

Combating over-indebtedness in Ireland - A legal response

Paul Joyce

Free Legal Advice Centres

Can you guess the year?

“In the current credit boom, many people have taken on multiple credit agreements that already have them at the pin of their collar. A downturn in economic growth would place many so-called “well-off” people under financial pressure immediately”

“Do we really want to be back here in several years time talking about record numbers of indebted clients, with a record number of advisers ‘going under’ attempting to cope with the problem?”

Can you guess the year?

- *Debt and Money Advice in Ireland: Report of the First National Money Advice Conference, 4-6 April 1997, Ennis* (edited by Mel Cousins)

1. Paul Joyce
2. Stuart Stamp

And when was this said?

‘With dramatic growth in the extension of consumer credit in recent years and increasing evidence of clients presenting to the Money Advice and Budgeting Service (MABS) with high levels of debt, it is imperative that Ireland put its own (debt settlement) legislation in place’

And when was this said?

From 'An End based on Means', Page 123, Free Legal Advice Centres, first published May 2003 (and still available online at www.flac.ie)

Who listens anyway?

The failure of successive governments to introduce personal insolvency legislation, using a debt settlement approach, is one of the greatest policy disasters of the past decade in this country

Now we are told that there is no 'silver bullet' when policy makers failed to 'bite the bullet' when they had the chance

Who listens anyway?

Debt settlement legislation would have prevented an amount of current over-indebtedness by forcing the credit industry to adopt a more responsible approach or face write-offs

Proper regulation of lending standards would have also have prevented an amount of current over-indebtedness by curbing reckless lending and outrageous sub-prime housing and personal debt charges

Results there for all to see

- Deepening arrears, lenders playing a waiting game
- Some children going hungry, some adults suicidal
- Growing social and economic costs
- Lending ground to a virtual halt
- Some current accounts being closed where the account holder is in arrears on a consumer credit agreement
- Huge increase in calls for help –717 calls to FLAC helpline, Jan – June 2011, 437 from Jan – June 2010

So where are we now?

‘The State currently has no infrastructure or resources in place to run a non-judicial debt settlement process. This is likely to be very complex and take time to implement’

‘The Group does not see a resolution to the mortgage problem without it’

Inter-Departmental Mortgage Arrears Working Group
Report aka the ‘Keane Report’ – 30 September, 2011 -
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What to do from here?

- Prioritise non-judicial debt settlement legislation based on rigorous financial assessment
- The resolution of mortgage arrears must be factored in
- Room must be made for debt management plans short of a declaration of personal insolvency
- This cannot be done without an infrastructure to oversee the process and independent advocacy for those in debt

What to do from here?

- A minimum amount of income must be protected to enable households to meet their basic needs
- Existing debt enforcement mechanisms must be overhauled and streamlined
- Reliable and total information on over-indebtedness must be obtained and monitored
- Keep tweaking what is not working/ what can work better, e.g. the Code of Conduct on Mortgage Arrears

Finally, when was this said?

‘Even though some debtors refuse to pay, the vast majority is willing to pay. Some people would need to see their debt rescheduled, while others, unable to pay, would need to see their debt written off’

Finally, when was this said?

‘Understanding and combating financial exclusion and over-indebtedness in Ireland: A European Perspective’.

Georges Gloukoviezoff, October 2011