

# Key Steps in Dealing with Mortgage Arrears

## Identify when first repayment is missed and write to borrower

First Warning Letter is issued advising:

- Amount of arrears owing (1 month)
- Amount of last repayment and amount received
- To contact LA to discuss why the repayment schedule was not adhered to
- The consequences of failing to make repayment

Payment is made and case is closed

No payment is made and there is no contact from borrower

Second Warning Letter is issued advising:

- Amount of arrears owing (2 months)
- Date of the first warning letter and date contact was made or attempted
- Amount of last repayment and amount received
- To contact LA to discuss the matter
- The consequences of failing to make repayment

Payment is made and case is closed

No payment is made and there is no contact from borrower

Formal Demand letter is issued advising:

- Total amount of arrears owing (3 months)
- The interest that may continue to be charged and the basis on which this will be charged and/or any other charges that may be payable
- The consequences of failing to respond i.e. potential for legal proceedings and the loss of property along with an estimate of the costs to the borrower of the proceedings

Payment is made and case is closed

Contact and dialogue with the borrower should continue to be attempted

Repossession Proceedings  
 Repossession may come about by voluntary agreement, abandonment or Court Order.  
 LA must wait at least 12 months from the time arrears first arise before applying to the courts to commence enforcement of any legal action on repossession of a borrower's primary residence

Contact is made

LA establishes:

- Reasons why the repayment schedule was not adhered to
- How the borrower feels the situation may be rectified
- Warn the borrower that they risk losing their home and affecting their credit rating if they continue to default on repayments

Payment is made and case is closed

Where the borrower cannot immediately clear the arrears, a meeting should take place to:

- Discuss a way of clearing the arrears
- Look at all possible options open to the borrower
- Advise the borrower to take appropriate independent advice (such as MABS)

A Repayment Plan should be agreed, taking into consideration:

- Borrower's overall indebtedness (look for full details of household income and expenditure)
- Borrower's current repayment capacity (possible changed circumstances)
- Previous repayment history
- Extent of borrower's equity in the property

Explore alternative repayment options, including:

- Agreement to change the monthly repayment amount
- Deferral of all or part of the monthly repayment amount for a period of time (appropriate for temporary shortfall of income)
- Extend the term of the mortgage
- Capitalise the arrears and interest (appropriate where there is insufficient capacity over the short term to clear the arrears but where the repayment capacity exists to repay the capitalised balance over the remaining term of the mortgage)

Follow up the meeting in writing to the borrower, setting out:

- The repayment plan agreed at the meeting
- Name and contact details of their contact person in the LA
- Contact details for their local MABS office

Payment is made and case is closed

Borrower defaults on the agreed repayment plan.