This directly threatens the capacity of households to maintain payments on larger and longer mortgages.

Secondly, after a period of downward movement, interest rates are now overdue a rise in order to stave off the inflationary pressures being created by economic growth. As the most recent Central Bank Bulletin (Spring 1997) concludes 'the acceleration in the growth of the monetary aggregates and continued signs of overheating in the housing market point to increasing risks for inflation'.

The influence of international finance remains equally important. For example the November 1996 increase in UK interest rates saw sterling rally on the international currency exchanges. The Irish punt briefly fell below parity and Ireland's open market economy was threatened with imported inflation<sup>15</sup> which in turn would increase the pressure for an Irish interest rate rise. The central bank intervened to successfully support the punt and return it to above parity. However this episode demonstrates how vulnerable the Irish punt, a likely single European currency entrant, is to external influence. A quarter point rise in the UK base interest rate demanded the intervention of the Central Bank and left a distinct nervousness in the housing market at the end of 1996.

Post-monetary union currency fluctuations because of sterling could easily become a way of life if the current UK government's monetary policy remains unchanged. Raising interest rates may be the only option remaining to curb inflation in such

circumstances, a development that will have serious repercussions on the costs of home-ownership. In light of the recent expansion in domestic mortgage finance and the conditions under which it has occurred, first time buyers face a potential affordability crisis in maintaining their mortgage repayments and the future capacity for default, arrears and long-term housing debt is now greater than ever.

### Recommendations

- To improve understanding of the nature of housing debt, this report's model of housing debt as a cluster concept capable of supporting different meanings, should be adopted by both the private and public sectors of Irish housing provision and consumption.
- Education and training on what housing debt is and how it is manifested in the housing system should be made available as part of the secondary educational curriculum.
- In a post-Fordist era, and given trends in the changing nature of employment, national housing policy should begin to critically evaluate the continued sustainability of home ownership as the preferred tenure of housing consumption.
- National government, policy-makers and private mortgage finance should recognise their contributory role in delivering a negative affordability gap between the average index of wages and the index of new house prices. Attempts to bridge this gap should not rely upon aspiring home-owners stretching budgets to borrow all they can afford.
- All agents, public and private, associated with the provision and consumption of housing should maintain their preparation's for entry into EMU. With barriers to cross-border lending eliminated, no national control of interest rates and the punt fixed at point-of-entry value with the Euro, the implications for the Irish housing system should be investigated through government commissioned research and publication.

### 3

## THE EXTENT OF DEBT IN THE IRISH HOUSING SYSTEM

### Introduction

**A**CCURATELY ESTIMATING the extent of debt in the Irish housing system is an exercise fraught with difficulty primarily due to variations in the reliability of different, and at times competing sources. For example, most media *guesstimates* of the exact amount of mortgage or rent arrears during times of fiscal crisis are regularly shown at a later date to be incorrect. As figures vary in extent from the cautious to the grossly exaggerated, the most consistent characteristic of *guesstimates* is their inconsistency. Generally it is the over-estimated figure that receives the banner headlines and causes the greatest distress, for example to mortgage holders struggling to maintain payments.

A good example of how competing print media sought to dominate the news agenda occurred in the wake of the Irish interest rate crisis of late 1992, early 1993. This so-called crisis occurred when sterling was rather abruptly dismissed from the exchange rate mechanism (ERM) and subsequently devalued. The knock-on effect in Ireland's open market economy was a considerable increase in interest rates that led, in turn, to increased repayments for the great majority of mortgage holders, and forced a considerable number of them into arrears. One widely reported end-result was an apparent increase in the number of reposessions. However, the lack of accurate data on the actual incidence and extent of default and repossession meant the media became the battleground for claim and counter-claim on the progress of the mortgage crisis. For example, by December 1992 huge rises in reposessions were being reported in some

sections of the media (for example see Evening Press, 09/12/1992). Claims which elsewhere were equally strongly refuted by the banks and building societies (see Cork Examiner 09/12/1992).

The fact that media estimates of the extent of debt in the housing system regularly gain such currency among the public is broadly attributable to the ongoing absence of officially compiled data on arrears and repossession. The dearth of information has in the past been worsened by the unwillingness of building societies to publish their own figures. Fortunately this latter situation no longer prevails. In 1996 the Irish Mortgages and Savers Association (IMSA) published its inaugural annual report containing arrears and repossession figures for 1995. However, the debt figures for other sections of the mortgage finance industry remain generally unknown. Their publication is not forthcoming as yet.

Therefore, in order to provide an account of the extent of debt in Irish housing during the 1990s that holds considerably more than just a semblance of accuracy, this investigation relies on a number of different sources. Using data gathered from Threshold survey research of mortgage finance institutions, local authorities and court proceedings, this section will present a descriptive analysis of the recent trends and developments in the extent of housing debt from the late 1980s until the mid-1990s.

### Bank and Building Society Mortgage Arrears and Reposessions

The economic difficulties experienced by the Irish economy during the mid-1980s heralded a growth in the level of serious arrears among borrowers as

“Accurately estimating the extent of debt in the Irish housing system is an exercise fraught with difficulty.”

the incidence of unemployment began to impact upon home owners (see Figure 3.2). The previous decade had experienced unemployment rates ranging from 5.3 per cent to 7.4 per cent. However during the 1980s unemployment rose to 18 per cent of the labour force(see Blackwell, 1986; Eurostat, 1991). This period of recession was witness to an increase in the number of unemployed households eligible for an income supplement under the provisions of the Supplementary Welfare Allowance (SWA) scheme to aid them with the payment of the interest part of their mortgage repayments, but not arrears (known as mortgage interest supplement – MIS). Yet very little remains known about the full extent of housing debt during this period. Indeed the limited data on MIS claimant numbers reported by the Commission on Social Welfare (1986: 322) was subsequently heavily criticised as simply representing the tip of the iceberg (Blackwell, 1990).

“The sea-change in Irish economic fortunes has hidden the extent of housing debt from public scrutiny.”

(a) Mortgage arrears:

The sea-change in Irish economic fortunes that characterises the present period of economic growth has hidden the extent of housing debt from public scrutiny. Therefore in order to discern the extent of housing debt during the early 1990s, Threshold conducted a mortgage arrears survey of both the building societies and banks during 1994, the results of which are presented in Table 3.1. Immediately noticeable from this table is the very low percentage of retail or clearing bank mortgages that are in arrears relative to building societies. The main reason for this stems from the smaller residential mortgage portfolio held by the banks, together with their policy of lending towards the upper end of the market. Noticeably Threshold’s 1994 survey demonstrated that building society short-term arrears (less than 6 months) had fallen between 1993 and 1994 by 2,188 cases to represent 7 per cent of total accounts. The banks

Table 3.1 Irish Bank's and Building Societies Mortgage Arrears, 1993–1994.								
	March 1993				March 1994			
	Total No. Mortgage A/c's	No. A/c's in Arrears (as % of Total A/c's)	No. A/c's in Short-term Arrears (< or = 5mths)	No. A/c's in Long-term Arrears (> or = 6mths)	Total No. Mortgage A/c's	No. A/c's in Arrears (as % of Total A/c's)	No. A/c's in Short-term Arrears (< or = 5mths)	No. A/c's in Long-term Arrears (> or = 6mths)
Irish Mortgage & Savings Association	n/a	23,245	13,483	9,762	354,474	22,795 (7%)	11,295	11,502
Irish Retail/ Clearing Banks	86,275	1,176 (2%)	685	491	95,526	1081 (1%)	606	473

Note: Irish Mortgage and Savings Association represents the following building societies: Irish Permanent plc, First National Building Society, EBS Building Society, ICS Building Society, Irish Nationwide Building Society, Irish Life Homeloans Ltd., Norwich Irish Building Society. Irish Retail/Clearing Banks include AIB Bank, Bank of Ireland, National Irish Bank, TSB Bank and Ulster Bank.  
Source: Threshold

experienced an equivalent decline of 95 cases to represent 1 per cent of their total mortgage accounts.

These figures would suggest a reversal of the trends of the 1980s were it not for the alarming increase in the number of long-term (greater than 6 months) building society arrears accounts by 1,740 cases. Long-term arrears represented almost half the total number of building society accounts in arrears in 1994. This increase was most probably a direct result of the 1992 interest rate crisis.

Arguably the impact of the 1992 interest rate crisis is continuing to be felt by borrowers and lenders alike. For example, by 1995 the number of building society accounts in arrears had grown to represent 15 per cent of IMSA members' total accounts. In 1996 this figure fell back slightly to 13.7 per cent.

Figure 3.1 displays the percentage of building society arrears accounts in long or short-term categories for 1995. Noticeably the greatest growth since 1994 has occurred in short-term arrears which have risen to almost two-thirds of overall arrears. Long-term arrears persist with over 21 per

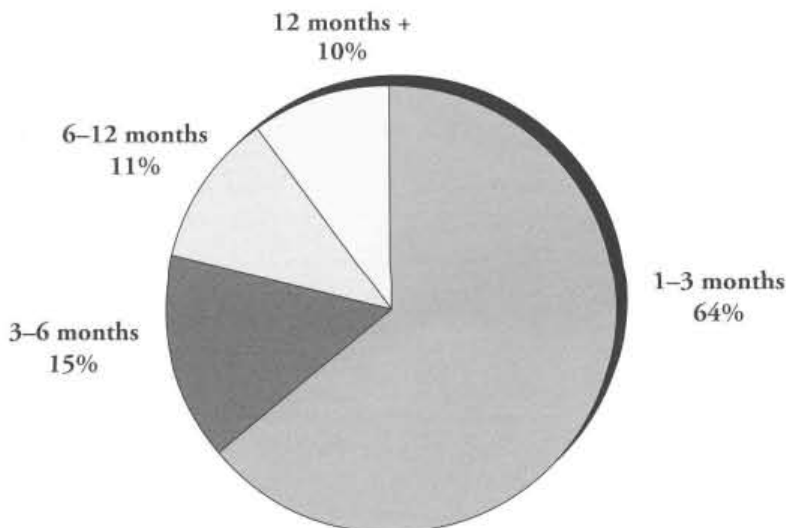
cent of total building society arrears being accounts over six months in default and 10 per cent over twelve months in default. IMSA figures for 1995 and 1996 suggest however that currently arrears present no major threat to the financial stability of building societies. Arrears represented only 0.77 per cent of the total IMSA mortgage portfolio in 1995 dropping to 0.67 per cent in 1996 (IMSA, Annual Report, 1995, 1996).

#### (b) Repossessions:

The incidence of building society and bank repossession since the late 1980s is detailed in Table 3.2. Significantly, the highest rate of repossession by the building societies shown here occurred during recession in 1988 at 256 repossessions. The trend in repossession was downward from there until the interest rate crisis of 1992 which consolidated the rise in repossessions from 188 in 1991 and 180 in 1992. The aftermath of 1992 was a continued upwards trend, with building society repossessions increasing to 205 in 1993 and again to 215 in 1994. Bank repossession also occurred during this period, albeit at a considerably smaller scale.

*“Arguably the impact of the 1992 interest rate crisis is continuing to be felt by borrowers and lenders alike.”*

Figure 3.1 IMSA Mortgage Arrears, 1995, Percentage of Accounts in each Category



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Table 3.2 Irish Bank and Building Society Repossessions, 1988 – 1996

	1988	1989	1990	1991	1992	1993	1994	1995	1996
Irish Mortgage and Savings Association Repossessions	256	111	91	188	180	205	215	193	178
Irish Clearing Banks Repossessions	n/a	n/a	3	2	4	6	4	1	n/a
Number of IMSA Loans Outstanding	142700	147700	15000	157500	172500	(c)200780	(c)229060	257340	286,004
Number of Clearing Banks Loans Outstanding	n/a	n/a	n/a	n/a	n/a	1,194	1,079	n/a	n/a
IMSA Repossessions as a Percentage of Loans	0.17%	0.075%	0.06%	0.05%	0.09%	(c)0.1%	(c)0.09%	0.07%	0.06%
Clearing Banks Repossessions as a Percentage of Loans	n/a	n/a	n/a	n/a	n/a	0.5%	0.3%	n/a	n/a

Note: (c) = estimate

Source: IMSA, Irish Banks Information Service.

After a three year rise, building society repossessions fell back in 1995 to 193, a 10 per cent decline on the previous years figures. This drop-off in the rate of repossession may reflect improvements in the housing market since 1993, however it remains too early to say whether this 10 per cent drop also represents a reversal of the prevailing upward trend and the beginning of a new downward trend, especially as the 1996 repossession rate stands at twice the lowest point of the last downward trend in 1990.

In practice the increase in repossessions since 1990 was due, at the outset at least, to an increase in long-term mortgage arrears<sup>1</sup>. Unfortunately, aside from the results of Threshold's 1994 mortgage arrears survey, the absence of accurate data here prevents us from confirming this assertion directly. Nevertheless, we can confirm an increase in long-term arrears by referring to the number of civil bills for repossession entered in the court system. The issuing of a civil bill represents one element of building societies' arrears

<sup>1</sup> Other factors influencing an increase can include swifter processing by the courts and a more aggressive arrears management by lenders.

“The drop-off in the rate of repossession may reflect improvements in the housing market since 1993.”



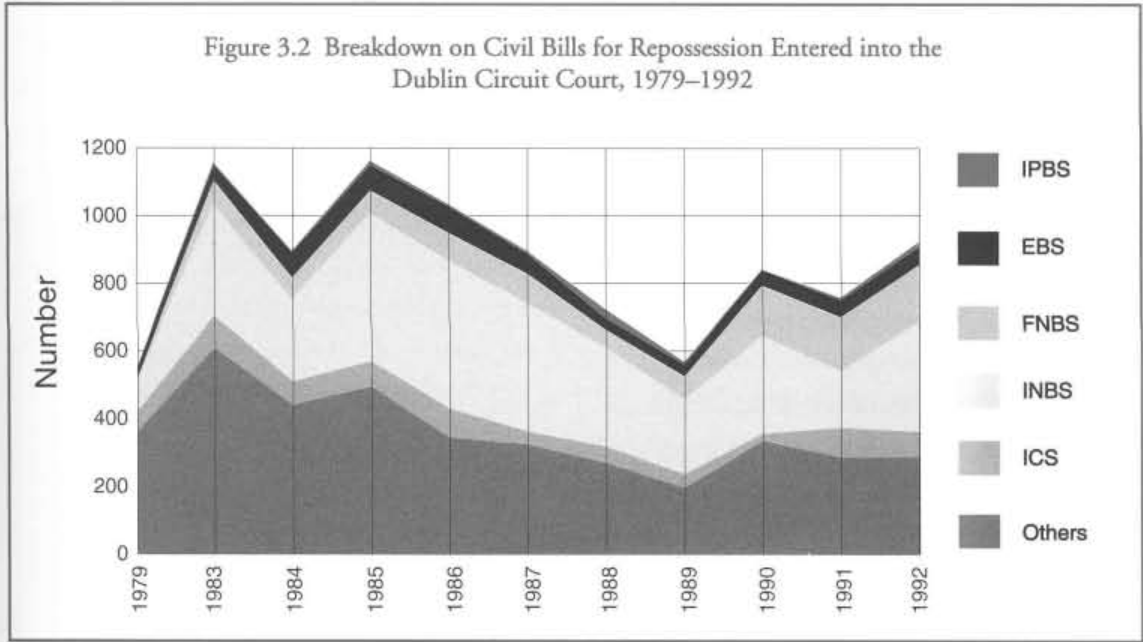
management strategies and are usually issued in cases where arrears are at least in excess of six months.

Figure 3.2 illustrates the total number of civil bills entered in the Dublin District Court between 1979 and 1992 as well as the breakdown of bills issued by different building societies. An overall increase in the number of civil bills entered in the courts since 1989 confirms the increasing trend in long-term building society arrears over this period. From Figure 3.2 we can see how the two largest building societies; the Irish Permanent and the First National were responsible for the majority of civil bills entered. However since the beginning of the 1990s the Irish Nationwide building society has also increased the number of civil bills entered.

It is important to note here that although the number of civil bills entered is a good indicator of the extent of long-term arrears, it is by no means a good indicator of future trends in actual rates of

repossession. For example, despite an increase in civil bills being entered in the Dublin Circuit Court between 1989 and 1990, repossession figures for that period actually dropped from one hundred and eleven to ninety one cases (see Table 3.2). This may possibly be due to the length of time elapsing between a civil bill being entered and a repossession being granted by the court. Taken as such, an increase in the rate of civil bills entered in court in any one year should indicate a rise in the rate of repossession for the following year. Yet the reliability of the rate of civil bills being entered in court to predict future repossession trends is brought into question by the results of Threshold's analysis of Dublin Circuit Court records for 1993. Throughout 1993 a total of seven hundred and fifty two civil bills for repossession were entered in the court. Threshold followed each case from its date of entry in the court's cause book until October 1994, a period of not less than nine months in any one case. The results of these cases are presented in Figure 3.3

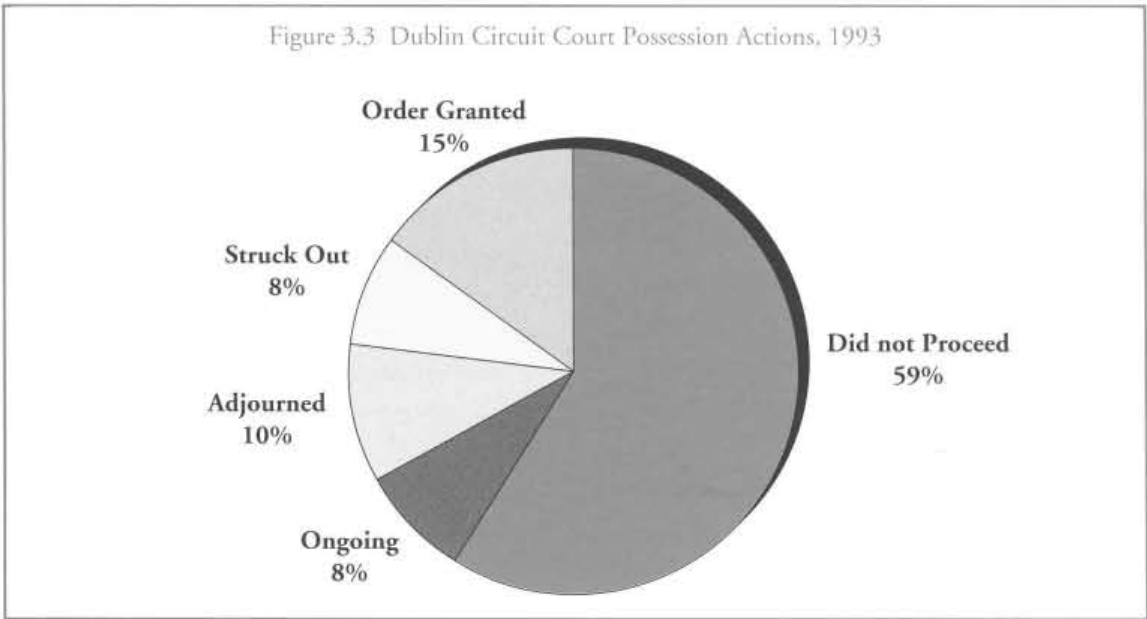
“Increases in long-term arrears are signalled by the number of civil bills for repossession entered in the court system.”



Note: IPBS: Irish Permanent Building Society; EBS: Educational Building Society; FNBS: First National Building Society; INBS: Irish Nationwide Building Society; ICS: Irish Civil Service Building Society; Others include retail and clearing banks in addition to other credit institutions.

Source: 1979 -1985 The Building Industry Bulletin; 1987 - 1992 Paddy O’Gorman, RTE (Sunday Tribune, 10/01/1993)

Figure 3.3 Dublin Circuit Court Possession Actions, 1993



Source: Threshold

“The reliability of the rate of civil bills being entered into court to predict future repossession trends is questionable.”

A total of four hundred and fifty one cases (fifty nine per cent) did not proceed. This occurred for a variety of reasons, the most common being the borrower coming to an arrangement with the lender as a result of the genuine threat of compulsory repossession. Three hundred and one cases were heard in open court. At the end of October 1994, eight per cent were ongoing or not yet resolved (i.e. had been adjourned with new dates listed). Ten per cent of cases had been adjourned generally with liberty to re-enter, (in other words they were now officially off the court list but could be re-instated at any time). A further eight per cent were struck out by the judge and fifteen per cent resulted in orders for possession being made by the court. Seven hundred and fifty two civil bills resulted in one hundred and thirteen orders for possession by the court, from which only forty one execution orders allowing possession resulted. Threshold interview data from the Dublin County Registrars and Sheriffs in 1994 indicated that of the forty one execution orders only twelve repossessions resulted. Put simply, this case-study demonstrated how only approximately two per

cent of all civil bills entered in court in 1993 resulted in actual repossession in 1994.

Perhaps the most important conclusion to be drawn here relates firstly to the inadequacy of arrears management practices that rely exclusively upon the court system, but also to the inability of the court system to successfully produce a result to the mutual benefit of both borrower and lender, a point to which we will return.

The most recent data for 1995 and 1996 indicates a decline in the number of new building society applications for possession orders nationally to five hundred and eighty five. Of a total of 2,725 cases listed for hearing nationally in 1996, forty seven per cent were adjourned by the societies, thirty one per cent were adjourned by the courts, nine per cent were struck out by the courts and thirteen per cent resulted in possession orders being granted. This in turn led to one hundred and seventy eight properties being taken into possession. Of these thirty three per cent were surrendered, ten per cent abandoned and fifty seven per cent had the possession order executed. These figures are presented in more detail in Table 3.3.

Table 3.3 IMSA Arrears: Court Listings and Possessions, 1995 and 1996

	1995		1996	
	Number	%	Number	%
New Applications for Possession Orders	671		585	
<b>Listed for Hearing</b>				
Adjourned by the Societies	1,133	43%	1,284	47%
Adjourned by the Court	933	35%	852	31%
Struck Out	175	7%	233	9%
Possession Orders Granted	413	16%	356	13%
<b>Total Listed</b>	2,654		2,725	
<b>Houses taken into Possession</b>				
1. Properties Surrendered	73	38%	59	33%
2. Properties Abandoned	35	18%	17	10%
3. Possession Orders Executed	85	44%	102	57%
<b>Total Possessed</b>	193		178	

Source: IMSA, Annual Report 1995, 1996.

### Local Authority Mortgage Arrears and Repossessions

Irish tenure patterns are dominated by owner-occupation or home-ownership as it is more commonly referred to. However this sector of the Irish housing system is highly fragmented. Important spatial variations occur both intra and inter-regionally in terms of age, type, size, condition and, importantly, cost of dwellings. Promoted at political level as the most desirable tenure, owner occupation benefits from extensive grant and tax subsidisation aimed at affording even the lowest-income groups a 'rung on the ladder of ownership'.

In parallel to private market provision there exist a number of policies and schemes to assist low-income groups with limited market options to seek home ownership<sup>2</sup>. Similar routes into owner

occupation are available to those local authority tenants willing and able to transfer out of social housing into private ownership<sup>3</sup>. Mortgage finance necessary to support these policies is provided by the Housing Finance Agency (HFA). Established by the Housing Finance Agency Act, 1981 as a self-regulating Plc<sup>4</sup> whose board members are appointed by the Minister for the Environment, the HFA acts as a bank for local authorities, advancing loans for their purposes under the Housing Acts. Previous to June 1989 the Housing Finance Agency made advances to individual borrowers. Since then its procedures have changed and today the HFA makes advances only to local authorities who in turn process individual applicants and administer the mortgage finance. Information on these loans, i.e. arrears, penalty charges etc., is now held by the local authority

“The most recent data indicates a decline in new Building Society applications for possession orders.”

<sup>2</sup> Shared Ownership Schemes, Housing Finance Agency Loans.

<sup>3</sup> Tenant Purchase Schemes.

<sup>4</sup> Public Limited Company.

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administering them, therefore during 1994 Threshold conducted a survey of all local authorities with the objective of discerning the extent of debt among those who held mortgages with local authorities, the results of which are presented in Table 3.4.

A number of significant findings emerged. Firstly, there was a noticeable improvement in

the extent of debt on mortgages held with local authorities. The average number of accounts in arrears as a percentage of total accounts held fell from twenty three per cent in 1993 to eighteen per cent in 1994. Secondly, a concomitant decline in both short and long-term arrears also occurred during this period. Both sets of reported arrears figures fell in number by approximately

Table 3.4 Local Authority Mortgage Arrears, 1993 – 1994

March 1993					March 1994			
	Total No. Mortgage A/c's	No. A/c's in Arrears (as % of Total A/c's)	No. A/c's in Short-term Arrears (< or = 5mths)	No. A/c's in Long-term Arrears (> or = 6mths)	Total No. Mortgage A/c's	No. A/c's in Arrears (as % of Total A/c's)	No. A/c's in Short-term Arrears (< or = 5mths)	No. A/c's in Long-term Arrears (> or = 6mths)
Cavan Co. Council	2,352	565 (24%)	253	222	2,196	450 (20%)	287	163
Donegal Co. Council	3500	n/a	n/a	n/a	3345	n/a	n/a	n/a
Dublin Corporation	9,224 (24%)	2,222	1,545	677	8,828 (24%)	2,115	1,499	616
Dun Loaghaire/Rathdown	n/a	n/a	n/a	n/a	1,573	221 (14%)	192	29
Fingal Co. Council	12,617	1,899 (15%)	1,576	323	3,747	566 (15%)	470	96
Galway Co. Council	3,800	495 (13%)	355	140	3,844	433 (11%)	297	136
Kilkenny Co. Council	3,138	965 (31%)	362	603	2,981	909 (30%)	344	565
Leitrim Co. Council	698	303 (44%)	212	91	660	276 (42%)	183	93
Limerick Corporation	1,779	495 (28%)	428	67	1,792	237 (14%)	188	49
Monaghan Co. Council	2,634	474 (18%)	317	157	2,679	303 (12%)	184	119
Sth. Dublin Co. Council	n/a	n/a	n/a	n/a	7048	1556 (22%)	1290	268
Tipperary North Riding	2,106	124 (6%)	91	33	2,136	141 (7%)	104	37
Tipperary South Riding*	1,556	367 (24%)	285	82	n/a	n/a	n/a	n/a

\*: Figures for December 1993 and December 1994  
Source: Threshold

“The extent of debt on mortgages held with local authorities improved between 1993 and 1994.”

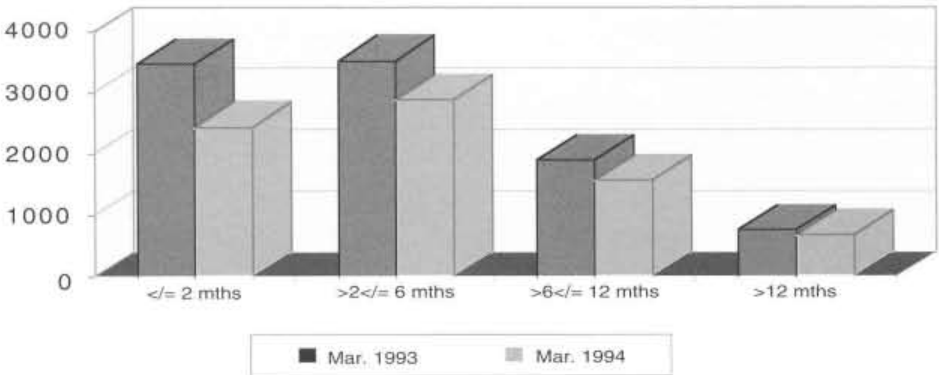
fifty five per cent. Figure 3.4 displays these details. The same 1994 survey enquiries also found that at least sixty repossessions had occurred in 1993 among local authorities and fifty four in 1994. In both years 11 repossession cases resulted in the dwelling reverting to the local authority with the original owner now residing as a tenant.

More recently Threshold conducted a survey in 1996 into the extent of debt on local authority housing loans for the Dublin region. Tables 3.5, 3.6, 3.7 and 3.8 show the extent of debt on mortgages held by all four Dublin local authorities.

Despite an apparent overall reduction in the number of accounts in arrears since 1994, what is immediately noticeable is the actual financial size of the debt on mortgages in arrears in 1996. The greatest amount of arrears is held on Dublin Corporation mortgages, averaging £1.4 million over the three years 1993 to 1995. However the extent of this debt is slowly falling, if only by very minor amounts. The opposite is true of housing debt on Fingal County Council mortgages. Table 3.6 shows how arrears have risen since 1994 by £7,000 to £485,000 in 1995.

Nevertheless it is important to strike a cautionary note here as there exists a significant

Figure 3.4 Local Authority Long and Short-Term Mortgage Arrears 1993–1994



Source: Threshold

Table 3.5 Dublin Corporation Housing Loan Arrears, 1993–1995

Year	Number of Accounts in Arrears	Total Arrears as a % Annual Charge	TOTAL ARREARS
1993	4651	13.67%	£1,328,088.81
1994	4677	13.59%	£1,310,066.39
1995	4121	13.11%	£1,274,382.26

Source: Threshold

Table 3.6 Fingal County Council Housing Loans Arrears, 1994 – 1995

Year	Number of Accounts in Arrears	Arrears as a Percentage of Total for Collection	TOTAL ARREARS
31/12/1994	1934	9.27%	£478,000
31/12/1995	1828	9.65%	£485,000

Source: Threshold

“Disparities between figures reported in 1994 and those reported in 1996 highlight the difficulty in stating the exact extent of debt in Irish housing.”

Table 3.7 Dun Laoghaire/Rathdown Co. Council Housing Loan Arrears,  
1993 – 31/07/1996

YEAR	Shared Ownership Scheme Loans	SDA Loans	Housing Finance Agency Loans	House Purchase Loans	TOTAL ARREARS
1993	£4,104.00	£16,133.00	£00.00	£32,008.00	£52,245.00
1994	£11,339.00	£25,850.00	£00.00	£56,648.00	£93,837.00
1995	£24,023	£21,385.00	£21,424.00	£102,373.00	£169,205.00
31/07/1996	£20,229	£34,067.00	£9,537.00	£85,635.00	£149,468.00

Source: Threshold

Table 3.8 South Dublin County Council Housing Loan Arrears,  
1993 – 30/06/1996

YEAR	Shared Ownership Scheme Loans	SDA Loans	Housing Finance Agency Loans	House Purchase Loans	TOTAL ARREARS
1993	£8,278.91	£167,107.6	£424,877.55	£282,956.95	£883,221.01
1994	£17,953.97	£165,654.52	£483,198.14	£335,490.17	£1,002,296.8
1995	£25,048.23	£135,132.61	£373,765.33	£286,932.38	£820,878.55
30/06/1996	£30,086.13	£108,749.38	£290,232.86	£255,282.76	£684,351.13

Source: Threshold

“The most alarming trend in Dublin local authorities has been the increase in arrears on Shared Ownership Schemes.”

disparity between the number of mortgage accounts in arrears reported for the Dublin authorities in 1994 and those given as in arrears for the 1996 survey. A reasonable explanation may lie in purported changes made to the system of classification and accounting that have occurred between these years, however this disparity highlights once again the extreme difficulty that currently exists in reliably stating the exact extent of debt in Irish housing, irrespective of tenure or mortgage lender.

Tables 3.7 and 3.8 show in more detail the breakdown of debt on mortgages held with Dun Laoghaire/Rathdown and South Dublin County Councils. Whereas arrears in Dun Laoghaire /Rathdown have increased significantly since 1993 by £97,000 to £149,468 in August 1996, arrears in South Dublin County Council have been slightly more volatile increasing first in 1994 and then decreasing to below 1993 levels by June 1996.

Perhaps the most alarming arrears trend in both these local authorities has been the consistent increase since 1993 in arrears on Shared Ownership Scheme loans. The shared ownership scheme aims to provide for households the benefits of home ownership with outgoings which are affordable and significantly less than an ordinary mortgage on an equivalent property. Under the scheme the applicant initially acquires fifty per cent of the equity in a dwelling and rents the remaining equity from the local authority, giving an undertaking to purchase this within twenty five years.

Yet according to O’Connell (1994): “it is debatable how much impact such schemes can realistically have in light of the financial stipulations required of prospective applicants and the length of time it will take to actually become an owner of the property in question”. O’Connell (1994) goes on to argue that “the word on the



ground from many local authority housing officials is that even those applicants who have succeeded in getting approval for the scheme will nevertheless experience significant difficulties in meeting repayments on relatively modest mortgages, and may have even greater difficulty acquiring outstanding equity within 25 years", an argument somewhat borne out by the extent of shared ownership arrears indicated in Tables 3.7 and 3.8. Indeed it can be concluded that current arrears figures on Shared Ownership mortgages ultimately threaten the tenure security of those households resident under this scheme and in housing debt.

Between the four Dublin local authorities the overall value of arrears on housing loans can be estimated to have fallen from £2.9 million in 1994 to £2.75 million in 1995. Significantly, in the first six months of 1996 both South Dublin and Dun Laoghaire County Councils reported housing loans arrears totalling £0.85 million, confirming the persistently high level of arrears held on local authority housing loans. Figure 3.5 displays the relative totals for arrears among the four local authorities.

#### Local Authority Rent Arrears

Debt is not particular to just one tenure in the Irish housing system. Social housing also contains a

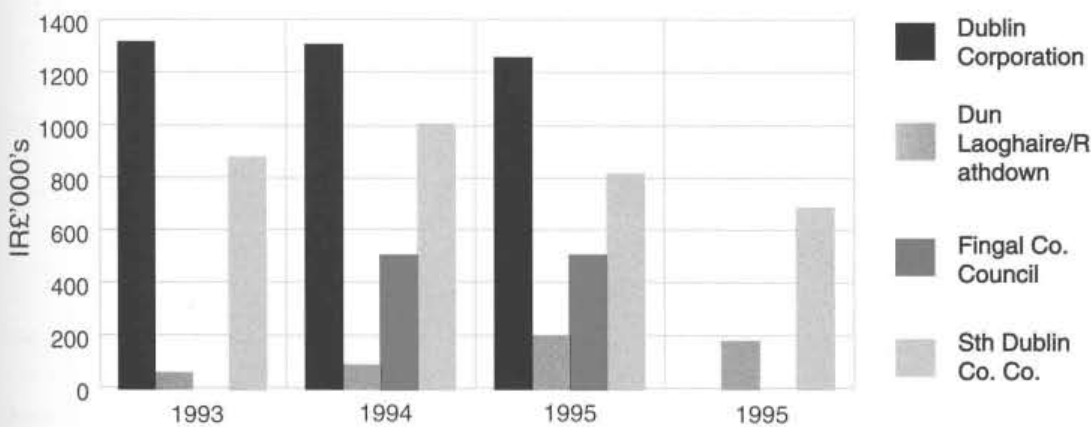
significant level of debt via rent arrears. Despite the operation of a historic differential rents scheme for social housing, most if not all, local authorities have arrears on their rent accounts.

One explanation for this can be found in the fact that up to eighty per cent of tenants in some local authorities are solely reliant upon social welfare benefits as their only source of income. This is one of many features of residualisation affecting this tenure. Other social and structural factors, combined with the low levels of investment in the sector throughout the 1980s, have contributed to the stigma of social housing and ensured that, in many cases, rent arrears have become an historic feature of the tenure. In order to ascertain the extent of debt in social housing Threshold conducted survey research in 1994. Details of the results are presented in Table 3.9.

Notably, the percentage of tenancies in arrears is extremely variable between local authorities. For example, the lowest percentage of tenancies in arrears was reported in Fingal County Council at eleven per cent. Despite being part of the greater Dublin metropolitan region this percentage is significantly lower than the neighbouring local authorities of Dun Laoghaire/Rathdown (twenty seven per cent) and Dublin Corporation (eighty

“Social housing contains a significant level of debt via rent arrears.”

Figure 3.5 Total Housing Loans Arrears for All Dublin Local Authorities, 1993–1996



**As Safe As Houses?** The Nature, Extent and Experience of Debt in the Irish Housing System

Table 3.9 Local Authority Rent Arrears, 1994.

	Number of Tenancies	Percentage of Tenancies in Arrears	Number of tenancies in Arrears of £0 – £300	Number of tenancies in Arrears of £301 – £500	Number of tenancies in Arrears of £501 – £1,000	Number of tenancies in Arrears greater than £1,000.
Arklow Urban District Council	320	19%	43	5	2	0
Bray Urban District Council	1196	29%	334	4	1	3
Cavan Co. Council	691	30%	n/a	n/a	n/a	n/a
Cork Co. Borough Council	9804	39%	3200	257	233	127
Cork Co. Council	1200	34%	n/a	344	40	15
Drogheda Corporation	863	35%	265	7	3	1
Dublin Corporation	31439	81%	20094	2437	1045	1894
Dundalk Urban District Council	1116	45%	417	32	17	4
Dun Loaghaire/Rathdown Co. Council	3276	27%	730	57	45	44
Fingal Co. Council	3400	11%	272	45	20	19
Galway Corporation	2166	67%	1331	91	46	20
Kilkenny Co. Council	1200	73%	578	112	55	22
Limerick Corporation	3272	46%	1351	65	52	32
Limerick Co. Council	1202	83%	114	19	10	7
Listowel Urban District Council	140	36%	50	n/a	n/a	n/a
Louth Co. Council	420	40%	80	60	15	5
Offaly Co. Council	n/a	n/a	n/a	n/a	n/a	n/a
Thurles Urban District Council	243	50%	n/a	10	n/a	n/a
Tipperary. Nth. Riding	750	40%	250	16	13	7
Tipperary Sth Riding	1000	40%	350	25	10	5
Tullamore Urban District Council	n/a	n/a	n/a	n/a	n/a	n/a
Westmeath Co. Council	602	60%	345	9	3	3

“The percentage of tenancies in arrears is extremely variable between local authorities.”

one per cent). However high levels of arrears are not confined to the Dublin region. Galway, Kilkenny, and Limerick local authorities reported sixty seven per cent, seventy three per cent and eighty three per cent of their tenancies in arrears respectively. Despite the regional variations in the incidence of rent arrears, the great majority of tenants were less than £300 in debt. Threshold survey results indicated that eighty one per cent of tenants were in debt of less than £300, nine per cent in debt between £301 and £500, four per cent in debt between £501 and £1,000 and six per cent in debt over £1,000. These details are displayed in Figure 3.6.

#### Summary

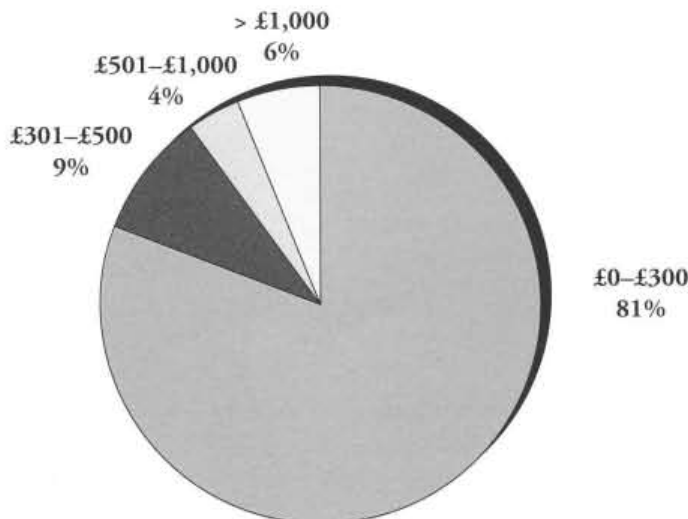
The recent decline in the rate of bank and building society repossessions for 1995 masks an alarming trend in increased long-term arrears since the beginning of the 1990s. Although unreliable in the prediction of future repossession rates, the number of civil bills entered in the court system is a strong indicator of the extent of long-term arrears. However, it is too early to assume the figures for 1995, indicating a significant decline in the

number of building society repossessions and court actions for possession, represent a new downward trend in repossession and arrears similar to that which occurred between 1988 and 1990. 1996 repossession rates are double their 1991 equivalent.

The extent of arrears on mortgages held with local authorities remains alarmingly high, again despite recent improvements. Despite a modest improvement in the extent of arrears on local authority mortgages, as in the private sector, disturbing underlying trends were identified. In particular, increases in default and arrears held in the Dublin metropolitan region among holders of Shared Ownership mortgages threaten the long-term viability and success of this policy support for aspiring low-income home owners.

In sum, the overall success of this section in identifying and analysing recent trends in the extent of housing debt is mitigated against by the absolute dearth of official data on the extent and nature of mortgage arrears and repossession. The continued absence of such information leaves room for speculative guesstimates, whose impact may or may not be beneficial at any one time, but during times of mortgage crisis, as in 1992, can add to the

Figure 3.6 Categories of Reported Local Authority Rent Arrears Cases, 1994



sense of panic felt by many households teetering on the verge of indebtedness.

More importantly, the production of economically and politically sensitive figures cannot be simply left to vested interests. Contradictions and disparities become all too apparent, and despite the publication by the IMSA of their arrears and repossession figures for 1995, their newsworthy nature means it is certainly most worthwhile to approach such data with a certain circumspection. In other words it is worth bearing in mind Ford's (1988: 49) prudent comment that,

'... the ideology and organisational culture of the building societies has historically been one of success and growth. To these dominant concerns have now to be married notions of caution, failure and loss, and these tensions have to be publicly managed so as not to deter those seeking loans or those placing loans for investment. Any tension and conflict generated by these (and other) contrary forces appears to have been resolved in favour of the public face of the societies'.

#### **Recommendations**

- Changes in the extent of mortgage and rent default, arrears and repossessions in the Irish housing system demand accurate and regular measurement and recording. Therefore a unified recording system should now be developed based on data from the following sources: banks, building societies, other mortgage finance and credit institutions, local authorities, the courts, Sheriffs and County Registrars. Ideally data could be collected and published as a statistical series on behalf of the State by either the Department of Environment or the Department of Finance. Co-operation must be sought with those agents capable of supplying this data. However, to ensure the continued reliability of this statistical series appropriate legislative powers to guarantee and enforce compilation

of the data are required. Such powers may not demand new legislation but may possibly be regulated for under current legislation such as the Finance Act or the Consumer Credit Act or indeed via the offices of the Ombudsman for the Credit Institutions or the Director of Consumer Affairs.

- 1996 Threshold survey results demand an immediate investigation into the cause of the significant increase in Shared Ownership mortgage default and arrears. The Housing Finance Agency is the appropriate body to sponsor and fund research into the incidence, extent and experience of housing debt in Shared Ownership Schemes. Research to evaluate the success or failure of the Shared Ownership Scheme in different local authorities should also be conducted with the declared objective of making strategic recommendations at a policy level to tackle and eliminate housing debt on Shared Ownership Schemes.
- A national rent arrears survey of all local authority housing providers should be established in 1997 by central government. This survey should be longitudinal, occurring regularly every two years. Survey objectives should include the quantification of the extent of rent arrears nationally, the identification of intra-regional and inter-regional differences, as well as a critical review of the appropriateness of the differential rents policies operated by local authorities. The current example of Dublin Corporation's rent arrears survey for 1997, funded under the Housing Management Initiative, should be published and made freely available.

## 4

# EXPLAINING THE CAUSES OF HOUSING DEBT

## Introduction

**M**ANY DIFFERENT REASONS may be offered by the individual to explain the incidence of his or her housing debt, yet it is recognisably difficult to identify one overall dominant cause that is both reliable and valid in all circumstances over time. Changing economic conditions affect housing markets, consumer and mortgage credit and vary both over time and space. Therefore, as was illustrated by the model of housing debt as a cluster concept in Section 2, it is important to recognise that the causes of housing debt are complex. This is not to suggest that research has failed to deliver a comprehensive explanation of the phenomenon. Instead, it is to argue that elaborate statements regarding a dominant cause of housing debt at any one time (for example rising interest rates) remain intricate and abstract. In other words a single overall determinant remains difficult to identify and agree upon, yet despite regional and national variations, general observations regarding the causes of housing debt have been made by British and other European research.

Equally important to any explanation are the different perceptions of the causes of housing debt held between individuals and institutions. Perceived causes are especially important as the attitudes of both individuals and institutions influence their respective debt management practices. Arguably a conflict can exist between popular societal and institutional perceptions as to what are the causes of housing debt and the actual reality of individual or household reasons for indebtedness. The purpose of this section is, therefore, to highlight recognised causes of

housing debt but also to explore the differences between perceptions of the causes of housing debt among building societies, banks and local authorities, as well as a sample of households in housing debt.

## Established Causes of Housing Debt

Despite the difficulties apparent in attempts to pinpoint an overall, dominant cause for housing debt, there exists a large body of British and other European evidence which may be drawn upon to advance our understanding of the phenomenon (see, for example, Ford, 1992, 1993; Jenkinson, 1992; Kaatz et al, 1992; Kinson and Robertson 1992; Land, 1983; Mennell, 1992; Morris, 1984, Parker, 1987).

In contrast very little research on housing debt issues has occurred in Ireland to date. Unlike her European neighbours, and despite a series of housing policy initiatives that elsewhere might easily prompt considerable monitoring of implementation and research on outcomes and outputs, Ireland has been slow to recognise and to understand the phenomenon of housing debt. Examples of such policies include the Tenant Purchase Scheme and the Shared Ownership Scheme. Both these policies have provided routes into home ownership for what are arguably financially vulnerable households, while at the same time changing the tenure patterns of housing areas. And despite this report's identification of an increasing trend in mortgage arrears on Shared Ownership Schemes (see Section 3) there remains an absence of commissioned research focused on the causes of housing debt affecting government housing policy initiatives.

*“The causes of housing debt are complex”*

By contrast the sheer popularity of the Right To Buy policy<sup>1</sup> among tenants in Britain demanded a considerable research focus be brought to changes in housing tenure. As the privatisation of social housing, begun in earnest in 1979, increased levels of owner occupation throughout the late 1980s, the identification of causes of housing debt visited upon low and medium-income home-owners worst affected by the British recessions in the early 1980s and again in the early 1990s became a major research concern. For example British building society research (B.S.A., 1985: 21) into the causes of mortgage arrears during the 1980s found that:

1. The main causes of mortgage arrears are unemployment, matrimonial problems and financial mismanagement.
2. In the long-term, the extension of building society lending criteria and competition in the mortgage market may well have an effect on the levels of arrears and possessions.
3. Changes in the levels of arrears and repossessions are influenced by unemployment and changes in house prices.

The growth of house repossession in Britain during the recession of the early 1980s influenced other research to focus on the explanation for the increase. For example Southwell's (1985: 26) research highlights the limited number of categories used by building societies to explain the reason for a repossession. The categories were:

1. 'Wilful': reported as the most common cause of repossession, the term was used when borrowers refused to meet their mortgage commitments although they were, supposedly, in a financial position to do so.

2. 'Failure to Cope': indicated that the borrower was unable to meet his/her commitments. This may have been due to a decline in income or an increase in other financial commitments, however the research found that the reason behind an inability to make mortgage repayments was not probed by building societies at the time.
3. 'Marital Problems': the research observed that marital problems may be underestimated as a cause of mortgage arrears and repossessions.
4. 'Unemployment': a strong suggestion emerged from this research that unemployment was not always the sole cause of repossessions. This was mainly due to the welfare benefit system supports for unemployed home-owners at the time.

Other contemporaneous research into the causes of mortgage default used the following categories as possible explanations (Doling, Karn and Stafford, 1985: 37):

1. Fluctuations in household income;
2. Marriage breakdown;
3. Unemployment;
4. Budget stretch.

The final category of budget stretch remains an important finding. Budget stretch relates to minor drops in household income which may lead to difficulty in maintaining a fixed outlay on a mortgage. In other words the householder's room for manoeuvre is more limited when that part of his/her income left over after making mortgage repayments is small. Increased budget stretch characterised a majority of borrower profiles during the late 1980s British housing boom. The

*"Budget stretch is an important cause of housing debt."*

<sup>1</sup> First introduced as part of the Conservative Party election manifesto in 1979, the Right to Buy (RTB) policy offered considerable subsidies to sitting council tenants to buy their dwelling off the local council. The policy became extremely popular not least because of the generous terms of the subsidies offered. Extended twice beyond its original shelf-life, the RTB is regarded as the pioneer policy in the project of welfare state privatisation pursued by successive Conservative governments in Britain since 1979.



margin for manoeuvre continued to decline into the 1990s and upon the housing market slump in the early 1990s, was cited as a major explanation for increased housing debt. The main reasons why this margin had decreased during the period were identified as:

1. An increase in lower-income purchasers (i.e. council tenants purchasing under the 'Right-to-Buy' programme).
2. House price cycles and the 'rush to buy'.
3. The easy availability of instalment credit.
4. Debt/equity imbalance (i.e. negative equity).

Other factors which can upset 'tight' household budgets and so lead to mortgage arrears were also identified. They include:

1. Prolonged period of industrial unrest such as strikes.
2. Bereavement.
3. Unexpected and expected increases in non-housing expenditure, for example, due to pregnancy.
4. An increase in housing expenditure, for instance, on essential repairs.
5. Sickness or accidents.
6. Inability to manage financial affairs.

(for further discussion of the British housing experience of the late 1980s and early 1990s see Birchall, 1992; Forrest and Murie, 1994; Dorling and Cornford, 1995).

By the beginning of the 1990s European housing research had identified how trends in housing debt were changing, and how the order of causative factors associated with the onset of housing debt also varied temporally and spatially. By returning to our model of housing debt as a cluster concept, outlined in Section 2, we can illustrate how the complex causes of housing debt established by this research inter-relate.

Structural processes such as unemployment and fluctuations in the labour market were identified as key factors. Changes in national

housing policy also has a significant influence. Variables such as the lending regimes of banks and building societies and the availability of mortgage finance at different times, in different regions at changing rates of interest were also important. The components of housing debt illustrated how causes of indebtedness at the household level are more idiosyncratic and include pregnancy, bereavement and marriage breakdown. Additionally, research also confirmed that each individual case of housing debt – whether it be initial default on mortgage or rent payments, long-term mortgage and rent arrears or threatened repossession and eviction – will be different. In general we can conclude there are many similar causes for indebtedness between individual cases but variations over time in individual life chances and stage-in-life-cycle, as well as changes in the housing market, housing finance and housing policy, means identifying one dominant causative variable, consistently and equally influential over time remains difficult.

### The Perception of Debt

A significant consequence of the above conclusion is that perceived reasons for housing debt can become equally important, in some cases even more influential, than actual identifiable reasons at any one time (as argued in section 2, society contains different understandings of the phenomenon of housing debt which results in multifarious meaning being given to the term, and in turn influences how actors and agencies perceive housing debt). A host of negative perceptions for indebtedness can be identified in Irish society at large. Historically, perhaps the most popular perception of housing debt is that mortgage and rent arrears arise from some form of financial mismanagement. Financial mismanagement is regularly explained as an 'inability to cope', which is, in turn, then related to a person's so-called social pathology.

*“Identifying one dominant cause of housing debt equally influential over time remains difficult”*

Arguably this perception is primarily based on the simplified and taken-for-granted belief that communities, households and individuals in housing debt owe their 'inability to cope' to their own social pathology. An equally prevalent belief is that social pathologies, for example personal addictions, become manifest in the behaviour of those who find the process of indebtedness spiralling beyond their control. Admittedly the initial onset of the process of indebtedness and the consequent spectre of possible homelessness can trigger panic and increased stress in individuals lives, visiting 'disharmony' to family and household life. The difficulties of balancing a stretched household budget and meeting the demands of utility payments all add further to such disharmony. Increase in the occurrence of mental illness, domestic violence and addictions, for example alcoholism and gambling can be popularly regarded as the 'inevitable' expressions of such disharmony in peoples lives. These so-called social pathologies can then be taken as proof that certain sections of society, usually the poor and those on the margins, possess an inherent inability to cope with modern life. Either through mis-handling their household budgets, or not prioritising their budgets responsibly, they are, in effect, regarded as 'masters of their own fate' having 'brought the problem onto themselves'. Their only route out of this impoverishment seems equally historic; the old adage to 'pull themselves up by their own bootstraps'.

This stereotype of the urban poor in particular is historic in its formation and resonance. However a concomitant ideological belief that social pathologies are the cause of poverty (however measured) arguably remains hegemonic in Irish society. Additionally Irish societal belief in the capacity of the welfare system to provide an adequate safety net compounds the complacency attached to official policy and practice on arrears and other aspects of housing debt. This is despite

evidence that social welfare allowance payments for rent or mortgage interest are considered both difficult to secure and unlikely to reduce a recipients arrears in the long-run (see Mills, 1989). Notwithstanding the popularity of simple perceptions regarding the influence of social pathologies, there remain a plethora of different individual reasons that may trigger the onset of housing debt. So much so that where multiple factors are involved it may be impossible even for the person in debt to identify the one main factor that has led to arrears and the onset of indebtedness (Davis and Dhooze, 1993). A gulf can be said to exist between populist perceptions and explanations of the cause of housing debt and the *actualité*. The following seeks to illustrate the extent of this difference.

### Perceived Causes of Housing Debt

For the purposes of this report, sixty families experiencing housing debt were surveyed by interview questionnaire in 1995. The objective of this survey was to compile a hierarchical list of the perceived causes of each particular families' indebtedness. Perceived causes identified by this survey were then compared to those identified in 1994 by an analysis of thirty Threshold housing debt case files and thirty Money Advice and Budgeting Service case files. In addition, local authorities and mortgage lending institutions were interviewed and asked to identify what they perceived the causative variables for the onset of housing debt to be. The key objective was to illustrate the contrast between the causative factors perceived by indebted families and those perceived by institutions.

#### (a) Household perceptions of the cause of housing debt:

An important qualification on the survey sample was that each of the sixty families included were experiencing some form of multiple debt and not

“There are a plethora of different individual reasons that may trigger the onset of housing debt”

solely housing debt. The effects of multiple debt on family life were detailed by the Combat Poverty Agency in the 1980s (Daly and Walsh, 1988), however it is worth noting the extent of multiple debt reported in the 1990s. Figure 4.1 below details the extent of multiple debt among 478 families who had approached a Money Advice and Budgeting Service in Dublin between January 1994 and April 1995. As can clearly be seen, the majority of indebtedness was to credit institutions, utility providers, credit unions, local authorities and money-lenders. Between them the 478 families owed a total over half a million pounds (IR£574,095) to these creditors.

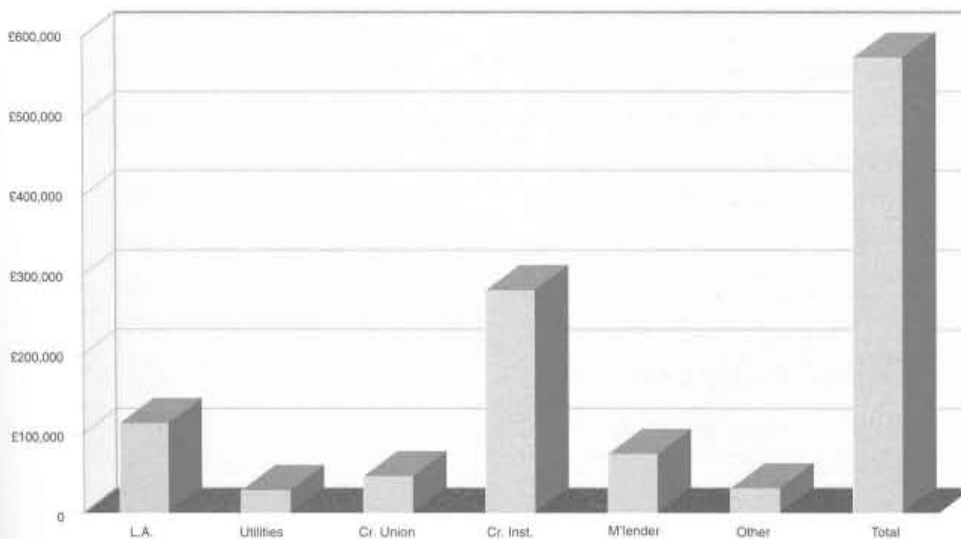
Threshold survey results of the perceived causes of household indebtedness among sixty families are presented in Table 4.1 overleaf. Significantly low-income, unemployment, dependent children and illness are perceived as the primary causes of housing debt. Personal addictions are recognised, but to a much smaller

extent. Importantly, of the heads of household's who participated in the survey eighty per cent were women. This figure can be taken to represent the enduring strength of gender divisions over responsibility for managing the household budget in Irish society.

What indebted households perceived as causes of housing debt are further illustrated by evidence from both Threshold and M.A.B.S.<sup>2</sup> case-work files on the phenomenon (see Table 4.2). An examination of individual case files allowed the number and variation of factors identified as directly causative of client's housing debt to be compiled. Significant differences emerged between the percentage levels of reported causes of housing debt among the M.A.B.S. and Threshold case files for 1994. These differences are attributable to the distinct advice services offered by both organisations. Money Advice and Budgeting Services are directly targeted at those communities affected by low-incomes. Hence the high

*“Among sixty families surveyed, low income, unemployment, dependent children and illness were perceived as the primary causes of housing debt.”*

Figure 4.1 The Extent of Multiple Debt Among 478 Dublin Families, Jan. '94-Apr. '95



Source: M.A.B.S.

<sup>2</sup> Money Advice and Budgeting Service

**As Safe As Houses?** The Nature, Extent and Experience of Debt in the Irish Housing System

Table 4.1 Perceived Causes of Housing Debt Among Indebted Households, 1995

Perceived Causes of Housing Debt	Percentage
Multiple Debts	100%
Low Income/Unemployment	93%
Dependent Children	80%
Mental Illness	43%
Ill Health	33%
Family Events	13%
Personal Addictions	10%
Business Failure	7%

Source: Threshold

Table 4.2 Identified Causes of Housing Debt Among Clients, 1994

Identified Causes of Housing Debt	Threshold Case Files	M.A.B.S Case Files
Dependent Children	63%	80%
Marital Problems	23%	43%
Multiple Debts	13%	100%
Business Failure	13%	7%
Low Income	10%	93%
Unemployment	10%	3%
Ill Health/Mental Illness	7%	33%
Loan to pay outstanding arrears	7%	10%
Personal Addiction	3%	10%
Gambling	3%	n/a
Bereavement	3%	10%
Incarceration	3%	n/a
Family Event (birthday, baptism, wedding, religious occasions)	n/a	3%
Legal Costs	3%	n/a

Source: Threshold and M.A.B.S

percentage incidence of low-income as a reported cause among M.A.B.S case files. Threshold's advice service, on the other hand, is user-driven and provides a housing advice service to all members of

the public regardless of income, location or tenure. In many cases it is Threshold's experience that having received housing debt advice many service users will then proceed to handle their housing

“A composite factor acting as the trigger for the onset of housing debt can be developed on the basis of research findings in Tables 4.1 and 4.2.”

debt themselves and will only contact Threshold again for clarification or additional information.

A composite factor, which acts as the trigger for the onset of housing debt can be developed on the basis of Tables 4.1 and 4.2. The type of debt experienced is extremely variable and may range from initial rent or mortgage default, through to short, medium or long-term arrears, ultimately leading to repossession or eviction and the possibility of homelessness. Although the above evidence is not comprehensive or sophisticated enough to illuminate the causative variables determining what *type* of housing debt is experienced, the case file details suggest the following model scenario as a trigger for housing debt. That is; a household, with any number of dependent children, living on a low-income, with over-extended credit leading to multiple debt, whose adult heads are experiencing marital problems are more likely than others to be *en route* to mortgage or rent default and arrears. Other variables identified as routes into housing debt include mental illness, ill health, unemployment and business failure. These latter variables are arguably more influential in extending the period of housing indebtedness once the original default has occurred. In particular long-term unemployment and/or ill health can have a dramatic influence over a household's ability to manage the extent and duration of their default.

(b) Institutional perceptions of the cause of housing debt:

Responses to Threshold on behalf of both local authorities and the mortgage lending institutions

indicated significant differences in perception between what institutions accept as valid causes of housing debt and what survey respondents considered to be causative factors. Institutional perceptions of housing debt were noticeably less differentiated and more orthodox. They reflected a belief that default and arrears are generally the result of one single event or change in the circumstances of households.

Local Authorities: see section 7.

Mortgage Lenders:

Threshold has found that the perceived reasons for housing debt varies among mortgage lenders on the basis of whether the lender was a bank or a building society. However, as Table 4.3 shows, there were a number of shared perceptions.

Overall mortgage lenders emphasised financial mismanagement by borrowers as the pathway into housing debt. Borrower's financial mismanagement was displayed through inconsistent and irregular repayments and was considered to be associated with an 'inability or unwillingness to cope'. Marital breakdown was considered a major cause of housing debt, and unemployment was perceived as the third most likely cause of housing debt.

Significantly these findings concur with the only previous Irish research undertaken in this area during the late 1980s and early 1990s (see Murphy, L. 1994). Murphy (1994) held interviews with the senior managers of eight of the largest building societies operating in Ireland in 1987 to ascertain what they regarded as the main causes of

“Overall mortgage lenders emphasised financial mismanagement by borrowers as the pathway into housing debt.”

Table 4.3 Mortgage Lender's Perception of the Main Causes of Housing Debt, 1994
1. Financial Mismanagement on the part of the borrower
2. Marital Breakdown
3. Unemployment

Source: Threshold

arrears and housing debt. At that time these societies accounted for 99 per cent of the assets of the movement as a whole. Murphy's (1994) findings, presented in Table 4.4, augment Threshold's and indeed are supported by other international research findings (see, for example, BSA, 1985: 39). Significantly, the identification of specifically 'Irish diseases' by the building societies highlights their strong perception of arrears as a pathological problem (Murphy, L. 1994: 188).

Despite the identification by both Threshold and Murphy (1994) of unemployment as an accepted cause of default and arrears, mortgage lenders are nevertheless generally unaware of the number of their borrowers in receipt of Mortgage Interest Supplement (MIS) under the supplementary welfare allowance (SWA) scheme. Threshold's 1994 survey results revealed that of the total 450,000 mortgages held by banks and building societies only eighteen cases of MIS had been specifically identified by lending institutions. Although mortgage interest supplement payments have grown in extent from £0.9 million in 1989 to £9.7 million in 1995, lenders remain generally ignorant of the number of their borrowers in receipt of this welfare benefit. This rather alarming finding holds significant implications for the nature of arrears management practised by mortgage lenders and the ability of borrowers to meet the forbearance agreements entered into with the lender, a point which will be discussed further in section 5. Details of the number of MIS cases

and their average cost for each health board area are given in Table 4.5.

The lack of awareness of borrowers in receipt of MIS may be explained by the Department of Social Welfare practice of not formally informing the lender when a borrower becomes a recipient of MIS upon unemployment. However it may also reflect lending institutions' perception of unemployment as a minor cause of arrears. This assertion concurs with Murphy, L. (1994) who found that among the smaller societies in particular, unemployment was regarded as a minor cause of arrears.

Importantly none of the mortgage lenders surveyed perceived the number of dependent children and the related occurrence of family events as a causative factor leading to either default or arrears on mortgage repayments. This finding is of particular concern when the costs of child rearing to the household budget are considered. Research has demonstrated that many low income families feel they have no option but to resort to borrowing money in order to pay for costs associated with their children (see Shanks, *forthcoming*). These costs range from expenditures on the basic necessities such as clothing, footwear and food to include additional expenditures on educational needs and religious 'rites of passage' i.e. communion and confirmation (Daly and Walsh, 1988). In conclusion, such attitudes are significant since the societies' perceptions of the main causes of arrears affects their attitudes towards defaulters (Ford, 1988).

“The identification of specifically ‘Irish diseases’ by the building societies highlights their strong perception of arrears as a pathological problem”

Table 4.4: Main Causes of Arrears Identified by Building Societies, 1987
1. Marital Breakdown
2. Unemployment
3. Financial Mismanagement on the part of the borrower
4. ‘Irish diseases’ (drink, gambling etc.)

Source: Murphy, L. 1994 (Note: Interviewees declined to indicate the relative importance of the above causes of arrears)



Table 4.5 SWA Mortgage Interest Supplement: Number of cases and average expenditure per case for all Health Boards, 1994 – 1996.

	1994		1995		1996	
Health Board	No. Cases	Average Expenditure/Case, £	No. Cases	Average Expenditure/Case, £	No. Cases (Aug. 1996)	Average Expen/Case £ Estimated
Eastern	7,850	617.3	7,762	690.5	6,676	830.4
Midland	365	534.2	398	577.8	342	647.4
Mid-Western	1,010	473.2	985	527.9	772	539.3
North-Eastern	1,254	618	1,329	654.6	1,178	729.9
North-Western	365	534.2	398	1,407	n/a	n/a
South-Eastern	1,054	484.8	1,048	534.3	4,111	595.8
Southern	2,076	570.3	1,968	406.5	956	459.5
Western	1,549	542.9	1,444	595.1	1,276	696

Source: Department of Social Welfare, SWA Section.

### Summary

Changing economic conditions affecting housing markets and consumer and mortgage credit ensures the causes of housing debt vary both temporally and spatially. Despite the paucity of Irish research in this area, British and other European work has successfully identified a diversity of causes for mortgage default and arrears. However a single overall determinant remains difficult to identify and agree upon. Yet despite regional and national variations general observations regarding the causes of housing debt have been made.

Different perceptions of both housing debt and its causes remains important to explanations of how lending institutions and individuals react to debt. Threshold's research illustrates that significant differences exist between the perceived causes of different actors and groups. Analysis of case-files highlighted the heterogeneity of factors

identified as causative by families experiencing default. A composite factor acting as a trigger for the onset of default was developed from research enquires. The household *en route* to default typically display one or all of the following: (a) a number of dependent children (b) low-income (c) over-extended credit leading to multiple debt (d) family/marital problems.

In contrast Threshold research has shown lending institutions continue to hold a more limited and fixed perception of the causes of default and housing debt. Marital breakdown and unemployment figure as perceived causes, while the number of dependent children or child-related expenditures do not. Financial mismanagement on behalf of the borrower is a strong component of lender's perceptions. However lending institutions continue to regard financial mismanagement as the result of social pathologies, such as the so-called

'Irish diseases' of drink and gambling etc. Such attitudes are significant as perceptions of the causes of housing debt affects lending institutions' attitudes towards defaulters.

#### Recommendations

- Arrears managers in banks, building societies and local authorities should recognise that no one overall dominate cause of housing debt, reliable and valid over time, can be identified in Irish society. Irish arrears managers should learn from other European experience that housing debt is multi-causative and complex i.e. related to income, employment, health and stage-in-life-cycle.
- To ensure mutually workable and successful solutions are proposed to deal with housing debt, the causes of housing debt should be viewed from the individual borrower's perspective as much as from the institutional perspective of financial loss and bad debt.
- Societal perception of debt and its causes remain important due to the influence they hold over attitudes towards defaulters. The perception of debt being caused by financial mismanagement due to the so-called social pathology (i.e. 'Irish diseases') of particular borrowers and social groups should be no longer acceptable.
- The exact cause of debt should be fully established by agreement between lender and borrower. Borrowers should not be categorised as good or bad debtors simply based upon some so-called social pathology.
- A research programme into the causes of housing debt for different categories of borrowers should now be established by government on the basis of Threshold findings that the household *en route* to default typically display one or all of the following (i) a number of dependent children (ii) low-income (iii) over-extended credit leading to multiple debt (iv) family/marital problems. The current routeways into housing debt for all categories of borrowers must be identified so that preventative policies and practices can be developed and implemented.

## 5

# DEALING WITH DEBT: INSTITUTIONAL MORTGAGE ARREARS MANAGEMENT AND PRIVATE SOLUTIONS

### Introduction

STRATEGIES TO MANAGE arrears adopted by mortgage lenders and private individuals are among the primary influences over the possible resolution of housing debt. Accordingly, the forbearance procedures for mortgage default and arrears conducted by building societies and banks can be analysed on the basis of their flexibility and number. As argued elsewhere, each case of housing debt can be considered unique in the sum of its detail and cause. Therefore lenders' arrears management strategies should be sophisticated and flexible enough to respond adequately to all cases of housing debt while also contributing positively to their resolution. However, despite an increasing awareness of the effects of consumer debt among lending institutions, this principle has yet to be fully incorporated into forbearance procedures practised by the majority of lenders.

An individual's private response to mortgage default is perhaps equally important to the final resolution of debt as lenders' arrears management strategies. Unlike many other difficulties households may have to deal with at various stages of the domestic cycle, mortgage default is a problem that is not only of direct concern to the household itself but also to an outside party, namely the lender (Davis and Dhooge, 1993: 65). However aware of this most borrowers are, they will generally seek to put off contact with the lender for as long as possible and attempt to resolve the default by their own means. Threshold's 1994 research findings, confirmed by the Money Advice and Budgeting Services (M.A.B.S), illustrated the rarity of an occasion when a borrower contacts his

or her creditor pre-debt. M.A.B.S reported that it was commonplace for arrears to be escalating out of control before contact is made by either party.

Private solutions developed and adopted by the defaulting household are commonly based on the amount of resources the household can mobilise in as short a time as possible. Nevertheless if private solutions are of limited success the borrower may still hesitate to face up to the problem and contact the lender. Although traditionally the onus is very much on the borrower to take the initiative and contact the lender (Doling et al 1985: 78), this practice is also changing as the more innovative lenders develop systems of early contact with defaulting borrowers.

The remainder of this section examines the nature of lenders' established arrears management procedures and presents the results of Threshold enquires into contemporary changes in practice. While seeking to illustrate reasons why innovation in arrears management practice does and does not occur, this section will also consider the effect of management practices on mortgage default. In addition the need for a code of best practice in mortgage arrears management and the impact of the Consumer Credit Act, 1995 will be discussed. Finally this section concentrates on detailing the strategies people adopt at a domestic level to deal with arrears and how living with debt effects the household's overall quality of life.

### Mortgage Arrears Management – established procedures

During the period of building society expansion in the 1980s a number of similar but limited practices

*“Mortgage default is a problem that is not only of direct concern to the household itself but also to an outside party, namely the lender”*

used to identify and deal with arrears were adopted on an industry -wide basis. Research highlighted the inflexibility of these arrears management practices and noted their innate conservatism (Murphy, L. 1994). The rigorous application by lenders of homogenous management practices betrayed a lack of understanding and awareness of the heterogeneity of arrears cases. From interviews with arrears managers Murphy, L. (1994: 189) recorded the procedures adopted in a standard case of an unresponsive borrower as follows:

‘Payments are computerised. Two months in arrears and an automatic notice is sent out. After three months a personal letter is sent out. After that it depends on the individual case. If the person doesn’t respond after three months it’s into the legal cycle. After six months a civil bill is issued. [We] go to court, the judge gives a stay of execution for six to eight months and after eighteen months we repossess the house. That’s if they don’t respond and there are a lot who don’t respond’

Murphy, L. (1994: 189) also confirmed that building societies responded to arrears by adopting one of a small number of forbearance arrangements, as set out in Table 5.1.

The restructuring of repayments was the main mechanism used by lenders to deal with arrears. This restructuring simply took the form of increasing normal payments to include an extra amount to clear the arrears. However the efficacy

of such forbearance arrangements depends upon whether or not households are capable of maintaining their normal repayments and more. Indeed the appropriateness of the level of repayments requested must be questioned as in many cases it is likely to lead to further default (see Ford, 1985). Only in certain circumstances, such as illness, were lenders prepared to place a moratorium on repayments for one month. In the case of a borrower being made redundant lenders would occasionally freeze interest payments for one or two months. However these forbearance arrangements were entered into when it was clear that only a temporary reduction in the borrower’s income had occurred. It was considered ‘questionable’ whether established forbearance arrangements offered any assistance to defaulting householders likely to experience long-term problems (Murphy, L. 1994: 189).

The extent to which lenders actively questioned the influence of their arrears management practices on a borrower’s indebtedness remained limited throughout this period. Notwithstanding the establishment and operation of specialised arrears departments by a small number of lenders<sup>1</sup>, only rarely did innovation of any consequence occur. The primary function of the arrears departments was to contact households in arrears and agree a forbearance arrangement. All but one of the lenders operating such a department used written communication –

“In general, building societies respond to arrears by adopting one of a small number of forbearance arrangements.”

Table 5.1 Building Society Forbearance Arrangements

<i>Primary Arrangement</i>
1. Restructure repayments (normal payments plus extra amount to clear arrears)
<i>Secondary Arrangements (in special circumstances only)</i>
2. Moratorium on repayments for one or two months
3. Freeze interest payments for a couple of months

Source: Murphy, L. (1994)

<sup>1</sup> Irish Permanent, First National, Educational, Irish Civil Service and Irish Mutual building societies.

often computerised letters – to communicate with defaulting borrowers, despite the industry's awareness that this manner of communication is unlikely to attract the borrower into an early response. Indeed as Ford (1988: 42) argues "...in at least a proportion of arrears cases the early management process is likely to exacerbate arrears and so increase the chance of legal proceedings and reduce the chance of the borrower remaining a home owner".

Furthermore, penalties for default and arrears imposed by the lenders can sometimes be quite crippling and can increase people's debt layer by layer. In December 1992 the different policies on fines between lenders became subject to considerable media criticism when it emerged that:

1. The First National building society did not impose fines;
2. The EBS building society did so only after the first year of uncleared arrears;
3. The ICS building society imposed a fine of 0.5% per month on what was owed;
4. Irish Life imposed a 14% fine on amounts outstanding;
5. The Irish Permanent imposed charges at 3% above the standard interest rate at the time<sup>4</sup> (Irish Press, 10/12/1992).

Another example of the impact of penalty fines occurred during October 1994, when the Dublin Circuit Court heard a motion for possession against a couple who borrowed £8,200 from a building society in 1974 and still owed more than £10,000 on their mortgage twenty years later, despite having paid back nearly £24,000. A motion for possession was being sought against the couple who, it was claimed, owed thirty three monthly repayments of £102 plus penalties, totalling £3,484 arrears. In their defence the court heard that since taking out the mortgage the couple had paid £23,638 in interest, penalties and

legal fees and together with the current arrears, were still indebted to over £10,000. Total payments made, together with the amount outstanding, came to £35,000, more than four times the amount borrowed originally.

### Mortgage Arrears Management – changes in procedures

The early 1990s heralded a period of consolidation for Irish mortgage lenders who were witness to the growing problems of arrears and repossession in the British market. Whether or not this can be said to have influenced decision-making, a number of changes in arrears management began to occur. In particular the management of arrears became increasingly personalised.

The original 'innovator' in the Irish building societies movement was one of the smaller societies; the Irish Civil Service (ICS). Its initiative was to cease communicating by standard letter and instead to nominate a staff member responsible for making personal contact with the defaulting borrower either by telephone or by travelling to the borrowers home to meet them. Initially this policy was part of a concerted attempt by the society to restrict the incidence of arrears through the operation of a strict administrative process. At the time it's Managing Director stated:

'We're back to financial management. You mustn't forget that we are in competition for a scarce resource.

We compete against the ESB bill, the drinks bill, the car etc. We are concerned with managing the process'

(quoted in Murphy, L. 1994: 190)

In 1993 the ICS innovated further when it developed its own internal mortgage counselling service for borrowers with arrears. As a measure of its efforts it halted all court proceedings against borrowers with arrears and instructed newly trained staff to meet with borrowers in order to

*"Penalties for default and arrears imposed by lenders can sometimes be quite crippling and can increase people's debt layer by layer"*

<sup>4</sup> Leading to a fine imposed at 17% per annum (Dec. 1992 interest rate of 14% + 3%).

find some form of resolution apart from the court process<sup>3</sup>. Threshold enquires found that the society considered borrower response to this initiative as 'excellent'. In parallel many borrowers were said to be very pleased with the service provided. The purpose of this management innovation was to identify the 'real' cause of arrears as perceived by the borrower. This was to be achieved by personal contact of an empathetic and non-threatening nature by the lenders' representative. The final objective was to then establish a forbearance agreement that could, and would, be met by the borrower and that also satisfied the lender. The success of forbearance arrangements in controlling arrears rested partly on the use of direct debits from the borrower's account.

Not all court cases were averted. In 1993 having reduced the number of cases it brought to court, the ICS also succeeded in obtaining a higher percentage of possession orders in those court cases it pursued in full. Upon the borrowers appearance in court whether or not he or she had availed of the lenders' mortgage counselling service was disclosed to the judge. However none of the information received by the mortgage counsellors could be disclosed without agreement. This feature of the management initiative was thought to bring a certain degree of privacy and confidentiality to the proceedings.

The success of this arrears management innovation encouraged other smaller societies<sup>4</sup> to adopt similar policies. However in pursuing a limited or no-change policy the remaining larger mortgage lenders may in effect be contributing to the problems of individual borrowers in default.

### Mortgage Arrears Management – explaining changes

In response to Threshold enquiries mortgage lenders indicated an increasing awareness of

consumer debt and debt management issues. In particular the smaller societies demonstrated a growing attempt to resolve housing debt through better communication and working in partnership with borrowers. However the arrears management procedures of the largest societies, and in particular their forbearance arrangements, are characterised by an innate conservatism. An explanation for these apparent differences can be found when the market position and asset base of different societies is considered. Table 5.2 details the current total assets of seven Irish building societies.

The smaller societies focus their lending on the middle to upper end of the market (Murphy, L. 1990). Constrained by smaller mortgage portfolios they are more concerned with managing the arrears process and are more likely to adopt management practices capable of minimising arrears as a percentage of total assets. In contrast the market dominance of the larger societies means that arrears represent only a small percentage of their total assets. In this context the larger societies are under less pressure to develop innovative responses to the problems of default. In other words, the market position of the larger societies helps promote conservative and non-innovative arrears management strategies. Given that present arrears do not pose a threat to the financial stability of larger societies they are under little pressure to change their practices.

Another explanation arises from the economic criteria upon which mortgage lenders operate. These criteria ensure that a lender's response to arrears is set within the framework of minimising the administrative cost of dealing with arrears and minimising losses through bad debts. Given that the biggest building societies have the largest mortgage portfolios, based partly on a strategy of advancing funds to the lower end of the market where arrears are more likely to occur, the

*“Since the early 1990s a number of changes in lender's arrears management have occurred.”*

<sup>3</sup> Evidence from the Dublin Circuit Court cause books for 1993 confirms that the ICS did halt all court proceedings.

<sup>4</sup> Norwich Irish building society and Irish Mutual building society



Table 5.2 Total Assets of Building Societies at 31/12/1996, IR£ million

Building Society	Branch and Agency Network, Number of Offices (Republic of Ireland)	Total Assets at 31/12/1996 IR£ million
Irish Permanent Plc	184	4,939
First National	174	3,015
Educational Building Society	160	2,060
Irish Civil Service	25	1,248
Irish Nationwide	140	1,094
Irish Life Homeloans Ltd	n/a	499
Norwich Irish	53	126.5

Source: IMSA, 1996

administrative cost of personalised arrears management can be considered prohibitive.

Mortgage lenders are also financial institutions and are therefore obliged to ensure the security of their investment by minimising their losses and maximising their returns. Banks are public institutions that must pay dividends to their shareholders. This implies that these institutions need to make a larger profit than a similar sized mortgage lender that does not have shareholders. Building societies are generally owned by their members and are not obligated to pay dividends and thereby should be satisfied with a lower profit margin than the banks. However, there has been significant evidence that building society profit margins are far in excess of what is required to fund future growth (REA Mortgage Services, quoted in Irish Times, 27/06/1997). In addition some building societies are actually owned by public companies such as banks (e.g. ICS is owned by Bank of Ireland) and are required to contribute higher profits that are in turn paid to shareholders. Therefore, in short, as mortgage lender's needs do not necessarily coincide with the borrower's, the response of lenders to arrears may undermine the security of tenure enjoyed by owner-occupiers (Murphy, L. 1994).

**Mortgage Arrears Management – maintaining change**

*The case for a code of practice in mortgage arrears management*

The arrears management practices of mortgage lenders often display contradictory tendencies and can obtain contradictory results. In seeking to resolve the incidence and extent of default, traditional forbearance arrangements can actually ensure further default by restructuring repayments to a level unaffordable to the borrower. Traditional forbearance arrangements also imply that lenders consider borrowers should respond to default only in certain ways. A result of this implication is that lenders often conflate an inability to pay with an unwillingness to pay. More often than not this supposed unwillingness to pay is understood by lenders as a manifestation of some social pathology (see section 4). This position can further colour lenders' perspectives and conditions the manner in which they respond and treat defaulters. If, in the final analysis, lenders regard arrears primarily as the product of forces beyond their control, for example due to the changing economic circumstances of their borrowers, or the result of so-called deviant behaviour, this can also encourage lenders to rely

*“The arrears management practices of mortgage lenders often display contradictory tendencies and can obtain contradictory results.”*

on traditional management techniques and dissuades them from innovation. However, a consequence may be increased insecurity for marginal home-owners which in turn may negatively affect the regard in which the tenure is held.

Murphy, D. (1993: 64) concluded that:

'... due to the diversity of attitudes, available services, management techniques and knowledge of social welfare entitlements between lenders it would seem that some sort of general practice between all lenders is necessary in order to ensure uniformity of practice'.

General practice can be formalised into a code of practice to operate on the same basis as that of the UK's Council of Mortgage Lenders and act as a required minimum standard for the industry. Public information on the code of practice can enhance the standing of those institutions who meet the standards set and can also act as a barrier to collective criticism of the industry when a lender is considered to have acted inappropriately. The possible details of such a code of arrears management practice were identified by Murphy, D. (1993) as follows:

- All borrowers are treated equally, fairly and sympathetically.
- The lender should provide a variety of forbearance options and the borrower should be aware of these in advance of default.
- Methods of communication and contact should be improved with all lenders making equal efforts to personalise their arrears management.
- Arrears managers and staff should be fully conversant with current social welfare practice and housing entitlements and should also be trained in debt counselling.
- Lenders should desist from charging fines and penalties on arrears where forbearance agreements will prove difficult for the borrower to meet.

Lenders should only pursue a court case in full after they have demonstrated all efforts to agree forbearance arrangements have failed.

Arguably one of the most pressing details of any code is the lender's knowledge of unemployed borrowers' social welfare entitlements in relation to home-ownership. Indeed as Fitzgerald (1989: 4) has highlighted, significant difficulties and frustration become easily attached to debt counselling when arrears are higher than they would be if both lender and borrower were aware of state welfare payments covering mortgage interest payments.

The case for a code of practice for arrears management has generally been accepted as valid by the mortgage finance industry for a number of years, but not without qualification. The impracticality of imposing a self-regulating code upon the myriad management practices operated across the industry, together with the difficulty in measuring the success, or otherwise, of one attribute of a particular customer service were reasons regularly given for the historic absence of such a code. However, recent changes in consumer legislation have radically altered the relationship between lender and borrower and as a consequence the development and implementation of a code of practice by the mortgage finance industry has resurfaced on lender's policy agenda.

### *Mortgage lender's code of practice and the impact of the Consumer Credit Act, 1995*

Arguments supporting the process of establishing and developing a code of practice for arrears management in particular have been strengthened as a result of the arrival of the Consumer Credit Act, 1995. The main purpose of the Act, which came into operation on 13th May 1996, is to implement the terms of the 1986 European Union Consumer Credit Directive. The Act thereby covers all consumer credit agreements, hire

*“The case for a code of practice for arrears management has generally been accepted as valid by the mortgage finance industry for a number of years, but not without qualification.”*

purchase and consumer hire agreements, and, importantly, housing loans (i.e. mortgages)<sup>5</sup>.

In relation to credit and consumer intermediaries<sup>6</sup> the Act stipulates that such persons must hold a Letter of Authorisation or Appointment from the persons or institutions for which they act, and must also apply to the Director of Consumer Affairs for annual authorisation. In other words an auctioneer operating in the financial services market as a mortgage intermediary must have a letter of appointment from each lender with which they deal, carry Professional Indemnity Insurance Cover and hold a current Tax Clearance Certificate which has to be provided to the Director of Consumer Affairs.

However, more pertinent to the issue of a code of practice are the Act's provisions in relation to mortgage loans for housing, and its defined procedures regarding an intermediaries' contact with customers.

For borrowers the main features of the Act relating to housing loans are:

- The prohibition of redemption fees except in the case of certain types of fixed rate loans. Borrowers must be informed where such fees apply.
- The Act contains rules concerning the calculation of APR<sup>7</sup> for housing loans. In particular there are special provisions in relation to the calculation of APR where the rate is fixed for an initial period only.
- Borrowers must be informed about requirements concerning the insurance of the mortgaged property. The borrower can choose his or her own insurance and cannot be required to pay a fee to the lender if he or she does not select the lender's own insurance.
- The costs of legal investigation of title must be borne by the lender.
- The lender must make mortgage protection insurance available to borrowers, but borrowers are free to arrange their own insurance.
- A mortgage lender or intermediary can not make the provision of a housing loan conditional on the borrower purchasing other services such as conveyancing or auctioneering.
- A number of 'health' warnings, relating to what lenders rather arcanelly call the concept of 'caveat emptor', are required to be put into information documents, advertisements etc. For example "WARNING. YOUR HOME IS AT RISK IF YOU DO NOT KEEP UP PAYMENTS ON A MORTGAGE OR ANY OTHER LOAN SECURED ON IT"
- Regulations may be made requiring the disclosure of commissions, fees etc., paid to any person in respect of endowment loans.
- Information documents in relation to endowment mortgages must contain the following warning: "WARNING. THERE IS NO GUARANTEE THAT THE PROCEEDS OF THE INSURANCE POLICY WILL BE SUFFICIENT TO REPAY THE LOAN IN FULL WHEN IT BECOMES DUE FOR REPAYMENT". In relation to variable rate mortgages the warning must be "THE PAYMENT RATES ON THIS TYPE OF HOUSING LOAN MAY BE ADJUSTED BY THE LENDER FROM TIME TO TIME"
- Penalty charges for arrears etc. must be disclosed in information documents, application forms, etc.

*“Arguments supporting the process of establishing and developing a code of practice for arrears management have been strengthened as a result of the arrival of the Consumer Credit Act, 1995.”*

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<sup>5</sup> Credit unions are excluded as are certain loans by utility companies, loans with no interest charges, loans repaid by a single instalment and preferential rate loans (e.g. staff loans).

<sup>6</sup> Intermediaries are persons other than credit institutions or mortgage lenders who arrange or offer to arrange the provision of credit or hire or the provision of housing loans (mortgages).

<sup>7</sup> Annual Percentage Rate of Charge

In addition to the above, very specific regulations have been established by the Act governing contact between mortgages intermediaries and consumers. In brief, written consent must be given by the consumer for any contact at home (via telephone calls/visits) outside the hours of 9.00 a.m. to 9.00 p.m. Monday to Saturday inclusive. Also specific written consent must be given before an intermediary may contact a consumer at his or her workplace or indeed contact his or her employer.

The overall monitoring and enforcement of these regulations is the responsibility of the Director of Consumer Affairs. Disappointingly, there remains a dearth of public information detailing the new consumer rights provided under the Act. Interim findings by the current Credit and Debt Policy Group research programme confirm that a great majority of people who find themselves in difficulties over consumer credit repayments have no comprehension of the protections the Act offers them (Shanks, *forthcoming*). Therefore the initial success of the Act in establishing a regulatory framework for the provision of consumer credit is mitigated against by the serious lack of public information and understanding of the Act's provisions.

Arguably whether lenders are prepared to develop a code of practice is determined, in all probability, by two factors; the costs involved in establishing and regulating an innovative and progressive system of arrears management and the competitive advantage that might accrue to participants over lenders not operating or participating in such a code. Currently the clearing banks have no industry-wide model or code of good practice in relation to the management of mortgage arrears, and argue that their low

incidence of arrears and repossession does not warrant such a code<sup>8</sup>.

In contrast, the Consumer Credit Act does appear to have made a significant influence on building societies. Despite their reservations about the restrictions placed on contacting borrowers, the Act's regulations, enforceable since May 1996, are currently regarded by building societies as a *de facto* code of practice. Although the majority of building societies provide borrowers with a leaflet or brochure detailing societies' practices in dealing with mortgage arrears, only one building society could point to an official code of practice which simply documented the arrears management practices that had developed since its foundation<sup>9</sup>. By the end of 1996 there was still no society-wide code of practice on arrears management in place. Nevertheless by March 1997 this situation had changed.

Beginning in October 1996 the IMSA compiled a draft code of practice for arrears management which its members were to agree to use as a guide in dealing with borrowers experiencing difficulty in meeting their mortgage repayments. As the IMSA concur

'there is merit in a common approach and [we] are of the opinion that providing borrowers with information and support will assist them in assessing their own situation and weighing up the options which are open to them'

(from *Threshold's* private correspondence, October 1996)

By March 1997 the final wording had been agreed between IMSA members and the code of practice adopted (for details see Appendix B). Despite a lack of detail as to how the IMSA intends to monitor the implementation of the code of practice and the fact that the code has yet to be

“The Consumer Credit Act's, 1995, regulations, enforceable since May 1996, are currently regarded by mortgage lenders as a *de facto* code of practice.”

<sup>8</sup> The clearing (also known as retail) banks are: AIB, Bank of Ireland, National Irish Bank, Ulster Bank and Trustee Savings Bank. This point of argument arose from private correspondence.

<sup>9</sup> Since 1992 the EBS has developed an official code of practice highlighting the importance the society places on personal contact with borrowers. Advantages accruing to the society have included the usefulness of a code as part of induction training for new staff to its Collections Team and as a mechanism to ensure the standard of service and counselling provided to borrowers.

made freely available to borrowers, its adoption by the building societies is valuable. Further progress was made in the regulatory framework for the provision of housing loans in May 1997 when the Minister for Enterprise and Employment signed into law regulations to extend the Consumer Credit Act to housing loans advanced by local authorities. These regulations, outlined in Appendix C, come into operation on the first day of September, 1997.

These developments aside, it remains the case that apart from the declaration of penalty charges etc. in relation to arrears under the Consumer Credit Act, the mortgage finance industry has faced no obligation to adopt innovative arrears management practices. Ultimately the only successful stimulus to innovate may arise from the market itself, either through consumer demands, the potential for market expansion through re-financing and greater competitiveness or, less desirably, due to the incidence of arrears posing a threat to the overall financial stability of lenders. If future economic changes were to deliver the latter scenario, lenders may yet rue their decision to date to neglect the maxim that prevention is better than cure.

### Arrears Management – private solutions

There exist a number of strategies or actions adopted by borrowers to deal with arrears. At the domestic level, causes, reactions and strategies are so intertwined that people will normally pursue a number of different actions simultaneously. For a great majority of households, whatever the initial cause, being in arrears is the result of inadequate income compared to past or present expenditure. Therefore upon the onset of arrears, households adopt strategies aimed at trying to balance the two again. Only where arrears are not compounded by other debts does this strategy tend to work, but usually only after a considerable period of time. If a household has high levels of debt at the beginning of arrears this strategy cannot offer a long-term solution. Households in such a position face a

decision to accept indebtedness as part of everyday life and try to delay the day of reckoning as long as possible, or to recognise the situation as not sustainable and take definite steps to get out of it. The following are recognised strategies that can be adopted by private households in arrears (see Davis and Dhooge, 1993).

#### Reducing the standard of living

It goes without saying that the extent to which individuals will reduce their standard of living varies both between households and within households. However, even if people are prepared to make drastic cutbacks there is usually a minimum level which they will resist 'falling below'. This is especially the case in relation to children. A strong feeling exists that children should not suffer the consequences of default and must be provided for in all circumstances. It is important to note however that implementing reductions in the standard of living is a strategy employed by households to prevent arrears from arising in the first place. Therefore upon default, spending trends may have been reduced to a level below which people are not prepared to go.

#### Increasing income by drawing on resources within the household

The term 'household resources' refers to financial resources as well as the skills various members of the household can sell on the labour market. Usually only a minority of people in arrears can draw upon savings, financial investments or other assets to increase the household's income sufficiently to stay out of default and arrears. For the majority, any savings etc. are quickly used up to maintain as many repayments as possible. Selling an asset, such as the family car, also only has a short-term impact. The possibility of taking a lodger or renting a room is usually considered by the borrower but generally not always favoured by the lender, and may itself be in breach of terms of the mortgage contract.

*“For a great majority of households, whatever the initial cause, being in arrears is the result of inadequate income compared to past or present expenditure.”*



The main way to increase household income is paid work. However if arrears are the consequence of unemployment, attempting to find new work will be difficult. In addition many people may be experiencing arrears as a result of an already weak relationship with the labour market deteriorating further. Therefore gainful employment capable of raising household income above the threshold needed to stave off arrears may prove impossible to attain.

### *Increasing income by drawing on resources outside the household*

Financial help dealing with arrears has two major sources outside the home. The first is informal, involving help from relatives and friends, however not every household has this option. Additionally the provision of such assistance usually contains serious implications for those involved. The spectrum of family relationships and friendships can easily be badly disrupted by housing debt. This is particularly the case when help is requested but not forthcoming for whatever reason, or is offered and then withdrawn after a period of time.

The second source is more formal and involves either the use of overdraft facilities or taking out a new loan, usually secured against the mortgaged property, in order to halt initial default and arrears. The easy availability of credit to owner occupiers is often regarded as the primary reason why this strategy is used. However such credit is not cheap and the consequence of borrowing further to pay off debt is usually disastrous, resulting in the household sliding further into arrears with more than one lender.

### *State benefits:*

Reliance upon state benefits to help clear arrears and maintain any forbearance arrangements

entered into is no guarantee that housing debt will be relieved. State benefits may help reduce anxiety about being in arrears or even help provide a breathing space. However many households find that benefits only provide a minimum subsistence income and fall short of the every-day expenses of owner-occupation. Reliance on benefits may also produce a situation where the householder's flexibility is restricted and their ability to engage the labour-market becomes eroded due to being caught in an 'unemployment trap'<sup>10</sup>

### *Seeking advice and support from agencies:*

There are a number of agencies where professional advice in dealing with housing debt may be sought<sup>11</sup>. Regularly it is only after the various private solutions available to people have proved to be ineffective that they approach such agencies. Agencies can provide advice and support to people in serious arrears. They may be successful in assisting people find better borrowing terms or in liaison with lenders on their behalf. This service is especially important when a borrower feels intimidated, unable to cope or otherwise reluctant to approach his or her lender. Importantly advice services also focus on budget management and debt counselling and can assist in retrieving what might otherwise be regarded by the borrower as a lost cause.

### *Living with Debt – the experience of default*

The everyday experience of default will vary considerably from case to case for a host of reasons. Primarily a borrower's or household's capacity to manage default will determine their experience of it. Defaulters who succeed in changing their expenditure levels and increasing household income through employment are best placed to

*“A borrower's or household's capacity to manage default will determine their experience of it”*

<sup>10</sup> Unemployment traps arise when the net income of a home owner in low-wage employment is less, or only marginally greater, than the income received through social welfare payments. The trap is complete when the difference between income from welfare benefits and net income from available employment is minimal.

<sup>11</sup> Money Advice and Budgeting Service (M.A.B.S), Threshold, Financial Information Services Centre (F.I.S.C)



survive the psychological and physical effects of indebtedness. However, perhaps the dominant influence over the experience of default is the lender's reaction to the borrower. The traditional forbearance arrangements of lenders are limited and inflexible at the same time as their influence over the type of borrower accepted as reliable and trustworthy during default remains crucial.

On the basis of their lenders attitude to them, borrowers' initial experience of default can be to consider it as manageable. Borrowers may find lenders unperturbed by the initial default of a few payments. While borrowers may regard this practice as helpful, such tolerance on behalf of the lender can easily allow the size of the problem to grow (Ford, 1988b). This is particularly true when the mortgage arrears of a household represents just part of an increasing debt problem (see Daly and Walsh, 1988). If, and when, the lender becomes aware of the extent of further debts, a change in attitude towards the borrower can result. Such a change in attitude compounds the effects multiple debts have on borrower's physical and mental health. Previously a borrower may have felt 'safe against the world' on the basis of being comfortably and securely housed. However as arrears and default persist and lender's actions become more aggressive, the threat of possession and homelessness can lead to an overwhelming sense of loss of control by the borrower. Increased anxiety and stress can result in physical manifestations such as illness or accidents.

Equally disturbing are the behavioural changes which may occur as a result of indebtedness. For many indebted households their residential consumption patterns become predicated upon disavowal. For example, the consequence of a court case where the financial details of a borrower are discussed publicly, can result in borrower disavowal of the outside world and retreat into the home. As indebted families and individuals become increasingly wary of those sections of the

outside world they perceive as hostile to them, community suspicion can contribute to their sense of isolation. Indebted families that become increasingly isolated and marginalised easily suffer particular stereotyping, as Shanks (1996: 99) argues '... the comprehension of generalised debt is diminished, leaving room for development of common-sense notions of indebted people as being a certain *type* of person – feckless, incapable, dependent, a scrounger'.

### Summary

The arrears management practices of lenders often display contradictory tendencies and can obtain contradictory results. Despite demonstrating an increased awareness and understanding of consumer and mortgage debt, the majority of lenders' arrears management remains innately conservative and non-innovative. Their forbearance arrangements may also have the undesired effect of actually increasing the potential for further default.

The small percentage arrears represent of larger lenders' total assets helps explain the reliance on conservative management practices. In contrast, research evidence suggests smaller lenders are adopting more innovative practices and personalising their arrears management. Smaller lenders are more concerned to manage the extent and incidence of their arrears accounts in light of their smaller mortgage portfolios. However their strategy of lending to the upper and middle sections of the market help ensure that the incidence of arrears remains relatively low.

The Consumer Credit Act 1995 is regarded by the mortgage finance industry as a *de facto* code of practice. This is encouraging as lenders may be prepared to develop new arrears management strategies on the basis of their statutory responsibilities under this Act. Indeed, having accepted the strong case for a code of practice in mortgage arrears management in late 1996, the

*“On the basis of their lenders attitude to them, borrowers' initial experience of default can be to consider it as manageable.”*

building society movement developed and formally adopted such a code in March 1997. Their commitment to the successful monitoring of this code remains to be demonstrated. The clearing banks, on the other hand, feel such a code remains unwarranted. Arguably, only when the largest lenders consider an increase in competitiveness or market share may accrue them, or if some financial incentives become available to them, might they be prepared to incur the expense of establishing and monitoring a code of practice for arrears management. Changing macro-economic conditions and the strength of consumer demands via the market place also hold the potential to initiate change.

Individuals react to debt in different ways and a number of strategies are available to the borrower seeking a private solution to default. Each of these strategies to solve housing debt may be adopted with varying degrees of success. In the long-term, only a secured increase in the household or borrower's own income can ensure a barrier against future default.

#### Recommendations

- The efficacy of any forbearance arrangement entered into by a defaulting borrower must be judged on the appropriateness of the level of repayments requested. Levels of repayment likely to lead to further default should not be set by mortgage lenders.
- Forbearance agreements that do not offer assistance to defaulting householders likely to experience long-term problems should be eliminated.
- Forbearance agreements that do not erode the tenure security of the borrower should be developed.
- Lender's arrears management strategies should be sophisticated and flexible enough to respond adequately to all cases of housing debt while also contributing positively to their resolution. This principle should be fully incorporated into mortgage lenders' forbearance procedures.
- A gap in public knowledge and understanding of the exact details of the arrears management practices, penalty rates, fines, levies etc. operated by each bank, building society and other mortgage provider currently exists in Ireland. This gap should be filled through government commissioned research and publication.
- A code of practice for the management of arrears should be adopted by the lending banks irrespective of the minimal threat to bank profitability and assets that current arrears represent.
- The code of practice for the management of arrears recently adopted by all IMSA members should be published and made freely available to all borrowers.
- Industry wide codes of practice in relation to all types of mortgage advice and the use of intermediaries should be developed and adopted by the mortgage finance institutions on behalf of their customers. These codes of practice should demonstrate the industry's willingness to implement statutory regulations for housing loans under the Consumer Credit Act, 1995.
- The Office of the Director of Consumer Affairs should regularly promote the housing loan provisions of the Consumer Credit Act, 1995 among the public at large and also strictly regulate mortgage lenders practices to adhere to these provisions.
- Public information on individual or private strategies for the management of arrears and other housing debt should be made available by government agencies.
- State benefits to assist defaulting borrowers (e.g. MIS) should be flexible and should not restrict an individual's ability to engage the labour-market.

## 6

# COMPULSORY AND VOLUNTARY POSSESSION

## Introduction

IN IRISH SOCIETY, the repossession of private homes in lieu of defaulted mortgage repayments is a highly contentious action. It is an action that contains a host of potentially serious negative effects on the borrower, the lending institution and ultimately the marketplace. As a process, repossession is popularly imbued with the resonance of historic parallels to eras of tyrannical evictions of impoverished Irish tenant farmers during the seventeenth and eighteenth century, as well as the desperate plight of those evicted from the rack-rented tenement slums of the nineteenth and early twentieth century city. Even in a society increasingly defined by the character of contemporary urbanism, a strong folklore memory of repossession and eviction continues to exert an influence over popular perceptions and attitudes. So much so that repossession of private residential property remains a highly emotive action almost guaranteed to attract adverse publicity and commentary<sup>1</sup>.

Most lenders remain initially reluctant to commence immediate court proceedings for all mortgage arrears cases. This reluctance to promptly enter court proceedings is due to mortgage lender's general experience of court cases as time-consuming, expensive, and also capable of attracting undesired, and sometimes negative, media attention. For the borrower, a court case may end with the granting of a repossession order, while simultaneously rendering him or her with increased indebtedness due to the cost of defending

a lost action. For the lender, court proceedings sometimes result in unsatisfactory judgements, while at the same time damaging the lender's commercial profile and reputation in the marketplace.

Notably not all repossession occurs via the courts. Far less publicised is the act of voluntary possession, more commonly known as voluntary surrender. Voluntary surrender, generally viewed by lenders as the final act of a wilful defaulter (Murphy, L., 1994: 194), can also be regarded as a pre-emptive attempt by the borrower to reduce his or her liability for the property that can remain even after the successful defence of a court order.

Arguably, the potential commercial damage of repossession acts as a deterrent to many institutional lenders. Indeed pursuing a policy of possession orders for all defaulting borrowers can ensure that a lender's carefully crafted reputation and image as a 'caring' 'friendly' and 'helpful' institution becomes increasingly sullied. However, the act of repossession can also contain far more serious economic and political implications. The most critical consequence for lending institutions is the potential serious erosion of confidence by consumers in the housing marketplace. In other words, the disappearance of the 'feel-good' factor. The State on the other hand may be forced into an expensive market intervention in order to calm consumer worries about repossession, falling property values and negative equity.

By way of example, the British housing market during the early 1990s, and particularly the

*“Notably not all repossession occurs via the courts.”*

<sup>1</sup> Consider the national media attention the National Irish bank repossession of the An Grianán Estate in Co. Donegal attracted in 1996.

markets of south-east England, witnessed the rapid disappearance of the so-called 'feel-good' factor upon an upswing in the number of repossessions. In 1990 British repossessions stood at 43,890 properties. By 1992 the figure had risen to a peak of 75,540 (CML, 1996). In addition, all categories of mortgage arrears; short, medium and long-term, rose significantly. The effect was to compound a dramatic slowdown in the number of people taking out mortgages on residential properties. A further effect was a concomitant slump in house prices which in turn exacerbated the spread of negative equity throughout the tenure. The British Conservative administration, in conjunction with the major lenders, attempted to halt the decline by introducing a series of mortgage rescue schemes and encouraging the re-financing of loans. Despite the cost of this intervention the policy failed to have any strategic impact upon the market's direction, due, in the main, to restrictive eligibility criteria. Currently the British housing market is demonstrating early signs of recovery and the rate of repossession has fallen from its peak in 1991. Yet the elusive 'feel-good' factor remains at large. Certainly one of the more influential reasons continuing to act as a deterrent is the fact that, despite a drop in the extent of mortgage arrears since 1995, the rate of repossessions remains stubbornly high at around its 1995 level of 25,000 properties (CML, 1996).

This section concentrates on two major aspects of possession. Firstly, it describes the legal basis for compulsory possession by modelling the various stages of the legal process, and presenting a critique of their cost-effectiveness and consequences. Secondly, it examines the course and consequences of voluntary possession and questions the effect possession has upon borrower's attitudes to home ownership.

### **Mortgage Arrears, Compulsory Possession and the Legal system**

#### *Default, arrears and the mortgage deed*

Possession remains the final recourse of a lender to whom a borrower is in default. Proceeding on the basis of 'breach of contract', the lender enacts the function of the law courts to direct the borrower to surrender whatever private assets are demanded by the lender in lieu of equity borrowed. In judicial terms therefore, housing debt can simply be regarded as a matter of breach of contract. However, unlike other cases of breach of contract, a unique feature of housing debt cases is that the borrower is most definitely in arrears of some kind. Indeed this aspect of a court case is rarely disputed between parties, although details of why default occurred in the first place, and how arrears arose in the second, are regularly issues of contention and often hotly contested.

In Ireland the essential legal basis for possession is found in the contract entered into between the borrower and the lending institution. This contract is known as the Mortgage Deed and is similar to many other legal contracts in that it contains the rights and duties by which both parties are legally bound. The power to demand possession is conferred upon the lending institution by a particular clause of the mortgage deed, nominally titled 'powers of the society'<sup>2</sup>. Other powers are also conferred by this clause, namely: the power to put and keep every building comprised in the mortgage in good and tenable repair and condition without becoming liable for any cost incurred; also the right to exercise the powers of sale and appoint a receiver. However, lender's powers cannot be exercised until one or more of the following conditions apply:

*"Possession remains the final recourse of a lender to whom a borrower is in default."*

---

<sup>2</sup> In this case the title 'powers of the society' refers to a mortgage held with a building society.

1. Default: the borrower must default on all capital and interest repayments for a period as agreed in the mortgage deed.
2. Breach of Covenant: this will occur if there has been any breach by the borrower on his or her part of the agreed covenant, or of some provision of the rules of the mortgage, or of some covenant by statute.
3. Bankruptcy: i.e. if the borrower has entered into bankruptcy or any other similar composition or arrangement with his or her creditors generally, or (being a company) has gone into liquidation whether voluntary or compulsory.
4. Security Depreciated: i.e. if any actions of the borrower result in any building on the mortgaged property being pulled down, removed or damaged so as to materially depreciate the value of the mortgage security
5. Dealing with the Equity: if the borrower assigns, lets or parts with the possession of the mortgaged property or any part thereof without the written consent of the Society.

Of these five possible reasons for the enactment of any or all of the 'powers' held by the lending institution, the most common cause of a compulsory possession case is default on repayments leading to the build-up of arrears.

Importantly, mortgage deeds contain small, but sometimes significant differences, usually dependant upon the conditions under which the mortgage was agreed. In other words, the size, age, type and value of the property together with the amount borrowed and the income level required of the borrower(s) will be influential in defining the final details of the mortgage deed. Variation can occur in the amount of time a default is allowed to proceed before the

enactment of the lenders 'powers'. Generally the larger the amount borrowed, the shorter this time period. The extent and number of penalties or 'fines' levied on arrears once they have occurred is also variable in this regard.

### The legal process leading to compulsory possession

Once default occurs and arrears have risen to the maximum allowed level, the lending institution will instigate the first stage of the legal process that can ultimately lead to repossession<sup>5</sup>. In general six stages in the process leading to possession can be identified:

1. The Civil Bill.
2. The Notice of Motion.
3. The Hearing.
4. The Order for Possession.
5. The Execution Order.
6. The Repossession.

Possession cases are heard at Circuit Court level and the progress of a case from stage one through to six above is modelled in Figure 6.1. A more detailed description of this process is given in Appendix C.

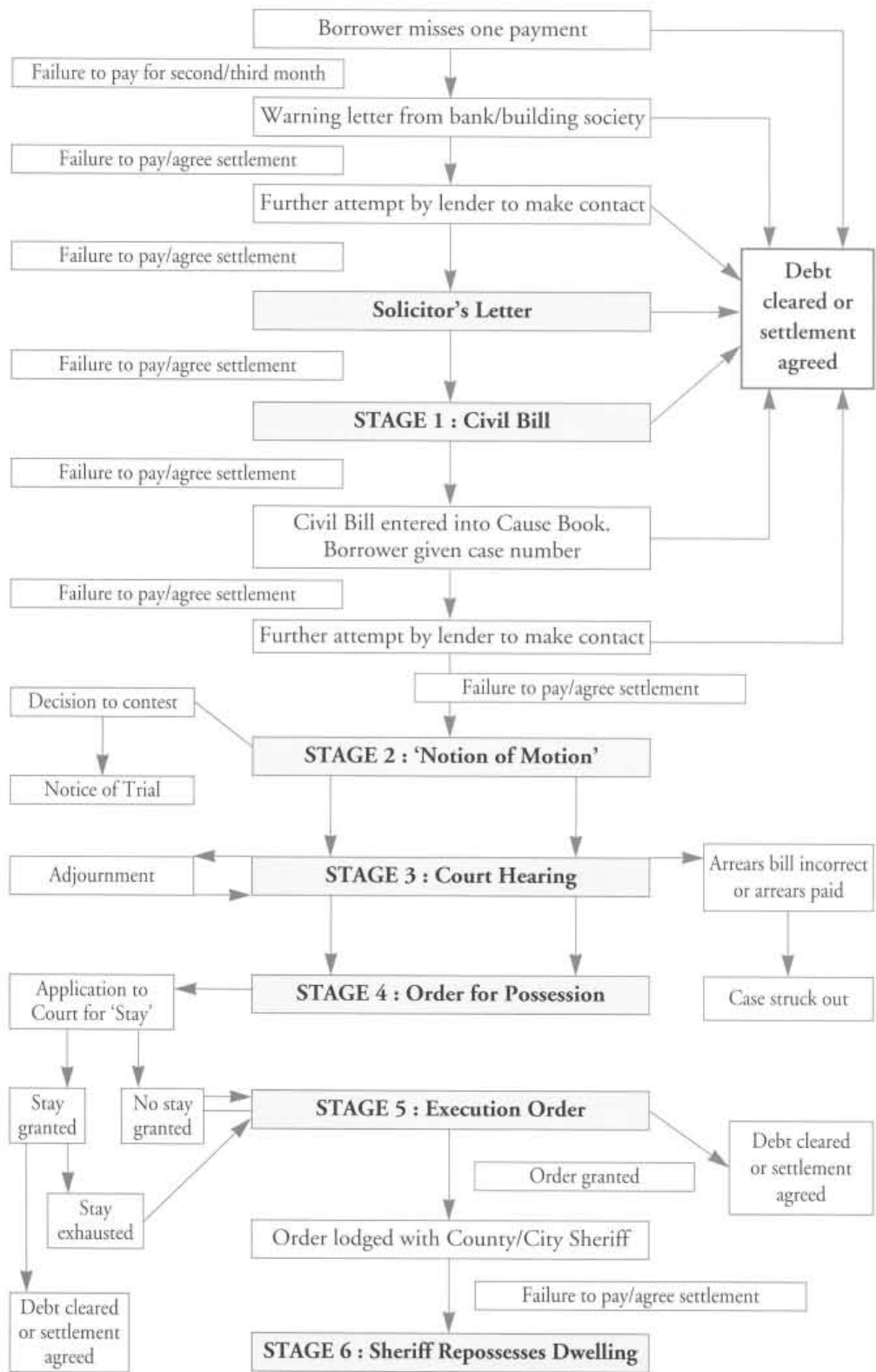
### The Cost of Legal Proceedings for Possession

Legal proceedings involved in the recovery of mortgage arrears and possession as outlined above are subject to a high degree of criticism in terms of both the time and costs involved (Threshold, 1995). The fact that court proceedings are heard in public also gives rise to difficulties. For the borrower, it may mean having to reveal, in open court, details of their financial and personal affairs. This is patently inappropriate, and undoubtedly

*“In Ireland the essential legal basis for possession is found in the contract entered into between the borrower and the lending institution.”*

<sup>5</sup> Prior to such action however, standard arrears management for most lending institutions will be to despatch a warning letter to the borrower notifying him or her that they have missed one repayment. If no reply is forthcoming the mortgage lender will attempt to contact the borrower and investigate the cause of default and arrears in order to re-negotiate repayments adequate to cover arrears and any penalties incurred (see section 5 for more detail).

Figure 6.1 How Mortgage Arrears can Escalate to Compulsory Possession



“The use of adjournments by the courts can lead to a worsening of the situation for both borrowers and lenders.”



contributes to many borrowers not appearing in court. It also creates difficulties for the lending institutions who, sometimes unjustifiably, will receive adverse publicity. Court proceedings tend to be adversarial and confrontational, designed to produce a 'win-lose' result. This serves to ensure that the emphasis of the court hearing is on conflict and legal technicalities rather than on possible solutions. This in turn mitigates against the mutually satisfactory settlement of housing debt cases (Threshold, 1995: 6).

Specifically, the use of adjournments by the courts can lead to a worsening of the situation for both borrowers and lenders. Adjournments may occur due to the courts sympathetic attitude to indebted householders and to allow them time to resolve their difficulties. Yet while adjournments can unquestionably provide protection and some breathing space for borrowers, it is not necessarily in their long-term interest for the matter to be left unresolved. The arrears generally remain outstanding and other costs, in particular legal costs and penalties, are added to them. Further costs may also be added, for example the lending institution's administrative costs. Another area of concern is that as these costs are generally added to outstanding arrears, interest is computed on the whole amount. These procedures are of vital importance to the borrower as, even where a case is adjourned, or no order of possession is granted, the borrower remains liable for the legal

costs. In many cases, legal costs contribute directly to the increased likelihood of further default. The end result is commonly that, although the lender has gained nothing, the indebtedness of the householder has been increased.

Two types of legal costs are incurred when a lender brings a mortgage arrears case against a borrower. These are the actual court and other fixed fees and professional fees. Table 6.1 lists the type of costs incurred.

Court fees

Stamp Duty is the generic name for fees charged by the Circuit Court for processing and handling court papers. A case cannot proceed unless stamp duties are paid in full and all court procedures have been followed. However stamp duties usually form only a small proportion of the overall costs of taking a mortgages arrears case to court. Table 6.2 shows the current basic fees and stamp duties which every Circuit Court mortgage arrears case will incur prior to the day of hearing.

Each of the above documents involves the work of either a solicitor or barrister, or both, depending upon the complexity of the case. It may also be necessary to pay search fees to discover if the mortgage is registered with the Land Registry or the Registry of Deeds, and to obtain a copy of the Land Registry Folio or other such proof of the legal charge on the property.

*“Two types of legal costs are incurred when a lender brings a mortgage arrears case against a borrower; court and other fixed fees and professional fees.”*

Table 6.1 The Type of Legal Fees incurred in a Mortgage Arrears Case	
Court Fees and Other Fixed Fees	Professional Fees
Stamp Duty	Solicitor's
Commissioner for Oaths	Barrister's
Land Registry Certificates	
Other Certificates and Search Fees	

Table 6.2 Circuit Court Stamp Duties and Commissioner for Oaths' Fees, 1997.  
(Un defended Equity Civil Bill)

	IR£
Civil Bill (Stamp Duty)	25.0
Notice of Motion (Stamp Duty)	10.00
Grounding Affidavit (Stamp Duty)	5.00
Grounding Affidavit (Commissioner's Fee)	4.00
Certificate of No Appearance/Defence (Stamp Duty)	5.00
Declaration of Service (Commissioner's Fee)	4.00
TOTAL	53.00

“Court proceedings tend to be adversarial and confrontational designed to produce a ‘win-lose’ result”

### Professional fees

As the current legal system remains two-tiered, in a mortgage arrears case the lender may employ the services of both a solicitor and a barrister. Solicitors professional fees are charged to cover such items as entering, lodging, issuing and stamping each legal document, serving the papers on the borrower correctly, and generally ensuring that the case is processed through the courts in accordance with the instructions from the mortgage lender. Set fees for these activities can be agreed in advance. A barrister's professional fee will cover such activities as drafting legal documents, attending court to present the case for the lender and advising on legal strategies. Barristers may also use a set-scale fee for dealing with mortgage arrears cases.

Nevertheless legal fees can be very expensive. For example, during August 1995 the Dublin Circuit Court heard an arrears case where the building society had added £30.00 to the arrears for every solicitor's letter sent. The same society wanted to add £650.00 to the arrears after a ten minute court hearing which went against the building society. At the time an estimate of the cost to the borrower suggested that £575.00 would be added to the debt after the first court

appearance, and £60.00 for every subsequent court appearance (Sunday Business Post, 13/08/1995). In response to Threshold enquiries in April 1997, the IMSA calculated the average minimum cost among its members for the different stages in possession proceedings to be £209.00 for entering a civil bill into court, £295.00 for the order for possession and £121.00 for the execution order, a total of £625.00.

Under the terms of the mortgage deed, it is the borrower who remains liable to pay both the court and professional fees incurred when a case is brought to court. Liability for costs remains the borrower's, even if the case is successfully defended. However, not all borrowers can afford a lawyer or avail of representation through the Scheme of Civil Legal Aid and Advice. This is because certain types of cases are not covered by the Civil Legal Aid Act, 1995. These include representation before tribunals and importantly, disputes concerning property and conveyancing. Even if a borrower qualifies for legal aid, it is less likely that their case for representation against repossession will be taken unless default can be shown to be the direct result of a domestic or martial dispute. By contrast, commercial lenders

will always be represented. The lack of available, affordable legal representation in housing debt cases amounts to a serious social injustice.

### The Effectiveness of Legal Proceedings

The effectiveness of the legal process in dealing with the incidence of housing debt can be judged by evaluating the net outcome for both the borrower and the lender. More often than not, the time and expense incurred when a mortgage arrears case is brought to court leads to an overall increase in the extent of indebtedness for the borrower. The efforts of the courts to protect borrowers by adjourning cases can have the negative result of bringing the final act of possession and the threat of homelessness even closer. A borrower can find him or herself in such a position if their case is adjourned on a number of consecutive occasions. The minimum cost of the most well intentioned adjournment is that the lender's barrister is paid an attendance fee and the lender's solicitor is involved in additional administration. It is the borrower who has to bear the cost of fees charged in lieu of this work. Threshold found the cost of each adjournment in the Circuit Courts will add anything between £60.00 and £200.00 to the borrowers liability. Once in arrears, a borrower's liability can also increase at an extraordinary rate. This is primarily due to the fact that interest charged on the mortgage loan capital, is also charged on the sum of arrears. Some lending institutions also levy fixed penalty charges and fines on defaulters which in turn attract an increased rate of interest. Add to this burgeoning sum the interest charged on legal costs incurred, and the original sum of arrears can become hyper-inflated over a short period of time.

### Voluntary Possession

Voluntary possession, more commonly termed voluntary surrender, is a much less noted effect of serious, long-term mortgage arrears. However its

incidence is sufficiently high enough to suggest that, for some borrowers, it is a preferable option to a prolonged and stressful court case that may not end favourably (see Table 3.3). Despite the existence of anecdotal evidence concerning such actions as 'handing in the keys' to a lender, 'walking away' from the debt and 'dropping out' of home ownership, currently very little empirical research into the motivation and reasons for borrowers to voluntarily surrender their home exists.

As previously noted, most lenders consider voluntary surrender as the final act of a wilful defaulter and do not perceive it as one of the first and immediate panic responses considered by borrowers in response to arrears or costly legal actions (Murphy, L. 1994).

On the other hand other evidence suggests that not all indebted borrowers consider voluntary surrender a 'panic measure'. Findings from Ford (1993: 234) suggest a number of factors were consistently highlighted by borrowers as influencing the decision to consider voluntary surrender. They include:

1. The level of stress associated with arrears.
2. An assessment by the borrower that they were likely to lose the property anyway, so 'giving it up' sooner, rather than later, was likely to minimise losses.
3. The desire to avoid a court process.
4. Household composition.
5. The availability of alternative housing.

With regard to the first factor above, mortgage arrears and the possibility of possession visit high levels of stress and anxiety on borrowers. Borrowers facing a possession action can suffer the physical manifestations of high levels of stress and anxiety by experiencing ill-health and accidents. Evidence suggests a circle of cause and effect can occur, where stress due to arrears leads to ill-health, which in turn influences further default and increased stress (Davis and Dhooze, 1993; Ford, 1988a,

*“Most lenders consider voluntary surrender as the final act of a wilful defaulter”*

1993). Voluntary surrender can, therefore, appear a means by which the borrower may overcome feelings of increasing resignation, fatalism and passivity associated with the progress to compulsory possession.

Ford's (1993) second factor reflects a borrower's perception of voluntary possession as a possible strategy for reducing liabilities on the property and minimising their losses. Borrowers may wrongly believe that upon voluntary surrender of their property, arrears will no longer increase and they will not be liable for interest charges, selling charges or any necessary maintenance prior to the sale of the property. They may also believe that they cannot be pursued for any shortfall between their outstanding mortgage and the sale price obtained. Lenders operate some discretion in relation to the last activity here, however most of the other beliefs are erroneous.

Although Ford (1993: 236) found the above beliefs to be held by only a minority of subjects interviewed, an important belief countering the pressure to voluntary surrender was identified. It was that if possession was given (i.e. handing in the keys), the lender would in all probability sell the house for less than the borrower would. In other words, a belief that the lender would accept a larger shortfall between the outstanding mortgage and the sale price obtained, due to the discretion provided by mortgage indemnity bonds to pursue the shortfall via their insurers, acted as a deterrent against voluntary surrender.

Of the five factors identified the availability of alternative housing was usually the key influence to putting the decision to surrender into force, (Ford 1993: 234). In general households without children find it easier to identify and obtain alternative housing, often returning to live with their parents. For those without this option the availability of affordable housing in other tenures is paramount to their decision to surrender. In the case of Ford's (1993) sample, interview research indicated that were the supply of suitable private

rented property or local authority property to have increased, the extent of voluntary surrender would have risen in parallel.

### The Final Consequences of Possession

This section has already considered a number of economic and social costs associated with different types of possession from the perspective of both the lender and the borrower. However, two more questions demand attention; what is the financial consequence of possession? And what can be said of possession in terms of its impact on attitudes to owner-occupation?

The first question is usually answered from the perspective of the lender or insurer in terms of estimates of financial losses incurred and provision made by the mortgage industry for bad debts. However, very little is known of the social or spatial distribution of losses amongst people who endured possession. Additionally little is known of the size of outstanding liabilities and the likely implications for households (Ford, 1993: 237). One way to illustrate the type of problems faced by repossessed borrowers is to examine the role of mortgage indemnity insurance or insurance guarantee on mortgages. In general mortgage loans in excess of 75 per cent of the value of the property have an associated guarantee. This represents a charge to the borrower but the guarantee is to the lender. Any loss to the lender will be covered in part or full by this insurance. However, under the principal of subrogation, insurer's can then seek to recover this cost from the borrower. Most Irish lender's exercise discretion in pursuing borrowers for losses incurred. For example Threshold's correspondence with the Irish Banks Information Service (IBIS) revealed that a majority of the banks here do not employ mortgage indemnity bonds in the personal mortgage market. Of the two banks which do, IBIS acknowledged that there have been a limited number of cases where the bonds were 'called in', but both report that they are not aware of cases where the insurance company has pursued

*“The availability of alternative housing is usually the key influence to putting the decision to surrender into force”*

the borrower thereafter. Yet evidence from Britain suggests that this practice is changing under pressure from the insurers. For many individuals in Britain whose dwelling has been repossessed and who still face a mortgage shortfall, the option of bankruptcy has become the only alternative to decades of debt (Birch, 1994). A replica experience in Ireland of the boom-slump conditions of the British housing market, followed by an increase in the number of repossessions could herald the introduction of this practice into the Irish housing market. Furthermore lender's practice when dealing with ex-borrowers who have been 'repossessed' is likely to preclude them from holding another mortgage, at least until liabilities to the first or second charge holder are cleared. Ex-borrowers are likely to lack the necessary deposit to re-enter an increasing expensive tenure.

What then is the affect of repossession on attitudes to home ownership? Again little evidence can be produced that focuses on changes in attitudes either among those directly affected by possession, or indirectly on existing, or intending home-owners. Nevertheless studies of mortgage arrears cases where the owner occupier is not immediately at risk from possession show a high level of support for home ownership. Participants tended to explain arrears on the basis of an individualistic interpretation of default. There is little evidence to suggest an emerging critique of the tenure amongst such home owners (Ford, 1993: 236).

For borrowers on the brink of possession the situation can be very different. Mortgage arrears research indicates that home-owners in this position display little continuing support for or commitment to the tenure. These borrowers levy considerable criticism against the lenders for actively encouraging too high a level of borrowing and placing too high a priority on market expansion. Indeed, while levels of repossession remained historically high throughout the 1980s, the larger Irish building societies were pre-occupied

with maintaining the flow of investment funds into the societies and with securing the benefits of de-regulation (Ruane, 1987). Among repossessed home-owners there is little sense that they accept solely individualistic explanations for their experiences.

### Summary

Repossession in Irish society remains imbued with a strong folklore memory that renders the act highly contentious. Repossession can have deleterious affects on both lender and borrower while also threatening confidence in the housing market and ideological belief in the security of the tenure (see Saunders 1989, 1990). In other words the experience of repossession may directly challenge the belief-system supported by home ownership.

The various stages involved in the legal process of compulsory possession are not conducive to an easy resolution of the debt. This is demonstrated by the aggressive, adversarial, 'win-lose' outcome of court proceedings, and the costs borne by the borrower, despite a successful defence. The effectiveness of the judicial system dealing with arrears recovery is highly questionable. The expense involved usually compounds the final bill faced by the borrower.

Voluntary possession is significant in that borrowers may perceive it as an action capable of limiting their financial liabilities on a property. Such beliefs are commonly erroneous. However little is known of the motivation and reasons of borrowers to voluntarily surrender their homes, apart from the important influence of available and affordable housing elsewhere.

The consequences of repossession are manifold. Importantly, the financial consequences can force the ex-homeowner to remain outside the tenure. However, this may also occur out of conviction. Evidence suggests that having

*"Very little is known of the social or spatial distribution of losses amongst people who endured possession"*

experienced possession, or being on the brink of possession, commonly results in individuals developing a strong critique of the expenses of the tenure, of lenders activities and influence, and of government political and economic supports for home-ownership.

#### Recommendations

- Prior to a lending agreement being reached, a borrower's attention should be drawn to the mortgage deed criteria whereby the lender may pursue compulsory repossession. These criteria should be clearly stated to the borrower.
- The current operation of the legal stages leading to compulsory repossession should be immediately reviewed by the Law Reform Commission with the main objective being to increase their effectiveness and lower costs to the borrower.
- All professional fees charged in housing debt cases should be established on a set-scale fee agreed by the borrower. Fees charged to the borrower, above an initially agreed scale, on behalf of the lender should be reclaimable if the borrower successfully defends a repossession action.
- Adjournments should not be used by the court as a method of arrears management.
- The cost of each separate adjournment to the borrower should be outlined in advance of such an action being sought and granted. Both the lender and the court should confirm the cost to the borrower before an adjournment is granted.
- The government should review the Civil Legal Aid Act, 1995 to include greater provision of legal representation for disputes over property not arising from marital or domestic disputes.
- Serious consideration should now be given, by government, the judiciary and mortgage lending institutions to the establishment of a dedicated housing court, attached to the District Court, which would deal with all housing debt matters, regardless of the sum at issue. The Housing Court would develop expertise in housing debt cases and therefore be in a position to make meaningful interventions and judgements. The Court's emphasis would be on resolution through mediation and arbitration rather than adjudication. Hearings would be informal and held in private, (see Threshold, 1995 for more detail).
- Lender's practice when dealing with ex-borrowers who have been repossessed should not pre-clude them from holding another mortgage, at least until liabilities to the first or second charge holder are cleared.
- Research should be commissioned by government to fill the following gaps in our knowledge of repossession (a) the social and spatial distribution of losses amongst people who endured possession (b) the size and type of outstanding liabilities and their likely implications for households.



7

# SOCIAL HOUSING AND HOUSING DEBT

## Introduction

**H**OUSING DEBT IS NOT tenure specific. Therefore it is important to understand the nature of housing debt in tenures other than owner-occupation. The social housing system, provision of which is delivered mainly through local housing authorities, suffers a high incidence of rent default and arrears<sup>1</sup> (see section 3). Despite the tenure's historical pursuit of affordable rent levels (through the operation of a 'differential rents' policy in local authority housing), the extent and incidence of housing debt presents a significant difficulty to local authority housing management practices. In particular the response of local housing authorities to rent default, and the management of rent arrears, is crucial to attempts at its resolution.

In this section Threshold research findings on housing debt in social housing, and in particular on local authorities' perceptions of the main causes of debt among both tenants and borrowers are presented. In addition the housing management practices of local authorities in relation to rent default and arrears are reported and their impact on wider strategic housing management considered. Finally this section reviews the guidelines on best practice in housing management delivered by the Housing Management Group's First Report (1996).

## Local Authority Perception of Housing Debt

Threshold research conducted in 1994 found that local authority perception of housing debt can be understood as being tenure based. In other words,

local authorities' perceptions of housing debt differ considerably between tenures. Currently, local authorities administer loans for the purchase of private housing on behalf of the Housing Finance Agency. In addition authorities also administer tenant house-purchase loans and Shared Ownership loans. All of these loans are designed to facilitate entry to owner-occupation for low-income households. In the case of default and arrears on these loan repayments (and in contrast to building societies and banks), local authorities perceived unemployment to be far more causative than financial mismanagement on behalf of the borrower.

This finding was in stark contrast to authorities' perception of housing debt among their tenants, regularly characterised by the high concentrations of unemployment, low income and poverty in their housing areas. Remarkably, for a significant number of local authorities surveyed, any consideration of the causes of housing debt among tenants was deemed almost irrelevant to their housing management strategies. The normative response encountered by Threshold enquiries was that there exists little, if any, justifiable cause for rent arrears. This response was based on local authorities' current and long-standing policy of charging tenants for the cost of housing and service provision on the basis of differential rents.

The rent regime or policy known as 'differential rents' ensures that each tenant is means-tested at the beginning of his or her tenancy. A rent level is then set on the basis of an

*“The extent and incidence of housing debt presents a significant difficulty to local authority housing management practices”*

<sup>1</sup> Other providers of social housing include voluntary and non-profit housing organisations.

income-related scale so that, in theory, the rent remains affordable to the tenant in all circumstances. Changes in the tenant's income are likely to lead to a change in the differential rent calculated. However at all times the emphasis is to maintain the affordability of the rent charged, thereby eliminating any cause for rent arrears. Nevertheless, rent arrears continue to occur and in some local authorities at particularly high levels (see Section 2). In practice differential rents policy has been criticised for the inflexibility of its categorisation of tenants into different rent differentials, and the fact that tenants can be penalised for modest rises in income (see Blackwell, J. [ed.] 1988).

In light of local authorities' arguments regarding the affordability of their rents, their dominant perceived cause of debt in social rented housing is financial mismanagement on behalf of the tenant. Threshold found that financial mismanagement was commonly explained as arising directly from the social pathology of certain tenant groups. Again, the explanation of 'Irish diseases' as a root cause of indebtedness was offered. Surprisingly, and despite the fact that approximately 80 per cent of tenants included in the survey depended on social welfare payments as their main source of income, authorities considered unemployment to be a minor cause of rent arrears and indebtedness. Again this perception can be directly related to local authorities' belief in the affordability of their differential rents.

A minority of local authorities displayed a less orthodox perception of the causes of indebtedness among their tenants, and perceived the occurrence of family events as a significant causative factor. Significantly the definition of what constitutes a family event was broad and related to the degree of expenditure incurred when families celebrate such festivities as birthdays, Christmas, and other

religious occasions such as baptism, communion and confirmation. Yet there was little evidence to suggest that this perception altered to any significant degree the way authorities handled cases of rent arrears and indebtedness.

### Local Authority Rent Arrears – Policy and Practice

A major finding of Threshold enquiries in 1994 into rent arrears policy and practice was the absence of any formal policy document on arrears and its management in all but one of the authorities surveyed<sup>2</sup>. An equally important finding was the disparity and irregularity of arrears management practice that existed among different local authorities. The majority of authorities surveyed saw no justification for arrears at all and regularly commenced court proceedings and issued notices to quit as their primary response to the incidence of arrears. A minority of authorities, on the other hand, adopted a more flexible approach, occasionally working in liaison with voluntary and other advice agencies acting on behalf of the tenant. Figure 7.1 contains selected extracts of written local authority comments in response to queries on rent arrears policy and practice. This figure demonstrates the variety of response and inconsistency of management practice faced by defaulting tenants.

#### Local authority legal proceedings for rent arrears

A court case taken against a tenant to recover arrears or seek possession of the dwelling will be heard in open court before a judge at the District Civil Court. The case generally proceeds in the following way:

##### (i) Notice to quit:

When a local housing authority tenant defaults on rent payments and falls into arrears with their rent,

*“Local authority perception of housing debt can be understood as being tenure based”*

<sup>2</sup> Only eighteen authorities participated in this survey by returning information on rent arrears policy and practice.

Figure 7.1 Local Authority Rent Arrears Policy and Practice – Survey Extracts, 1994

‘To monitor the arrears situation and provide every assistance and help having regard to peoples circumstances in order to help them in paying weekly rent plus an appropriate amount of arrears’

‘[our policy is to] intervene as quickly as possible to prevent the accumulation of arrears’

‘[our practice is to] contact the tenant as soon as possible in writing, then in person and to issue legal proceedings as a last resort’

‘[our practice] is to make personal contact ... and to serve the notice to quit as early as possible after that date’

‘To simply take immediate legal action’

‘To pursue the tenant for payment before the arrears get out of hand’

‘[our policy is to] threaten water disconnection and legal proceedings’

‘Rent arrears which are not cleared will result in a notice to quit being served, court action and the repossession of the dwelling’

‘Rent arrears will result in the tenancy being terminated’

Source: Threshold

they may then be served with notice to quit. The notice to quit will usually incorporate a formal ‘demand for possession’. The notice to quit is a legal document which, when correctly drafted and served, effectively ends a tenancy agreement once the period of notice has expired. Upon expiry of the tenancy agreement the local authority can no longer accept any payments in lieu of rent from the tenant. However authorities may still collect arrears and charge a sum, known as ‘mesne rates’, for the continued use and occupation of the dwelling. Any payments forthcoming to the authority in lieu of this period of occupancy must be classified as ‘mesne rates’ otherwise a *de facto* tenancy is created and a new notice to quit must be served before court action can be taken.

#### (ii) Summons and Court Hearing

The next stage in the process is reached when the local authority serves a summons on the tenant

demanding his or her presence in court. The case will then be heard at the local District Civil Court. Once the case hearing has begun, it is usual for the housing authority to request the judge to grant a warrant for eviction to allow possession of the dwelling by the Sheriff or County Registrar. The local authority is obliged to prove that the original tenancy was created under the Housing Act, 1966 and that it had subsequently been terminated by the correct service of a notice to quit.

Significantly there is no onus nor obligation on the local authority to prove rent arrears on the tenant’s account. However, evidence to this effect may be given under oath on behalf of the housing authority by a rent collector or other housing officer. Although cases can be struck out for being flawed or adjourned for a variety of reasons, if all correct procedures are followed by the local authority under section 62 (3) of the Housing Act

“Significantly there is no onus nor obligation on the local authority to prove rent arrears on the tenant’s account.”

1966, the judge has no discretion and must grant the warrant for eviction and the possession order. The local authority then has six months to either use the warrant against the tenant or come to some form of agreement regarding arrears. If the authority does not act upon the warrant during the time allowed, the warrant expires and the case must be heard in court again. Regularly however, authorities in this position simply apply to the court for an extension of a further six months on the warrant.

### *(iii) Possession*

Only the Sheriff or County Registrar are empowered to repossess a dwelling. The local authority cannot take possession of a dwelling without first securing the appropriate court order. This is the case even if the dwelling is void and the tenant has abandoned the property. The local authority must make reasonable efforts to contact the original tenant as, for example, if the local authority secures the premises, changes the locks or re-lets it without first either obtaining a court order or proving that the tenant has formally surrendered the property, the authority may technically have executed an illegal eviction.

### *Rent arrears and housing management practices*

The extracts presented in Figure 7.1 illustrate a number of sometimes draconian strategies that were part and parcel of housing management techniques to deal with rent arrears in 1994. For example, threatening to cut off the water supply or refusing to carry out essential repairs have been, and may well continue to be, practices used as leverage against defaulting tenants to 'pay up'. Aside from the fact that such practices may give rise to a counter-claim or legal action by the

tenant, they should be disregarded by local housing authorities as unprofessional and unethical, especially as they may be in breach of the authorities responsibilities under the letting agreement. However, it is the court proceedings faced by tenants which highlight the inequity of rent arrears management practices. Firstly, although a tenant is legally entitled to representation in court, they must either pay professional fees or represent themselves. Given the high percentage of local authority tenants dependant exclusively upon social welfare benefits for their income, a tenant's capacity to hire professional representation is minimal. The Civil Legal Aid Board can be applied to for advice and assistance in the case of a tenant in arrears, but the service is means-tested and a charge is levied. For tenants on social welfare payments this charge will be a minimum of £4.00 for advice, and £23.00 for representation in court. Difficulties in achieving the support of the Civil Legal Aid Board are compounded by the long waiting list and delays in processing applications. In many cases it may not be possible to obtain legal representation and advice before the first day of the court hearing<sup>1</sup>.

It is clear that in the court the odds are stacked against the tenant. The judge has no discretion and must grant the order requested. The tenant may not even be aware of the extent of his or her arrears, or what evidence the local authority will use to obtain a possession order and warrant for eviction. In reality, even if the tenant is legally represented, the case against him or her cannot be effectively defended. However, it is more common that the tenant will not have obtained legal representation or advice prior to the hearing. This is despite the fact that the authority will always be represented legally. The final implication is that without more

<sup>1</sup> Other options available to the tenant include seeking housing debt advice from a voluntary organisation such as Citizens Information Centre, Money Advice and Budgeting Services and Threshold. However these organisations cannot act as lay representatives or advocates in court.

“The lost revenue that rent arrears represents, combined with the high expenditures incurred in commencing legal proceedings, are two reasons why local authorities need to consider alternative arrears practices.”

sophisticated, flexible and innovative arrears management, reliance on court proceedings will simply exacerbate the extent of the problem while also expanding the overall cost. The lost revenue that rent arrears represents, combined with the high expenditures incurred in commencing legal proceedings, are two reasons why local authorities need to consider alternative arrears practices.

There exist other, equally compelling reasons for innovation here. The lost revenue represented by arrears directly affects the level of income on the housing revenue accounts (HRA) of each local authority. This means that the higher the rent arrears, the less income is available to finance the expenditures that the HRA is responsible for. These expenditures include planned, cyclical and emergency repairs and maintenance of the housing stock. A consequence can be that high arrears results in a lower provision of services necessary to maintain the condition of the housing stock itself. As housing conditions consequently deteriorate, tenants' dissatisfaction may increase and their motivation to pay rent decrease, possibly resulting in increased default.

### Best Practice in Rent Policy and Arrears Management

The inappropriateness of many housing management practices in relation to rent, highlighted by Threshold's 1994 findings, is now being recognised at the policy making level. January 1996 saw the Minister for Housing and Urban Renewal establish the Housing Management Group with the explicit purpose of developing programmes for the promotion of best practice in housing management and training for local authorities. Through a process of consultation, and with the assistance of the Northern Ireland Housing Executive, the Housing Management Group prepared guidelines on best practice in housing management for use by local authorities in the following six areas:

1. Housing Management Systems.
2. Tenancy Matters.
3. Repairs and Maintenance.
4. Lettings.
5. Rents.
6. Tenant Involvement.

The Group's report, published in December 1996, recognises that best practice is not a static concept, but instead one which must adapt and evolve to meet changing circumstances.

Furthermore the Report (1996) also recognises that not all the guidelines developed will be applicable in each of the Republic's eighty eight housing authorities. Therefore the guidelines are designed to act as a framework within which authorities can develop best practice tailored to their own needs. There is evidence to suggest that best practice initiatives were occurring prior to the development of guidelines and indeed the Report (1996) highlights some examples.

Of direct concern here are the guidelines for best practice on rents and arrears management and the disparity between them and the disappointing array of poor and irregular arrears management practices unearthed by Threshold's enquiries in 1994. The Report (1996) considers rent collection and accounting and the prevention and recovery of arrears to be a fundamental element of housing management. The Report (1996: 20) goes on to state that authorities should "[therefore] have in place systems which provide accurate up to date information on rent charged and collected, and debt owed. Policies and procedures should be in place to cover rent collection, accounting, arrears prevention and recovery. Authorities should adopt a firm but fair approach to tackling arrears while at the same time respecting tenants' rights".

### Rent collection methods

The Housing Management Group guidelines insist that authorities should make available a wide range of convenient and flexible methods of rent

*“Best practice in housing management is not a static concept, but instead one which must adapt and evolve to meet changing circumstances”*



payment having regard to practical constraints and costs. Among the options recommended, some of which were already implemented by local authorities, were:

1. Payment of rent at the offices of the local authority (daytime, evenings and Saturdays, both central and local ).
2. Doorstep collection, though authorities will want to take account of the security implication of this method.
3. Post Offices (Giro, Transcash<sup>4</sup>, magnetic swipe cards).
4. Banks/Building Societies (as above).
5. Direct Debit/Standing Orders.
6. Direct deductions e.g. from wages, State benefits on a voluntary basis (Household Budget Scheme<sup>5</sup>).
3. Produce rent statements upon request.
4. Produce quarterly statements.
5. Retain payments history for each tenant.
6. Differentiate between current and past tenants.
7. Differentiate between rent and other payments e.g. heating and service charges etc.
8. Produce weekly statistics/reports on tenants in arrears.
9. Liaise with other functions and systems e.g. housing allocations.

### Information to tenants regarding rents

Housing Management Group guidelines instruct local authorities to ensure adequate provision of information to tenants and that all publicity and communications to tenants regarding rents are clear, concise and meaningful. The guidelines propose that authorities should:

1. Use clear language.
2. Take account of tenants with special needs.
3. Include information on rent collection, accounting and arrears recovery within a 'Tenant Handbook<sup>6</sup>.
4. Provide clear and understandable information on (a) rent assessment (b) amount of rent payable (c) frequency of payments (d) additional charges e.g. heating etc. (e) provide rent statements quarterly and on request.

### Rent accounting

Housing Management Group guidelines call for arrangements to be put in place capable of delivering operational, management and performance information and monitoring to ensure an efficient rent accounting system. Examples of methods that can be used include:

1. Update accounts within twenty four hours of payment received.
2. Produce weekly rent account records.

“Rent collecting and accounting are a fundamental element of housing management.”

<sup>4</sup> Transcash: Dublin Corporation makes extensive use of the Transcash system (see Appendix E). Under this system tenants are able to pay their rent through the Post Office using a book payment system or a swipe card system. One advantage of Transcash is that any amount can be paid by the tenant during Post Office hours on any day of the week, thus eliminating the necessity of tenants having to pay their rent at specific times and places.

<sup>5</sup> This scheme is being used by a number of authorities and allows claimants of unemployment payments who receive their payment at a Post Office to pay their rent via a direct deduction from their unemployment payment. The obvious advantages in terms of both convenience and security are available to both tenant and housing authority. This scheme is used by Fingal and Dun Laoghaire/Rathdown County Councils and Cork Corporation.

<sup>6</sup> The Tenant Handbook is regarded as a convenient way of supporting and elaborating on the Tenancy agreement. It should (a) explain the clauses of the tenancy agreement by spelling out the meaning of each clause and elaborating upon it with examples (b) explain authority policy on payment of rent, arrears recovery, terminating a tenancy, repairs to the home, transfers, tenant purchase schemes, evictions etc. (c) provide advice on safety in the home and information with regard to insurance (d) outline the standard of service tenants can expect from local authority staff (e) set out the policy of the local authority on tenant training and involvement in estate management (f) be drawn up in consultation with tenants where practicable.



### Preventing rent arrears

Housing Management Group guidelines emphasise that authorities should aim to prevent arrears from accruing through a combination of early tenant counselling, providing information relating to a tenant's obligations under the tenancy agreement and advising tenants on entitlements to benefits. The guidelines strongly recommend that authorities should:

1. Create a payment culture.
2. Advise tenants of tenancy conditions including implications of non-payment of rent.
3. Advise of potential entitlement to other welfare benefits.
4. Provide regular updates on relevant policy and procedural change, e.g. revised rent schemes.
5. Provide debt counselling and budget management advice directly, or by way of voluntary agencies.

### Recovery of rent arrears

Housing Management Group guidelines advise that authorities "have a clear policy and procedure for dealing with rent arrears". Authorities should adopt a "firm but fair approach" to the management of arrears by enacting the following:

1. Make early personal contact once an arrears situation has been identified (through letters, visits etc.).
2. Favour voluntary, realistic agreements as these are the most cost effective method of recovery.
3. Maintain up to date payment records and have systems to monitor missed payments.
4. Have set criteria/procedures for appropriate arrears recovery dependent on debt size, personal circumstances and vulnerability.
5. Make sure the debtor is aware of possible entitlement to Social Welfare Benefits.
6. Advise tenants of the consequences of non-payment.

7. Consider legal proceedings only when all other methods fail.
8. Have in place policies and procedures for recovering arrears from past tenants.
9. Have an agreed procedure and make provision for 'writing off' debts which are considered to be no longer recoverable.
10. Ensure that staff are trained in the policies, procedures and systems associated with debt recovery; and in interview techniques associated with difficult situations.
11. Designation of staff to deal specifically with the recovery of arrears.

### Performance monitoring

Finally, guidelines recommend that authorities carry out systematic performance monitoring of the economy, efficiency, effectiveness and equity of all aspects of services associated with rent accounting, collection and arrears. The types of indicators against which performance can be measured include the standards of service outlined in the Tenant Handbook and the policies and procedures as operated by staff. In turn authorities should monitor:

1. The percentage of rent which is actually collected.
2. The "profile of arrears" i.e. the number of weeks in arrears and the amount of arrears.
3. The amount of past debt.
4. The level of 'write-offs'.
5. The targets for the reduction in arrears.

### Implementing Best Practice

Defining 'best practice' guidelines for housing management is one thing, having them implemented effectively is another. The Housing Management Group's Report (1996) recommended that its guidelines be circulated to all local authorities and that workshops be arranged for local authority officials to facilitate promotion of the guidelines. This stage of

*“Defining ‘best practice’ guidelines for housing management is one thing, having them implemented effectively is another.”*

implementation began in 1997 with the establishment of a series of six regional workshops aimed at middle management level in local authorities. By May 1997 five had run their course. Threshold enquiries to the Department of Environment found officials held the view that the workshops had been a success, as they were 'unusually participative'. Housing officers and administrative officers together with local authority engineers and architects had participated in the workshops, and despite the difference in scale between local authorities nation-wide, there had been significant demand for attendance.

This section has illustrated the divergence of housing management practice regarding rent collection and arrears recovery prior to the arrival of best practice guidelines. Ultimately the guidelines' success will be measured, in part, by greater congruence between the rent collection and arrears procedures and policies of all eighty eight housing authorities on the basis of best practice. However the best practice workshops held in 1997 did not seek to establish a system of monitoring or evaluation for overall implementation, nor have they succeeded in establishing formal policy networks between local authorities, with similar stock characteristics and tenant profiles, capable of disseminating innovative and successful management practices among social housing providers. This is a serious oversight which will limit the effective implementation of best practice.

Arguably certain housing management practices in the past resulted in an increase in both the extent and incidence of arrears. Nevertheless it is important to recognise that not all social housing management practices regarding rent arrears were confrontational and adversarial. Indeed prior to the arrival of the best practice guidelines some local

authorities had recognised the advantages of developing more responsive and flexible systems of arrears management. For example, when compared to the Report's (1996) guidelines, Dublin Corporation rent policy, adopted in May 1996<sup>7</sup>, met a considerable number of the recommended guidelines and can be considered a real world example of best practice. Yet despite the adoption by Dublin Corporation of a rent policy based on flexible management techniques and aimed at reducing the extent and incidence of arrears, there remain serious concerns over the consequences of the policy's implementation. Current research by the Credit and Debt Policy Group has revealed that implementing the policy is having adverse 'knock-on' effects on the role of vital local services such as M.A.B.S. (Shanks, *forthcoming*). Full details of Dublin Corporation rent policy and the effects of its implementation are given in Appendix E.

### Summary

The extent and incidence of housing debt in social housing tenure cannot be overlooked as rent default and arrears present a significant challenge to current housing management practices. Local authorities' perceive the causes of housing debt to be different between tenures. Significantly a number of authorities held the view there is no acceptable reason for the incidence of housing debt due to the argued affordability of rent levels set under the differential rents policy regime.

Established rent arrears management practices have been to rely upon the court process involved in pursuing possession and eviction. The court system is heavily biased against a tenant, whose case may, in effect, be indefensible if local authorities are not obliged to demonstrate evidence of arrears. However, given the cost of the legal

“Arguably certain housing management practices in the past resulted in an increase in both the extent and incidence of arrears.”

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<sup>7</sup> The details of this new policy were presented to an invited audience of interested organisations by Mr. Owen Keegan, Assistant City Manager for Housing, at the City Hall, 21st May 1996.

process, in terms of both expense and time, a number of authorities have independently begun to pursue rather more 'enlightened' management practices. Best practice in housing management has now been formally recognised with the publication of best practice guidelines by the Housing Management Group. However the implementation of these guidelines is still in its initial stages. Yet the extent and incidence of rent arrears remains a vital influence on the balance of the housing revenue account and therefore holds serious consequences for the availability of expenditure to pay for housing services such as planned and cyclical maintenance and emergency repairs. Rent arrears may ultimately threaten the quality of the housing stock condition, which if deteriorating, can quickly de-motivate tenants from co-operating with rent payments. Faced with such a consequence all local authorities should not hesitate to review and improve their arrears management practices and adopt the Housing Management Group guidelines on best practice without delay.

### Recommendations

- Local Authorities should alter their perception of the causes of housing debt as being tenure based, especially as the causes of both rent and mortgage arrears may be similar across tenures. In addition local authorities should not rely upon social pathology stereotypes of particular social groups among their tenants to explain the incidence and cause of housing debt in social housing.
- Section 62(3) of the Housing Act 1996 should be amended to place an onus or obligation on a local authority seeking a tenant eviction to prove rent arrears on a tenant's account.
- Government should expand the funding for Civil Legal Aid in order to reduce the waiting list and delays in processing applications.
- The recently published best practice guidelines for social housing management should be immediately implemented at a senior management level by local authorities. In addition, a system of monitoring and evaluation should be developed and adequately funded to ensure a minimum standard of practice is achieved among social housing providers. The establishment of formal policy networks to disseminate innovative and successful practices among similar social housing providers should also be encouraged.
- Local authority rent arrears management should take account of stock condition and quality via the role rents play in paying for the maintenance and repair of housing stock. Local authorities should not allow housing areas with an above-average arrears profile to experience below-standard housing conditions. The practice of low rent collection/high arrears in a housing area leading to low maintenance and repair provision in that area should not be relied upon as it can lead to a deterioration in housing conditions and quickly de-motivate tenants from paying rent.

## APPENDIX A

### Changes in Home Loan Criteria for Main Mortgage Lenders, 1993 – August 1996.

LENDER	MAX. LOAN % TERM 1993	INCOME REQUIREMENTS 1993	MAX. LOAN % TERM August 1996	INCOME REQUIREMENTS August 1996
ICS Building Society	90% Max. Term: 30 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	95% (First Time Buyers) Max. Term: 30 yrs.	Same
Irish Nationwide Building Society	90% Max. Term: 20 yrs	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	92% Max. Term: 25 yrs.	Same
Irish Permanent Plc.	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 0.5 x second salary	92% Max. Term: 30 yrs.	Single: 2.5 x salary Joint: 2.5 x Salary + 1 x second salary
First National Building Society	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: (main salary + 0.5 second salary) x 2.5	92% Max. Term: 25 yrs.	Same
Educational Building Society	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: (main salary + 0.5 second salary) x 2.5	Same	Same
ACC	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.2 x salary + 1 x second salary	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary
AIB Finance	80% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.25 x salary + 1 x second salary	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1.25 second salary
AIB Homeplan	80% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.25 x salary + 1 x second salary	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1.25 second salary
Irish Life Homeloans	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	95% Max. Term: 25 yrs.	Same
National Irish Bank	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	Same	Same
Trustee Savings Bank	90% Max. Term: 25 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	Same	Same
Bank of Ireland	90% Max. Term: 25 yrs.	Single: 2.33 x salary Joint: 2.33 x salary + 1 x second salary	90% Max. Term: 30 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary
Ulster Bank	90% Max. Term: 30 yrs.	Single: 2.5 x salary Joint: 2.5 x salary + 1 x second salary	90% Max. Term: 25 yrs.	Same

## APPENDIX B

### IMSA Code of Practice for Mortgage Arrears Management

This is a full transcription of the code of practice adopted by the following members of the Irish Mortgage and Savers Association in March 1997:

Irish Permanent Plc., First National Building Society, EBS Building Society, Irish Nationwide Building Society, ICS Building Society, Norwich Irish Building Society, Irish Life Homeloans Ltd.

"Should a borrower develop a problem with repayments, it is important that they contact the Lender at the earliest opportunity. Ignoring the situation, in addition to compounding the existing problem may affect a borrower's credit rating and they may find it difficult to get a loan in the future as a result. Even if a full payment cannot be made, it is important that some payment is made each month.

The Lender operates a help line service, staffed by skilled personnel, which offers practical guidance to help resolve repayment problems.

#### Account in Arrears:

If an account does fall into arrears, every effort is made to give borrowers the opportunity to meet their obligations.

- In the first instance, the Lender will usually bring the matter to the attention of the borrower with a written reminder.
- If this fails to evoke a response the Lender will endeavour to make personal contact.

- Upon making contact, all viable options open to the borrower will be examined. Consideration will be given to previous payment history and to the equity remaining in the property.
- The borrower will be given a full statement of indebtedness on request
- An interest rate may be applied to any arrears balance [state the rate or margin applicable].

#### Legal Proceedings:

- The normal practice is that legal proceedings will not be initiated without every reasonable effort being made to agree a repayment schedule.
- A formal demand for payment may issue when [state the trigger e.g. number of months expired]. The borrower will be advised of the consequences of failing to respond, which may result in the potential loss of his or her house and an estimate amount of the legal costs. The borrower will have been made aware of this in the loan application form and also in the loan approval document and any communication relating to potential proceedings seeking possession.
- If no repayment arrangement is made and/or all communications are ignored, the Lender will be forced to issue proceedings.
- Lender's practice is to give at least [state how many days] notice before commencement of legal proceedings."

## APPENDIX C

### Regulations to bring Housing Loans advanced by Local Authorities within the scope of the Consumer Credit Act, 1995.

The Statutory Instruments (S.I.) number 186 of 1997 signed on the first day of May 1997 by Pat Rabbitte, Minister of State at the Department of Enterprise and Employment read as follows:

S.I. No. 186 of 1997

#### CONSUMER CREDIT ACT, 1995 (SECTION 3) REGULATIONS, 1997.

I, Pat Rabbitte, Minister of State at the Department of Enterprise and Employment, in exercise of the powers conferred on me by section 3 (3)(a) of the Consumer Credit Act, 1995 (No. 24 of 1995), and the Enterprise and Employment (Delegation of Ministerial Functions) (No. 2) Order, 1996 (S.I. No. 350 of 1996), after consultation with the Minister for the Environment, hereby make the following Regulations:

1. These Regulations may be cited as the Consumer Credit Act, 1995 (Section 3) Regulations, 1997.
2. These Regulations shall come into operation on the 1st. day of September, 1997.
3. The following provisions of the consumer Credit Act, 1995 (No. 24 of 1995) shall apply to a housing loan advanced by a local authority –
  - (a) Part I, other than sections 9 to 16, 18 and 19, and

- (b) in Part IX, sections 115, 121(1), other than “Subject to subsection (3),”, 123, 124, 125, 128, 129, where applicable, 130, 132, 134.

Under these regulations housing loans advanced by local authorities will therefore be exempt from the following sections of the Act:

#### Part I

Sec. 9. – Definition of annual percentage rate (APR); Sec. 10. – Criteria for calculation of APR.; Sec. 11. – Laying of regulations before House of Oireachtas; Sec. 12. – Offences; Sec. 13. – Penalties; Sec. 14. – Prosecution of Offences; Sec. 15. – Cost of Prosecutions; Sec. 16. – Immunity of Director (of Consumer Affairs); Sec. 18. – Expenses of Minister and Director; Sec. 19. – Repeals.

#### Part IX

Sec. 115. – Application of definitions (of a housing loan); Sec. 121. – (1), other than subject to subsection (3), Redemption of housing loans; Sec. 124. – Insurance of mortgaged property; Sec. 125. – Costs of legal investigation of title; Sec. 128. – Warning on loss of home; Sec. 129. – Notice of important information to be included in a housing loan agreement. Where applicable: Sec. 130. – Duties of mortgage lender to supply documents and information; Sec. 132. – Disclosure of other fees; Sec. 134. – Disclosure of interest rate and penalties to be applied to arrears on a housing loan.



## APPENDIX D

### The Six Legal Stages Leading to Compulsory Possession

The following six stages describe in detail the procedures followed after default on mortgage repayments have occurred. Once a solicitor's letter has been issued without the debt being cleared or a settlement agreed, the following process, modelled in Figure 6.1, may occur in full to the final repossession of the property.

#### Stage 1 – The Civil Bill

Once initial attempts to contact the borrower have been made and seen to have failed, the lending institution will direct its solicitors to open a file on the borrower. This file details the extent of the arrears outstanding, the length of default, penalty charges and composition of the household resident in the mortgaged property. In other words, details on whether the mortgage is jointly held, or if any part of the residence is let to a tenant.

These details are included in order to protect a borrowers' spouse or tenant in case the borrower seeks to 'hide' the debt from them. The solicitor issues a registered letter of warning to the borrower advising that if repayment is not forthcoming within a set period then court action will be commenced. A similar letter is also sent to inform the borrower's spouse or tenant. These individuals

must be made aware of the lending institutions' intentions. A failure to do so on behalf of the lending institution can result in the spouse or tenant(s) adopting a defence on the basis that they were uninformed of the lending institutions intentions. Such a defence has been successful in delaying an execution order for repossession being issued by the court<sup>1</sup>.

Once the letter has been sent to the borrower, the solicitor will request the mortgage deed from the lending institution. Upon its receipt the solicitor will prepare a Civil Bill to be served on the borrower. The type of mortgage deed will decide the type of civil bill to be drawn up<sup>2</sup>. The civil bill is then served on the borrower normally via registered post. The solicitor then prepares a Declaration of Service which states that a correct copy of all the relevant documents have been sent by registered post to the correct address and with the correct postage. The declaration is then filed in the court records.

At this stage the borrower has the first opportunity to begin to legally defend his or her position by completing the details on the reverse of the civil bill known as the Appearance Form. The return of this form to the court signals the

<sup>1</sup> In November 1992 Judge Esmonde Smyth struck out an application order for possession, brought by the EBS building society against a woman borrower, on the grounds that she had not been informed of her rights under the Family Home Protection Act, 1976. During the case it emerged that £18,000 arrears were outstanding on the mortgage which was taken out in 1990 on a house then costing £115,000. The Building society claimed that the house would no longer fetch that value in the marketplace and that no payments had been forthcoming since 1991. The building society claimed that a total of £93,670.00 was owed by the borrower. However the societies' case unravelled when it emerged that although advice of forthcoming court proceedings had been served against her husband, the woman had not been written to informing her of her rights under the 1976 Act. The building society also failed to include a description of the house as a family home in its affidavit. These details, further compounded by technical flaws in the civil bill, meant the hearing went against the society.

<sup>2</sup> For example in the case of loan default for registered land a copy of the Land Registry Folio and a map of the land is obtained by the solicitor who then engages a barrister to draft an Equity Bill on his or her behalf. In the case of loan default on unregistered land a Title Jurisdiction Ejectment Civil Bill on the land title will be drafted by the barrister on behalf of the solicitor.

borrowers intention to defend his or her position in court. Once the civil bill has been served, and assuming there remains no apparent or forthcoming settlement between borrower and borrower, the next step is the swearing of a Grounding Affidavit. This affidavit contains the evidence demanded by the court. If this evidence is not fully complete when lodged with the court it may also be presented separately to the judge on the day of the court hearing.

#### *Stage 2 – The Notice of Motion*

The second stage involves the preparation by a barrister of a Notice of Motion. This document will have a 'return date' marked upon it which represents the date after which the motion for possession will be heard in court. In the Dublin Circuit Court a notice of motion is usually heard within two to three weeks of being issued. In other Circuit Court areas it is usually heard at the next 'motion date'. The notice of motion and the grounding affidavit are then served on the borrower, once again by registered post. Another declaration of service detailing these actions is drawn up and filed with the court.

Approximately one week prior to the 'return date' the lender's solicitors will accept detailed and up-to-date instruction on the nature and extent of any mortgage repayments and arrears repayments made by the borrower since the beginning of legal proceedings. Importantly the solicitors will also confirm that the lending institution wishes to proceed with the repossession. Once this is confirmed a barrister is briefed with the relevant information for the actual court hearing.

#### *Stage 3 – The Hearing*

The case is heard by way of a motion for possession before a judge in the Circuit Court. The court will produce an Order detailing its

judgement and the borrower and the lending institution are informed of this judgement.

It is at this stage that the whole process can be put on hold by the court if the judge decides to adjourn the hearing. Adjournments are not uncommon. Motion for possession is frequently adjourned at least once before an Order of Execution is granted. The most common reason for adjournment is when the borrower attends the hearing and makes a specific plea to the judge for more time to resolve his or her situation. However even if the borrower does not appear judges quite regularly adjourn cases to ensure that the borrower has every opportunity to be present and state their case at the next hearing.

Adjournments can vary in length from a week to a year, and are often granted unconditionally. That is, the case is adjourned for approximately two weeks to allow extra time to the borrower to resolve his/her situation. Unconditional adjournments have been known to follow each other over a considerable period of time so that the case continues without any progress being made. In such an instance the legal costs are likely to soar. For example, in 1993 the Dublin Circuit Court adjourned one mortgage arrears case nine times. When the case eventually reached its final hearing it was struck out by the court judge who awarded costs to the lending institution<sup>3</sup>

A conditional adjournment demands that either the borrower or lending institution, or both, adopt some course of action towards resolving the debt before the next hearing of the case. These actions regularly involve the borrower seeking debt advice and/or making some form of repayment. If successful, such an adjournment will guarantee that the next time the case reaches the court there will be evidence of some attempt at resolution.

#### Stage 4 – The Order for Possession

The final stages in the legal process occur when the court grants an Order for Possession. It is usual for the court to issue a 'stay of execution' on the Order which can last for three to six months. During this period the Order cannot be enforced by the lending institution, thus providing a last chance for the borrower to meet the necessary loan repayments specified by the court in order to avoid repossession. Precedent has established that if the borrower maintains a regime of regular repayments, as specified by the court, between the date the Order was made and the date the Order can be executed, then the lending institution can expect difficulty when applying to the court to have the Order fully enforced (i.e. to initiate repossession). In such cases a situation of 'conditional home ownership' arises whereby the lending institution agrees not to attempt to enforce the Order for repossession, providing the borrower meets the conditions of repayment imposed by the court.

#### Stage 5 – The Execution Order

If the schedule of repayments set by the court is not adhered to by the borrower, and once any stay of execution is exhausted, the lending institution can then apply to the court to grant an Execution Order. This order allows the full repossession of the property to proceed so that it may be resold on

the market to clear the debt owed by the borrower. After being processed by the County Registrar, a sealed execution order is lodged with the City or County Sheriff (depending upon the location of the property). Together with the execution order, the Sheriff also receives an Affidavit of Non Compliance. This is sworn by a person in the lending institution's office stating that the original terms of the order for possession were not adhered to by the borrower. Although these actions are complicated to enact, and tend to delay the eventual act of repossession, they are considered necessary to satisfy the Sheriff that efforts have been made to arrange a repayment schedule with the borrower.

#### Stage 6 – The Repossession

The final act in the process occurs when the Sheriff notifies the borrower and the lender's solicitor of the date for repossession. If, at this final stage, an arrangement is made by the borrower to repay the arrears and meet the repayment schedule set out by the court, the repossession can be cancelled. If such a situation does arise, then the execution order remains in force for twelve months from the day it was made. If its arrangements are broken, then it can once again be enforced through the offices of the Sheriff. Upon its expiry the lending institution can apply to the court for its renewal without having to engage in the whole process once again.

## APPENDIX E

### Dublin Corporation Rent Policy, 1996.

The Dublin Corporation publicly recognises that rental income is fundamental to financing the provision of social housing. In 1996 its housing department operated a budget of just under £50m of which approximately 50% was rental income. The Corporation also recognises that there is a direct relationship between its capacity to provide housing services and the rent its collects. In other words, for every pound of rental income not collected, or every additional pound of cost incurred in collecting rent, a pound less is spent on services to tenants. The Corporation has adopted the following principle in relation to rent collection in May 1996:

'The fundamental principle that every tenant must pay his/her rent in full and on time needs to be re-established. Acceptance of this principle will be reinforced by a clear understanding that failure to pay rent will lead to eventual eviction in every case.'

#### Dublin Corporation differential rent scheme

The current calculation of rents was initially introduced in 1994. A number of small changes have been made since then. Rents are now assessed at 15% of the principal earners net income above a rent free allowance of £25 in the case of a single person, and £50 in the case of a couple. The maximum contribution on behalf of subsidiary earners in the household is £7.50. There has been a reduction of 50 pence per week for each dependent child. There is no minimum rent. Maximum rents are now calculated on the basis of economic rents for the dwelling but are expected only to apply on households with very high incomes. There is also an explicit provision for hardship cases and rent increases are now timed to coincide with social

welfare increases<sup>1</sup>. This has given rise to criticism that the Corporation is taking a slice of additional social welfare income. The Corporation holds that the current system of calculating-rents has delivered far greater equity between tenants than before. It argues that tenants on the same income are essentially paying the same rents, and there exists a measure of 'progressivity' in this new scheme due to a concurrent increase in the proportion of income accounted for by rent as incomes rise.

Nevertheless one of the major difficulties of the rent scheme arises in relation to subsidiary earners. According to the Corporation many of its tenant families have adults in receipt of social welfare, registered as living in the household dwelling, who are in fact co-habiting with single parents. The Corporation demands a contribution from these individuals and a tenant's rent will be adjusted accordingly. This produces a certain amount of conflict between family members, especially when this contribution is not forthcoming and the tenant has difficulty in meeting the rent set. The Corporation explicitly acknowledges the capacity of this arrangement to push the registered tenant into arrears and has now decided not to take into account the subsidiary incomes when calculating rent if there are more than three subsidiary incomes in one tenancy. Arguably an influential reason why this behaviour arises can be found in the income differential between social welfare rates that can accrue to a couple in local authority housing, with one child, who are registered as living apart. Table App.E1 illustrates the extent of this income difference.

<sup>1</sup> The income structure of Dublin Corporation tenants is very low with approximately 85% of tenants dependent upon social welfare payments.

Figure App. E1 Comparison of Social Welfare Options Available  
to a Couple with one Child (December 1995)

	Net Income IR£	Rent Contribution IR£	After Rent Income IR£
Option 1: Living Apart Lone Parent with one child	77.50	7.90	
Single person on U/A 'living at home'	<u>62.50</u>	<u>5.60</u>	
	140.20	13.50	126.70
Option 2: Living at Same Address			
Couple with one child on U/A	113.20	9.50	<u>103.70</u>
Net Additional Weekly Income Under Option 1			23.00

Source: Keegan, 1995

### Affordability

The Corporation argues strongly that its rents are affordable and that the four major categories of social welfare recipient have rent levels set within their means. For example the Corporation calculates that a single person on long-term unemployment assistance of £64.50 per week will pay a rent of £5.90, representing 9.2% of income. Thirty per cent of the Corporation's tenants are on long-term unemployment assistance. Eighteen per cent receive the lone parent allowance and a single parent with one child is charged £7.70 a week rent, an equivalent of 9.7% of their income. The average rent charged by the Corporation is £13.90 and the proportions of income this represents varies between 8.5% and 11% of average tenant household income.

### Rent assessment

Corporation rent assessment procedures have changed in three areas in particular. One is regarding the imposition of retrospective debts. Previously when the Corporation became aware of

a change in the household income (due for example to a dependent child now eligible for social welfare payments), it would calculate the amount owed and imposed this as a retrospective debt. The incidence of these debts being imposed was extremely high, estimated at five thousand a year. The Corporation now regards such impositions as a 'questionable' practice, due in the main to the effect it had on increasing the overall arrears figure without offering any increased prospect that it might be collected. Secondly, it discouraged those tenants who, up until the imposition, had been paying their rents in full from continuing to do so. In other words, the effect was to increase both the extent and incidence of arrears. The Corporation has now relaxed its procedures so that higher rents are only imposed as and when the rent officers become aware of an increase via social welfare payments in a tenants' household. In addition the Corporation is now ignoring all modest increases in income for those tenants in employment. The third area of practice that has been changed relates to the imposition of penal rates when tenants failed to return the

annually-issued household details form containing information on the profile of the occupants of the dwelling. Again it was recognised that this imposition simply added to the extent and incidence of rent arrears

#### Hardship clause

The Corporation has now adopted a set of formal guidelines to deal with hardship faced by tenants when meeting their rents. Whereas previously the Corporation responded to hardship in an ad hoc and discretionary manner, explicit provision is now made for hardship. A rent officer can now refer a suspected hardship case to a housing welfare officer who in turn identifies and assesses the 'exceptional factors' affecting the 'social functioning' of the household and its inability to pay rent. The officer can then recommend a reduction in the household rent of up to 50% for a period of six months. The Corporation has identified the following as 'exceptional factors': bereavement, very serious physical, mental or psychiatric illness, eccentric or reclusive behaviour, and major family or household crises.

#### Rent payment options

The Corporation has abolished the use of locally-based rent offices and is now switching its collection methods from a docket-based system to a electronic plastic card system whereby a tenant can pay any amount off his or her rent, at any time, using the An Post BillPay system. The Corporation argues that this increases the flexibility in payment times and place demanded by tenants. Additional payment options include a five-day a week rent payment office located in Civic Offices, the possible use of direct debits from a tenant's bank account, and the Corporation's willingness to co-operate with M.A.B.S and Credit Union arrangements for tenant rent payments. The Corporation allows direct deductions to be made by a tenant's employer toward rent payments.

#### Rent arrears

In May 1996 Dublin Corporation rent arrears averaged £254.00 per household. The long-term extent of arrears remains high. One of the reasons offered to explain the historic extent of arrears is that the Corporation does not write-off arrears for operational reasons. Even when the Corporation is prepared to acknowledge that there is very little prospect of collecting these arrears, they will still leave them 'on books' in order that they are not seen to be in some way rewarding those tenants who don't pay their full rents on time and consistently. The Corporation argues that a more satisfactory way of evaluating the extent of arrears is to consider the performance of rent collection rates. In 1993 the Corporation collected £17.2 m in rents and had a shortfall of £0.4m. In 1994 the figures stood at £18.8 m and £0.7m respectively. In 1995 £20.2 m was collected and a shortfall of £1.6m occurred, due in the main to the re-organisation of rent payment procedures and the closing of local rent offices. The prediction for 1996 is that £22.3 m will be collected and a shortfall of £0.5 m will occur. Despite these improving figures, a serious problem of default and arrears continues in Corporation housing. The response has been to amend procedures for handling arrears cases and managing accounts in an attempt to ensure that procedures were not in themselves adding to the incidence of arrears. The Corporation's policy is now to engage in a much more timely intervention in arrears cases and not to allow arrears reach a significant level before reacting, as was previous practice. The approach to settlement has also changed. The Corporation is no longer seeking the settlement of arrears 'in a nutshell' but is prepared to accept what it terms 'uneconomic settlements' for all current outstanding arrears. The Corporation has placed an emphasis on arrears repayments being affordable in all cases, and is no longer insisting on lump-sum repayments. Once agreed, rent arrears



repayment schedules will then become a matter of a formal written agreement between the tenant and the Corporation. Previous arrears management practice was to almost immediately serve a certificate of notice and bring the tenant to court. It is now Corporation policy to greatly reduce its reliance upon the courts and to seek early agreements with defaulting tenants.

However the procedure for tenants 'not co-operating' with the new regime is to rely on the 'tried and tested' methods of communicating with the tenant using the offices of the courts. In the Corporation's own admission, the *quid pro quo* for offering affordable 'uneconomic' settlements to tenants in arrears is that they keep to the agreements and do not break them or unilaterally re-negotiate them. If such a situation occurs the Corporation is now determined to proceed to eviction without delay Whereas previously last-day settlements were accepted immediately prior to an impending possession and eviction, the Corporation's position now is that if a case is handed over for eviction then it will proceed to eviction with no scope for final-day settlements.

This is a very important policy change that remains, as yet, fully untried and untested. However current research by the Credit and Debt Policy Group (see Shanks, forthcoming) has indicated that the impact of this policy change is being felt quite severely. Evidence has emerged from Ballymun which suggests that in implementing the policy change the Corporation has adversely impacted upon the capacity of the local M.A.B.S to negotiate agreements on behalf of clients with rent arrears. The effect has been to erode the ability of the M.A.B.S to reach a compromise agreement with the Corporation that will ensure a tenant does not face eviction. Consequently the number of evictions in the area have risen considerably since the policy change. In order to demonstrate its determination to implement this policy the Corporation has placed itself in the unenviable position of pursuing test-case evictions which will undoubtedly ensure its increased unpopularity, but far more importantly, threatens to subvert the highly useful and necessary role played by local Money Advice and Budgeting Services.

## APPENDIX F

### Threshold Research and Methodology

This report presents, for the first time, the findings of a series of Threshold research enquires conducted since the beginning of the housing boom in 1993. Most of these enquires were in the form of questionnaire based surveys. Case studies and structured interviews were also relied upon to deliver data. The nature of the research methodology used in each enquiry was determined by the research subject. Postal and telephone questionnaire surveys and were used to generate empirical findings, whereas more qualitative methodologies were used to generate data on individual and institutional perceptions along with data on processes and trends. Original Threshold research in this report includes the following:

#### 1993

A case-study analysis of all Dublin Circuit Court possession actions in 1993. The outcome of seven hundred and fifty two Civil bills for repossession entered in the court by mortgage lenders were documented. Between January 1993 to October 1994 all court cases arising from the civil bills were observed to witness their final conclusion and outcome. Nine months was the shortest period any one case was observed.

#### 1994

The following surveys were conducted via postal questionnaires to individual institutions and to their representative organisations:

1. Building Society and Bank's Mortgage Arrears Survey (100% response)
2. Local Authority Mortgage Arrears Survey (30% response)
3. Local Authority Rent Arrears Survey (50% response)

Case study analysis of a sample thirty Threshold case-files and thirty M.A.B.S. case files was conducted to identify the causes of housing debt reported by clients and service users.

#### 1995

Interview survey of a sample sixty families experiencing housing debt to determine what they perceived as the main causes of housing debt. Sample identified and selected using Threshold housing advice service data

#### 1996

Telephone questionnaire survey into the extent of arrears on housing loans held by Dublin local authorities.

Threshold wishes to acknowledge the co-operation of the following sources in conducting its research into housing debt:

1. Mortgage Lenders and Brokers: a total of eleven independent mortgage lending institutions were involved in the research process. Six of these institutions are building societies, the remain five are associated banks. Threshold acknowledges the assistance of the following institutional members of the Irish Mortgage and Savings Association and their Arrears Managers: EBS Building Society; First National Building Society; ICS Building Society; Irish Nationwide Building Society; Irish Permanent Plc (formerly Irish Permanent Building Society); Norwich Irish Building Society; and the following institutional members of the Irish Bankers Federation and their Public Relations Managers: AIB Bank; Bank of Ireland; National Irish Bank Ltd.; TSB Bank; Ulster Bank.
2. Local Authorities: twenty three local authorities participated in the research process. Threshold acknowledges the assistance of Arklow UDC; Bray UDC; Cavan County Council; Cork County Borough Council; Cork County Council; Drogheda Corporation; Dublin Corporation; Dundalk UDC; Dun Laoghaire-Rathdown County Council; Fingal County Council; Galway Corporation; Kilkenny County Council; Limerick Corporation; Limerick County Council; Listowel UDC; Louth County Council; Offaly County Council; South Dublin County Council; Thurles UDC; Tipperary (South Riding) County Council; Tipperary (North Riding) County Council; Tullamore UDC; Westmeath County Council.
3. Dublin Circuit Court: the County Registrar for Dublin support research process and provided access to inspect the Dublin Circuit Court cause books.
4. County Registrars and Sheriffs: twenty four County Registrars and Sheriffs participated in the research process
5. Housing Finance Agency
6. Other participants in the research process included staff and personnel of the following: four Dublin based Money Advice and Budgeting Services; Dublin Credit Unions, the Society of St. Vincent de Paul; the National Association of Tenants' Organisations, the Irish Banks Information Service and the Irish Mortgage and Savers Association.

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**T**his is the first report of the Housing Debt Project, originally established at Threshold in July 1994. The report aims to provide a coherent and comprehensive explanation of the nature, extent and experience of debt in the Irish housing system since the early 1990s and brings together for the first time Irish, British and other European research, as well as a considerable amount of previously unpublished data and findings from research conducted by Threshold itself. Some of the major questions this report seeks to answer include: what is meant by the term housing debt? How do we understand housing debt and the way it operates in the housing system? How does housing debt relate to the current private housing boom and also to wider social and economic trends affecting Ireland? What is the extent of housing debt in Ireland? What are its causes, both real and perceived? How is it experienced and managed? How is it resolved?

To answer these questions this report contains a diversity of material on the phenomenon of housing debt as it relates to owner-occupation and the private housing market: banks, building societies and the mortgage finance industry; the institutional and personal management of housing debt; repossession and the role of the legal system in resolving housing debt and also the impact housing debt has on social housing. By so doing, this report aims to provide a very practical resource for any professional or agency working in the area of housing policy, administration or law. In addition this report will be of interest to professionals in banking and finance, as well as those from the fields of economics, geography and other social sciences directly concerned with housing provision and consumption. Undergraduate and post-graduate students will find this report a unique contemporary research resource. Finally this report will, of course, have particular relevance for those involved in the field of housing and in debt management.



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