

BEHIND OPEN DOORS



OUT OF
COURT
OPTIONS
FOR
HOUSING
DEBT
CASES





Threshold is a voluntary organisation working for justice on housing and homelessness. This it does in three ways:

- providing immediate help and advice to callers in our housing advice centres
- engaging in preventative work by encouraging better management practices for both private and public housing; developing education and training programmes and publishing information leaflets on housing rights and options
- tackling the underlying causes of homelessness and other housing problems by conducting research, developing housing initiatives and campaigning for change.

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SUMMARY

This document aims to stimulate debate on possible alternatives to court for dealing with cases of housing debt. It arises from our experience of dealing with housing debt cases over the last six years and seeks to build on the progress made in the Consumer Credit Act. While this document focuses on mortgage arrears, the arguments can be applied to all cases of housing dispute.

An estimated one in eight of all domestic mortgages are in arrears at any one time. From Threshold's experience the current judicial process is unsatisfactory and inappropriate in cases of housing debt.

There are many models of alternatives to court which include arbitration and mediation. Some of these models are examined in this document. Three are put forward as models which would be appropriate to Ireland: Contract arbitration, Court annexed arbitration and a Special Housing Court.

These proposals are informed by our experience and based on the conviction that:

- alternative procedures promote settlement in a way that adversarial court proceedings do not. This is the most appropriate approach in housing debt cases, given that settlement is the desired outcome for both parties.
- Negotiated settlement as opposed to court imposed determination encourages compliance
- Privacy and informality are important in promoting trust and honesty

Any alternative to the existing system should therefore be:

- Focused on problem solving
- a dedicated housing only service which allows the development of expertise in this field
- accessible, speedy and cost effective
- informal and private

A reformed legal procedure would be in the interests of borrowers and lenders by providing a more readily accessible and responsive means of dispute resolution and could have a more far reaching affect on the behavior and practices of borrowers and lenders. Ultimately, however effective a system for dealing with housing debt may be, it cannot deal with the cause of most indebtedness, namely inadequate resources.

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Introduction

Threshold is the national housing advice agency with over sixteen years experience of working for justice on housing and homelessness. Through our advice centres we provide advice, information and support to people with housing problems and undertake mediation, negotiation and advocacy on their behalf. In 1995 over 11,000 people availed of our services. Through our contact with callers, we have a unique perspective on the genuine issues affecting housing and homelessness in Ireland. This informs all our work including that related to developing policy and campaigning for change.

Threshold has pioneered housing debt advice in Ireland through a project dedicated to this area of work, funded by the Department of Social Welfare. Our work with people in housing debt has convinced us that the present legal system is inappropriate and ineffective. We see no reason why it should not be reformed and believe that the Consumer Credit legislation has paved the way for change in this area.

Given the context of the Consumer Credit legislation, this submission is concerned with mortgage arrears only. However, the arguments in favour of an alternative to open court apply equally to rent arrears, and indeed to other housing disputes. Central to these arguments is our contention that the court system was not designed to deal with such cases and that, by focusing solely on a claim for possession, fails to facilitate a resolution of the problem.

We have prepared this document in order to further the case for the establishment of an alternative to court proceedings in housing debt cases and to assist in the devising of that alternative. It builds on an earlier submission to Government in which we suggested mediation as the alternative. This document examines other alternatives. It sets out what we regard as the problems in the present system. It looks at existing alternative housing dispute resolution mechanisms in Ireland and in other countries. Finally it puts forward proposals for alternative models which we believe could work effectively in Ireland.

THE NEED FOR REFORM

Understanding mortgage arrears

There are an estimated 450,000 domestic mortgages in Ireland, between banks, building societies and local authorities. Based on data gathered from members of the Irish Mortgage & Savings Association and the Irish Banker's Federation by Threshold in 1994, we estimate that in one in eight mortgage holders are in arrears at any one time, but the percentage of "serious" arrears (i.e. over six months) is low. In 1994 slightly fewer than 4000 borrowers were in this category.

The incidence of arrears may vary over time, in line with interest rates and other factors, but is, overall small and especially so when compared to the situation in the United Kingdom. The scale of the problem does not affect the force of argument in favour of reform of the legal system which deals with cases.

In Threshold's experience, arrears occur because of a reduction in income due to unemployment, loss of overtime, illness, bereavement, or relationship breakdown. Less common causes are where expenditure gets out of control, usually due to a crisis or other problem in a household such as addiction. Extended periods of unemployment will also lead to loss of control, despite state assistance towards repayments.

These factors will particularly affect "marginal" homebuyers, that is, those people whose mortgages are barely affordable, leaving little or no elasticity in the event of a change in financial circumstances, however minor. That these buyers exist is a reflection of both State housing policies which have resulted in the lack of choice available in housing tenure in Ireland and of more flexible lending policies adopted by financial institutions from time to time.

Human Reaction

Getting into arrears is always stressful and difficult to manage. As with other problems, the initial human reaction is to hope it will go away. In this way the arrears may be ignored and can build up very quickly into difficult to manage proportions. In our experience, early action to bring the matter under control is important. The behaviour of the lender can be crucial at this stage.

Institutional Procedures

Procedures for dealing with arrears by lending institutions may vary on detail but a general pattern is clear: Once a mortgage payment has been missed, a letter will issue. This will be followed by a further letter if another payment is missed, then followed by a letter threatening legal action. The letters will tend to be standard, legalistic, and impersonal, conveying an image of an organisation which is uncaring and unapproachable.

Borrowers will usually be unaware of what options may be open to them and will feel at the mercy of the lender. Where negotiation does occur, the borrower is often at such a disadvantage that unrealistic arrangements are agreed, often resulting in further default.

The legal process

Legal proceedings are usually initiated where a borrower is between three to five months in arrears. Threshold estimates that, at any one time, 15,000 mortgage arrears cases could be at some stage of the repossession process, ranging from solicitor's letter to repossession order.

A Big Stick

Financial institutions clearly do not wish to repossess homes and claim that legal proceedings are used by them as a means of bringing borrowers to "their senses", rather than a serious move towards repossession. It can be argued that as a tactic, it is reasonably successful, as is illustrated by the findings of a

Threshold survey of cases entered in the Dublin Circuit Court between January 1993 and October 1994: Of 752 cases entered, 451 did not proceed further. Of the 300 cases continued, about one third resulted in the issuing of an order for possession. Execution orders were taken up in 41 of these cases but fewer than 12 are likely to have resulted in actual eviction, either because a settlement has been agreed or the property surrendered.

Clearly the majority of borrowers do "come to their senses" at the threat of repossession and come to some arrangement with their lender before the case goes to court. For others, the threat of legal proceedings will have no affect except to make them feel more frightened and powerless. Some will continue to ignore the problem until the last minute when they receive a court summons. Even then Threshold estimates that fewer than 10% will appear in court.

Whatever the intention when issuing proceedings or the outcome of those proceedings, the whole process is unnecessarily adversarial, time consuming, costly and fraught with difficulties as shown below.

Social Injustice

Very few borrowers will be able to afford a lawyer or avail of one through the Scheme of Civil Legal Aid and Advice. By contrast, commercial lenders will always be legally represented. The lack of available, affordable legal representation in such cases amounts to a serious social injustice.

Delays and Frustration

Perhaps in an attempt to redress the power imbalance between financial institutions and borrowers, the courts appear sympathetic to householders and will often allow them time to resolve their difficulties, through adjournments. Needless to say, this state of affairs leaves the lenders feeling frustrated. While it can provide protection and some breathing space for borrowers, it is not necessarily in their long term interests for the matter to be left unresolved. The arrears are still outstanding, and all other costs are added to them.

Rising Costs

Legal costs will be added to the bill, as will the lending institutions administrative costs and, in some cases, penalties and fines. These costs are generally added to the outstanding loan and interest is computed on the full amount. Even where a case is adjourned, or no order for possession is granted, the borrower is liable for costs. The result is that, although the lender has gained nothing, the indebtedness of the householder has been increased.

Public Hearing

The fact that court proceedings are heard in public can also give 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 contributes to many borrowers not appearing in court. It also creates difficulties for the lending institutions who, sometimes unjustifiably, will receive adverse publicity.

Confrontation

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 militates against a satisfactory settlement of cases.

More Humane

Based on these facts, Threshold is strongly of the view that the present system of dealing with mortgage arrears through the courts is unnecessarily complex, formal and adversarial. It is very costly, time consuming, and in the final analysis, seems not to serve the interests of either borrower or lender.

It is a poor reflection on society that a debt on a home can only be dealt with by a system devised in the last century while the law in relation to company debts has evolved and developed over time to take account of changes in society. Any alternative to the court system must acknowledge all aspects of a case, as well as the interests of the parties.

ALTERNATIVES FOR RESOLVING HOUSING DISPUTES IN IRELAND

The idea of a dispute resolution mechanism which does not rely on the court system is not new. In many countries there has been a growing dissatisfaction with the court system and an awareness of its lack of flexibility and responsiveness to changing situations and demands.

Irish Arbitration

In Ireland, arbitration is widely accepted as an alternative to court proceedings in many contract disputes and in construction, holiday and insurance cases. In the area of family law, mediation and conciliation are well established. Our scheme of labour law has also embraced alternative methods of dispute resolution.

Rent Tribunal, Small Claims

In the area of housing, there are already some methods for arbitration and dispute resolution, outside of court proceedings. The Rent Tribunal, established in 1983 fixes the rent and terms of tenancy of formerly rent controlled dwellings. The Small Claims Procedure, attached to the District Court has, since 1994, jurisdiction to deal with disputes between private landlords and tenants about rental deposits, where a deposit does not exceed £600, and since 1990, the Ombudsman for the Credit Institutions can arbitrate in complaints against lending agencies, including Building Societies.

In addition, there is growing support for the idea of community mediation in neighbourhood disputes (e.g. Tallaght Community Mediation).

ALTERNATIVES TO COURT IN OTHER JURISDICTIONS IN THE CONTEXT OF HOUSING ISSUES

Support for ADR

Outside Ireland support for Alternative Dispute Resolution (ADR) is growing. A study into the results of court annexed arbitration in North Carolina suggests that the arbitration programme reduced the trial rate in contested cases by two thirds and it is believed that if an ADR process operates early in the life of a case and if the process is well designed and efficiently administered, then there is likely to be an earlier resolution of a dispute.

In England, the Lord Chancellor has expressed his support for alternative forms of dispute resolution, and has issued a report which recommends that the Courts service should bring the possibilities of ADR to the attention of potential litigants. (Access to Justice, June 1995). A Report published by the Joint Working Party of the Bar and Law Society in England also endorses ADR.

In some jurisdictions ADR has been embraced with considerable enthusiasm. The following are particularly relevant in the context of housing:

Tenancy Tribunal - New Zealand

This Tribunal was established under the Residential Tenancies Act, 1986 (New Zealand) and is similar to the Irish Rent Tribunal although it has a broader remit and more far-reaching powers.

The Tribunal may decide all disputes arising between landlords and tenants in relation to any tenancy to which the legislation applies. It may grant orders for possession, award damages, order a tenant to pay to the landlord any sum of rent in arrears, order either landlord or tenant to refrain from doing certain acts (i.e. an injunction type remedy), make work orders etc. It can make any order that the High Court or District Court of New Zealand may make under any enactment or rule of law relating to contracts and has jurisdiction to make interim orders whether on ex parte application or otherwise.

Final Orders

Orders of the Tenancy Tribunal are final. Where both parties so request, and where the Tribunal is satisfied that the proceedings would be more properly determined by court, the Tribunal may order that the proceedings be transferred to the District Court.

Adjudicators

Tenancy Adjudicators are appointed on the recommendation of the Minister for Justice after consultation with the Minister for Housing. Appointees are required to be practising lawyers or, in the opinion of the Minister of Justice, capable of performing the duties and functions of a Tenancy Adjudicator by reason of special knowledge or experience. The term of office is three years.

Mediators

In addition there are a number of Tenancy Mediators who offer to assist the parties in bringing about an amicable settlement without recourse to a full tribunal hearing. Where the parties reach an agreed settlement, the Tenancy Mediator may make any order which the Tribunal could have made in order to give effect to the settlement, otherwise they do not have the power to determine any matter. The Registrar of the local District Court acts as registrar to the Tribunal.

Principles not technicalities

One of the most interesting provisions of the New Zealand legislation is section 85 which describes the manner in which the jurisdiction of the Tribunal is to be exercised. It is worth setting out this provision in full:

"The Tribunal shall determine each dispute according to the general principles of the law relating to the matter and the substantial merits and justice of the case, but shall not be bound to give effect to strict legal rights or obligations or to legal forms or technicalities."

Rental Bond Board (New South Wales), Australia

This and similar models are examined in detail in "Resolving Landlord Tenant Disputes - Are Rental Deposit Boards the Answer? (Threshold, Dublin, 1993). The Rental Bond Board operates as an independent custodian for deposit monies, which are returned to the tenant at the end of a tenancy where there is no dispute. In the event of a dispute about the deposit, the Board will mediate. Where this does not resolve the issue, cases are referred to the local court or Consumer Claims Tribunal for arbitration. In operation since the early 1980s, the Bond Board is regarded as highly effective with fewer than 1% of deposits held being referred to outside bodies for resolution.

Court-annexed Arbitration (UK)

Arbitration is available in the County Courts in England and Wales. Although provision is made for the appointment of an outside arbitrator, most cases are heard by a District Judge. The result of the arbitration is binding on the parties. Claims falling within the Small Claims limit of £1,000 are automatically referred to arbitration. However, experience shows that the option of using the procedure for other claims (i.e. those falling outside the Small Claims limit) are rarely exercised.

Court-annexed Arbitration (US)

This form of arbitration was first introduced in Pennsylvania in 1952. Since then it has been increasingly used and there are now over 100 trial courts in various jurisdictions in the United States using some form of court-annexed arbitration.

Neutral Arbitrator

This model involves the appointment, by the court, of a neutral third party from outside the court system to act as an arbitrator to make a decision which is initially not binding on the parties, but which becomes binding if neither party seeks a re-hearing by the judge. If a party seeks a re-hearing and does not achieve a better result before the judge than he did before the original arbitrator, that party will be penalised for costs. The arbitrator is paid by the court. The hearings are usually informal and the rules of evidence may be relaxed. The arbitrator will usually make an immediate decision.

Success

Court-annexed arbitration is generally viewed as a success in the US. It is argued that court-annexed arbitration achieves two goals: "(providing) prompt, relatively inexpensive, fair and less formal resolution of a great many civil cases; and (preserving) at the same time the procedural and substantive rights of citizens involved in law suits." (First US National Conference Report 1985) cited in Brown, *Alternative Dispute Resolution*, Law Society, July 1991, at p. 17).

Brown and Marriott point out that the efficacy of court-annexed arbitration can be undermined if a significant proportion of disputants choose to have a re-hearing. They argue that "the award must therefore

be as fair as possible and applications without merit for a re-hearing need to be discouraged, while preserving an effective right to do so." Court-annexed arbitration may facilitate settlements as realistic settlement discussions can take place after the non-binding arbitration.

Brown and Marriott conclude that:

"The results of a number of studies indicate that most litigants are satisfied with this process and that it achieves a high rate of success." (p.36)

A similar model of court-annexed arbitration is in place in New South Wales. See: Arbitration (Civil Actions) Act, 1983.

Difference

Court-annexed arbitration differs in a number of important respects from ordinary arbitration. It is not binding on the parties in the first instance and the parties do not lose their right to have the matter determined by way of litigation. Brown and Marriott argue that these differences appear to make court-annexed arbitration more acceptable to the general public than ordinary binding arbitration.

Concilio-arbitration

This model of dispute resolution was first canvassed in an article in the Law Society's Gazette in the UK in 1983 written by Rowland Williams. Brown and Marriott describe the procedure of concilio-arbitration in the following general terms: the suggested procedure is for a concilio-arbitrator to examine the case informally, consider the evidence, hear the parties' representations and make a non-binding award. If the award is accepted by both parties, it becomes binding. If one party does not accept the concilio-arbitrator's award, then the case will proceed to court. If the party who proceeds to court does not achieve a significantly better result at the trial, there is a costs penalty. Recourse to the process is contractually agreed upon by the parties. The process is not linked to court and must therefore be distinguished from court-annexed arbitration. (p.37)

Early Neutral Evaluation (ENE), U.S.

ENE was pioneered in the U. S. District Court for Northern California in 1985. ENE involves the assessment of cases, by an experienced third party evaluator. The assessment occurs at an early stage, usually within 160 days of the commencement of litigation, and is made on the basis of brief oral presentations by both sides. The evaluator assesses the relative strengths and weaknesses of the case and encourages settlement. If the case does not settle the evaluator then helps the parties to simplify and tailor the case for a more expeditious hearing at trial.

The types of cases referred to ENE in the United States include disputes arising in contract, tort, intellectual property and labour law. There is no upper limit on the amount in issue between the parties. The results of extensive research on ENE suggest that the process works satisfactorily and that it is widely viewed as being fair and valuable. (See Brown and Marriott, p.41).

PROPOSALS FOR ALTERNATIVES TO THE PRESENT SYSTEM

General Principles

Based on our experience in dealing with housing debt cases and following our review of existing alternatives to court proceedings we put forward three proposals for consideration. Before setting them out below, we wish to re-iterate a number of important points which inform our proposals:

- Court proceedings are inappropriate in cases of housing debt.
- In suggesting alternatives to court proceedings, we are not proposing that they necessarily supplant court proceedings, rather we are proposing that housing debt cases could be diverted away from formal, adversarial court proceedings, at least at the initial stages.
- Alternative processes promote settlement between the parties in a way that adversarial court proceedings do not. This is the most appropriate approach in housing debt cases, given that settlement is the desired outcome for both parties.
- Negotiated settlement as opposed to court imposed determination encourages compliance.
- Housing debt cases differ significantly from cases which have traditionally been referred to arbitration, the principal difference being that there will rarely be a dispute as to the facts i.e. the borrower will be in arrears and in breach of his agreement.
- Privacy and informality are important in promoting trust and honesty.

Any alternative to the existing system should therefore be:

- focused on problem solving
- a dedicated housing only service, which allows the development of expertise in this field
- accessible, speedy and cost effective
- informal and private

In light of the points raised above, we would suggest three alternative models to the existing system for consideration - Court Annexed Arbitration, Contract Based Arbitration and a Special Housing Court.

Court-Annexed Arbitration (U.S. Model)

Under this system, housing debt cases which come before the court would be referred to arbitration. As already pointed out, housing debt cases are different to other cases referred to arbitration as there is usually no dispute as to the facts. We would see the arbitrator's role in housing debt cases as follows:

- informal examination of the case
- consideration of the circumstances and the evidence,
- hearing of the parties representations
- make a non-binding "determination." i.e. adopt Williams's concilio-arbitration model.

The non-binding nature of the determination is an essential difference between this model and traditional arbitration. By "determination" we mean a solution which, in the opinion of the arbitrator, is fair and reasonable in the circumstances. Our inspiration here comes from section 85 of the Residential Tenancies Act, 1986, (New Zealand). A fair and reasonable solution would involve for example the arbitrator recommending that the defendant pay a set sum for a certain period, and that the matter would be reviewed at regular intervals. The decision of the arbitrator would, initially, be non-binding on the parties. Either party may require a re-hearing by the judge. If neither party seeks a re-hearing within a specified time-

limit, the parties will be bound by the arbitrator's determination. Any party who seeks a re-hearing and fails to achieve a better result than he achieved at arbitration, may be penalised on costs.

Rules of Court

The current rules of court practice and procedure will need to be modified to take account of court - annexed arbitration. We would recommend that court-annexed arbitration should be conducted in private and that where a defendant defaults on the terms of settlement reached at arbitration, the plaintiff would be entitled to proceed to court in the ordinary way.

Advantages of Court Annexed Arbitration

This model entails a number of advantages over court proceedings:

- Privacy
- Informality
- More conducive to a mutually acceptable compromise - a realistic arrangement which is recommended by the arbitrator, in light of all the circumstances of the case, may be to the advantage of both parties
- It is likely to be faster than court proceedings
- Given the nature of the hearing and determination, there is likely to be a higher degree of compliance.

Contract Based Arbitration

This model could be adopted as an alternative to court-annexed arbitration. Legislation would not necessarily be required as the decision to refer the matter to arbitration would be a matter of contract between the parties. Housing loans and tenancy agreements are contractual matters. Therefore, the inclusion of an additional term would be relatively straightforward.

The parties to a contract could agree that in the event of default, the matter would be referred to arbitration. The arbitrator would then examine the case informally, consider the circumstances and the evidence, hear the representations of both parties and make a non-binding recommendation. This is similar to the model proposed by Williams, explained under concilio-arbitration, above.

In the event of further default the defendant could proceed to court in the ordinary way. Constitutional difficulties could be avoided as the matter is one of contract and both parties would have consented to proceeding by way of arbitration at the initial stages.

The model we are proposing differs significantly from traditional arbitration. Firstly, the recommendation of the arbitrator will, initially, be non-binding. Secondly, the parties are not precluded from recourse to the courts. However, if one party decides to proceed to court and does not achieve a better result than that obtained before the arbitrator, that party may be penalised as to costs.

Advantages of Contract Based Arbitration

The advantages and disadvantages to this model are very similar to those of the Court annexed model. However, the fact that this model is contract based, rather than imposed on the parties by legislation could make it more popular with borrowers and lenders. In addition the contractual basis of this ADR programme may side step constitutional difficulties which might otherwise arise (i.e. a mandatory court annexed arbitration may infringe a borrower or lender's constitutional right of access to the courts or to litigate claims).

Special Housing Court

Our final proposal is for a dedicated housing court, attached to the District Court, which would deal with all housing debt matters, regardless of the amount at issue. Since the Housing Court would deal only with housing issues, it would develop an expertise in this area. The Court would become familiar with the "players" in housing debt cases and would therefore be in a position to make meaningful interventions and judgements.

As with the other models, the emphasis of the Housing Court would be on resolution through mediation and arbitration rather than adjudication. We envisage the role of the judge as being the same as that of the arbitrator in the models outlined above. Hearings would be informal and held in private. The main difference between the special Housing Court and the other models is that the decision of the Court would be binding on the parties.

Advantages of Housing Court

One of the main advantages to this model would be that there would be no difficulties or concerns about interference with the parties constitutional rights of access to the courts. Another advantage would be that a nationwide structure already exists, providing relatively quick access.

The fact that hearings are held in Court would allow an adaptation of the existing system rather than the introduction of a completely new one and . This may make this model more attractive, although the rules of court would have to be modified to facilitate the less formal and more conciliatory approach envisaged, which are essential ingredients of a reformed system.

GENERAL ISSUES ARISING

There are a number of issues arising from our proposals which should be taken into consideration:

Costs

The question of how a special housing court or a system of arbitration for housing debt cases can be funded will have to be addressed. Is it something that the State should fund, or should there be a levy on financial institutions, or should the parties to a hearing be liable for costs?

There is little empirical evidence of the actual cost savings in which flow from the adoption of ADR programmes. In the United States there is some limited evidence of cost savings in divorce mediation programmes (see Goldberg Sander, *Rodgers Dispute Resolution* 2nd ed. 1992 at p 261). However, the evidence does seem to point to ADR as being more cost effective, by virtue of being more likely to result in an acceptable agreement between the parties.

Privacy

In all our models, we propose that hearings be held in private. There may be arguments against this on the basis that justice, if it cannot be seen to be done, is justice denied. We would argue that housing debt cases will often involve disclosure of personal details by defendants. It is in the interest of all parties to

establish the true facts of each case. We believe that a procedure which is informal and private is more likely to achieve this than the existing public hearing. In any case, if a hearing held in private is not in accordance with the rules of justice, the parties have a remedy by way of judicial review or appeal.

Legal Representation

The question of whether legal representation should be permitted in arbitration hearings must be addressed. On the one hand, it may be difficult to justify not allowing legal representation, on the other hand, it is difficult to keep hearings informal and focused on resolution if legal representation is allowed. In practice, the much less legally focused procedures should have the affect of reducing the need for legal representation and could open the way for developments such as lay advocacy.

This is an issue which requires future consideration, but if legal representation is to be allowed, an affordable, accessible and effective system of legal advice and aid must be put in place to facilitate poorer householders.

CONCLUSIONS

A reformed legal procedure, along the lines of those outlined here, would be in the interests of both borrowers and lenders by providing a more readily accessible and responsive means of dispute resolution. In addition, and no less important, a reformed procedure could have a more far reaching affect on the general behaviour and practices of borrowers and lenders.

By being accessible, specialised and professional, an alternative procedure would undoubtedly be a force for improved standards of practice within lending institutions and for responsible behaviour by those few borrowers who feel they can buck the system.

Ultimately, no matter how effective a system for dealing with housing debt may be, it cannot deal with the fundamental cause of most indebtedness, namely inadequate resources.

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