LAW REFORM COMMISSION CONFERENCE, DUBLIN CASTLE, DECEMBER 16TH, 2010

THE FUTURE OF DEBT ENFORCEMENT IN IRELAND

PAUL JOYCE, SENIOR POLICY RESEARCHER, FREE LEGAL ADVICE CENTRES

Introduction

The topic I have been asked to address this morning is the future of debt enforcement in Ireland and I intend to stick to that brief. However, I feel obliged to point out once again that the changes which we now hope are imminent have been an extremely long time coming, despite a demonstrable need for change.

In May 2003, in its report 'An End Based on Means', Free Legal Advice Centres said in relation to the bankruptcy that '*The most recent legislation in Ireland is the Bankruptcy Act 1988. However, this legislation is seldom used and is entirely unsuitable for consumer over-indebtedness. The procedure is costly and if the bankrupt person cannot pay the entire amount of the debts, s/he can only be released when the court believes the entire estate has been realised and only then after a period of 12 years. This is light years behind most of our European counterparts and constitutes a signal failure to recognise that though we now live in a country with high levels of consumer credit and over-indebtedness, our system for tackling these problems is inflexible and outdated'.*

In relation to the potential introduction of non-judicial debt settlement we said that *'Only debt settlement legislation with firmly established debtor release and protected earnings criteria can provide the framework necessary to resolve the conflict of interest between the right of the lender to recover as much as possible of the amount loaned and the right of the consumer and his/her dependants to live with dignity in a society that, through its vigorous promotion of credit consumption, has arguably contributed to their over-indebtedness'.*

An End Based on Means closed with a series of 39 recommendations on many aspects of debt enforcement that were completely ignored by Government at that time. Thankfully, the Law Reform Commission has been listening and many of the principles outlined in those recommendations back in 2003 are incorporated into the Commission's own recommendations, albeit in many cases with more

detail, thanks to the forensic work that the Commission has carried out since it got its teeth into this subject. However, it should not have taken so long for government to get here.

Many of the recommendations in 'An End based on Means' were informed by our work with the Money Advice and Budgeting Service (MABS), a service with an annual budget of €17 million. Whilst it would appear that successive governments were happy on the taxpayer's behalf to fund MABS to apply the bandages, processes to draw on its experience as an agency working with indebted people to progress much needed law reform were not put in place, despite the glaring inadequacies of the existing system. In a society where credit had become the main driver of consumer spending, this was an unacceptable failure to act in a timely manner to reform the law. We must eliminate this 'do nothing' default option from our thinking. Government must learn to listen to the experience of organisations on the ground and engage on changes that are needed. This is not just necessarily in respect of the debtor perspective that we in FLAC would advocate. In this regard, it is worth noting that the Irish Banking Federation (IBF) and other creditor bodies have also routinely lobbied for such reform for well over a decade.

Patricia has outlined a comprehensive structure for a revised system this morning – non-judicial debt settlement arrangements, debt relief orders, a revision of the judicial bankruptcy legislation, a complete overhaul of existing debt enforcement mechanisms together with a Debt Enforcement Office to oversee a revised system of enforcement and to supervise debt settlement arrangements –all of these provide a blueprint for how debt recovery will be dealt with in the future. Not only should these measures be introduced as a matter of urgent priority but their effectiveness must be constantly monitored. This is a critical point when we contemplate the future of debt enforcement in Ireland. A debt enforcement system needs to be dynamic. The changes to be introduced in 2011 and beyond must be kept under constant review and must be tweaked if they are not working effectively or can be made to work better. In the United Kingdom, for example, a comprehensive suite of legal mechanisms are already in place to deal with the effects of over-indebtedness. Nonetheless, periodic reviews in the form of consultation papers and reviews are a regular occurrence and legislation is routinely introduced in response.

Early resolution of debt cases

Despite outlining comprehensive debt settlement and debt enforcement structures in this its final report; the Commission's clear view is that the bringing of legal proceedings should be a last resort for the creditor. Thus, the future of debt enforcement should be that it should occur as seldom as possible.

In this regard, it is first suggested that credit providers must have systems in place for responsibly managing customer's arrears. Second, the Commission's Interim Report also recommended that a Pre-Action Protocol should be mandatory in consumer debt cases to ensure that those in debt are given every opportunity to enter into affordable repayment arrangements before any legal proceedings are brought. This recommendation is endorsed and incorporated into the final report. It envisages that a warning letter to the borrower must be provided at least four weeks prior to legal proceedings being issued. This must draw the borrower's attention to where help in the form of money advice and/or legal advice can be obtained and may suggest mediation as an alternative.

The findings in FLAC's second report on debt, the 2009 study 'To No One's Credit' completely endorse this position. In a sample of 38 debtors against whom legal action and subsequent enforcement action was taken, both the lack of understanding of formal legal procedures and lack of awareness of where assistance could be obtained led to enforcement action being brought against debtors up to and including imprisonment, when early intervention would generally have revealed financial incapacity.

On a practical note, we would suggest however that the four week window envisaged seems too short. By the time, the indebted person has obtained assistance, reviewed their financial position and associated documentation and made an offer of payment based on their finances, four weeks may well have passed. Alternatively, it should be provided that once contact is made by the relevant advisor on the borrower's behalf and any negotiations are in train, a stay should be put on any legal proceedings.

Access to assistance

Nicola Dominy and Elaine Kempson of the Personal Finance Research Centre at the University of Bristol in their March 2003 study 'Can't Pay or Won't Pay – A review of creditor and debtor approaches to the non-payment of bills' suggests that '*responsibility for ensuring that inappropriate cases do not come to court must rest with the creditor. At the same time, it is important to acknowledge customers' responsibility to pay the money they owe when they have the money to do so and the important role that independent money advisors can pay'.*

Whilst responsibility for ensuring that inappropriate cases do not come to court must rest with the creditor, the State must ensure that proper money and indeed legal advice are available to enable early resolution of debt cases to take place. Whilst we have been unfortunate in this country to have outdated debt enforcement and bankruptcy procedures, money advice has been consistently funded.

However, that service and its hard pressed staff is now severely stretched to cope with increased demand and must distinguish itself and even compete with some debt management companies offering services in return for fees. The existence of state funded money advice and a 'for profit' sector is not necessarily mutually exclusive but unless such companies are properly regulated and monitored, there is a significant danger that already vulnerable clients desperate for solutions to their financial problems will grasp at expensive straws.

Though the public purse is obviously stretched, improved funding for MABS must be examined given the exceptional circumstances we face and the critical role envisaged for it in the new settlement and enforcement system. There is too another funding possibility. In the course of their work, money advisors direct *pro rata* payments to be made to credit institutions all the time. It may not always be the amount that the creditor seeks but otherwise it costs the creditor nothing. Is it not time for the credit industry to contribute to money advice in the form of some kind of government levy?

Existing institutions and structures of enforcement

In its Consultation paper, the Commission proposed a two tier approach to revising debt enforcement in Ireland. First, the reform of the existing institutions and structures of enforcement and second the reform of existing methods of enforcement.

With regard to the former, the Commission in summary proposed three options, all of which would involve the transfer of the existing enforcement roles of Courts and County Registrars. These were:

- A new Debt Enforcement Agency with debt enforcement to be carried out by new staff enforcement officers
- Existing Sheriffs and Revenue Sheriffs to take on enforcement under the co-ordination of a new Debt Enforcement Office
- The introduction of private or commercial enforcement officers to carry out enforcement licensed and supervised by a central debt enforcement office

In its final report the Commission recommends the third option. It proposes a small Debt Enforcement Office that would be responsible for the centralised oversight and management of the entire enforcement system nationwide. It recommends that 'private sector actors' should be responsible for performing the actual work of collecting sums owed from debtors and should be paid on a commission

basis. These private sector actors would be appointed through a tendering system, and should be managed and supervised by the Debt Enforcement Office and be subject to an operational Code of Practice. It is envisaged that existing Sheriffs and Revenue Sheriffs might tender for these positions as well other private sector operators. The Commission makes it clear that the cost to the State is one of the principal reasons for selecting this option. It also suggests that a private enforcement system is likely to be more efficient than a publicly funded one. It proposes that the Debt Enforcement Office should be self financing to the greatest possible extent through fees imposed on creditors for processing enforcement applications. This would also serve the dual purpose of ensuring that enforcement does not become the first option for creditors and this is consistent with the Commission's view that enforcement should be a last option.

Conscious of the dangers for debtors that private enforcement might bring, it recommends that mechanisms for resolving complaints arising in respect of enforcement activities should also be put in place. We note and share the implicit concerns of the Commission relating to the potential use of privatised enforcement on a commission basis. FLAC would suggest that the utmost vigilance would be required to ensure that the human rights of indebted people are properly vindicated when such enforcement action is taking place. Whether that can be achieved by a 'small' office with a multiplicity of functions in the areas of debt settlement as well as enforcement remains to be seen.

Assessment of capacity to pay

FLAC's 2003 report was called 'An End based on Means' for good reason. This title was intended to reflect our view that an effective debt recovery system must have in place a comprehensive process for the assessment of the debtor's up-to-date financial circumstances, most particularly because a significant amount of over-indebtedness arises from a change in these circumstances caused by events beyond the debtor's control. One would think that this was so obvious as to not require stating. Not in Ireland unfortunately, up to now. Thus, for example, the Instalment Order procedure, the principal method by which a judgment can currently be enforced against a debtor with no interest in land or other assets, does not make it obligatory to have current information on the debtor's financial situation or legally require the debtor to attend at the court sitting designed to assess his or her capacity to pay.

In the research leading to the publication of FLAC's report, 'To No One's Credit' (2009), we wrote to the Courts Service seeking details on rates of debtor attendance at such hearings. Whilst unable to provide any reliable data (an ongoing frustration when campaigning for law reform in this country), it is astonishing to note that the Courts Service estimated that only one in five debtors attend such hearings. This is 'Alice in Wonderland' territory. In four out of five cases, the debtor is not present, there is no up-to-date financial information available and yet the Court will often make an order to repay a debt by instalments that it cannot possibly know is reasonable and which in all probability is doomed to failure. Not only are such unrealistic enforcement orders unfair on the debtor; they do not generally do the creditor or the taxpayer any favours either.

In the section of the report on capacity to pay, the Commission reinforces the view that in order to facilitate the bringing of effective, appropriate and proportionate enforcement mechanisms, the proposed Debt Enforcement Office must have access to comprehensive information on the means of debtors. It accepts the point made by FLAC and others that the public examination of debtors as to their means is a strong deterrent to participation and proposes that the Enforcement Office will work in private. It suggests that the Pre-Action Protocol referred to earlier will help debtors to engage in preparing a full statement of their financial affairs at an early stage. This will help to avoid legal proceedings, or at least ensure that enforcement if it takes place is proportionate and appropriate.

The use of a Standard Financial Statement of the kind currently used in debtor/creditor negotiations between MABS and members of the Irish Banking Federation adapted to deal with the question of assets is envisaged. Filing the statement would at first be voluntary but where the debtor has neglected or refused to fill out such a statement, an Enforcement Officer would have the power to summon the debtor to make a statutory declaration of means. It is also envisaged that where further information is needed from, for example, State agencies such as the Revenue Commissioners or the Department of Social Protection or from credit institutions themselves, that the Enforcement Office should have the power to issue an Enforcement Information Disclosure Request. It is suggested that the need for such requests should be limited to specific cases. In addition, data protection principles and the debtor's right to privacy must be balanced against the need for further information.

Access to reliable data

A further significant barrier to effective the resolution of debt problems is access to reliable data not just on the debtor's financial position but on existing enforcement proceedings against him/her. In the course of working with MABS and with the interviews for our 2009 study, 'To No One's Credit', we have come across clients who had multiple instalment applications and orders made against them by different creditors in the same District Court. In many of these instances, the debtor had not attended the first Instalment Order hearing and was often not in a position to meet the terms of that order, let alone any subsequent ones. From the creditor's perspective, there was no way of knowing whether there were existing orders or applications for orders in train, as no databases exist in the Courts Service that might provide this information. Again, all three interested parties – debtors, creditors and the State in the form of the taxpayer - are disadvantaged by this lack of information.

On this question, the Commission recommends that a register of judgments that are currently subject to enforcement be created and maintained by the new Debt Enforcement Office. For a fee, as with the Northern Ireland register held by their Enforcement of Judgments Office, creditors and others could access details of the type of enforcement in train against debtors including stages and outcomes

Reforming the existing mechanisms of enforcement

Taking into account the provisional recommendations in the Consultation Paper and the submissions made since its publication, the report provides a series of final recommendations to overhaul existing enforcement methods. This part of the report considers in detail reforms in relation to amongst others; Instalment Orders, Garnishee Orders (henceforth to be known as Attachment of Debt Orders), Attachment of Earnings Orders and Execution Orders (henceforth to be known as Goods Seizure Orders). Some of the key principles set out by the Commission in this section of its report include that:

1. Enforcement will only be available where a judgment has already been obtained in a court.
2. The data gathering mechanisms concerning the debtor's financial situation already discussed are for the sole purpose of determining the most appropriate method of enforcement.
3. The Debt Enforcement Office rather than the creditor will determine the most appropriate method of enforcement, though the creditor may indicate its preferred method.

4. The Enforcement Office may issue a 'declaration of unenforceability' where it adjudges the debtor incapable of discharging the debt

5. All enforcement must still leave the debtor with a minimum income for him/her and dependants

6. No one method of debt enforcement should be expressly favoured over another. Instead, following the rule of thumb explored in the McCann case in the High Court, the Commission recommends that an express statutory rule be included in legislation to the effect that the Enforcement Office, when deciding on the appropriate method of enforcement in a given case, should have regard to the principle of proportionality and the need to ensure that the enforcement method chosen is the mechanism that is least restrictive of the debtor's rights in any given case. It would be vital that this principle is properly explained to and understood by debtors and the requirement to have access to advice at the enforcement stage is crucial in that respect.

Traditionally, the emphasis in terms of debt enforcement in Ireland has been execution against a debtor's goods. Indeed, up until 1986, it was obligatory for a judgment creditor to proceed by way of execution first and exhaust that option, prior to being allowed to seek an Instalment Order and some other methods of debt enforcement still depend on having exhausted the execution option. Many people currently in debt in Ireland have very little by way of valuable assets that might be seized and sold for the purposes of enforcement. However, many have an income, though it may be limited. In our view, visits to the debtor's home with a view to seizing goods are stressful and of necessity invasive and as they often produce little by way of return, should be an option of last resort. The principle of proportionate enforcement should mean that Instalment Orders will be prioritised in many cases, as the payment of a regular cash sum is a far less invasive form of enforcement than execution against goods, garnishee or attachment.

On the issue of **Instalment Orders**, the Commission specifically recommends that a debtor served with proceedings should be able to admit the claim and offer instalment payments to be drawn up as an Order, a proposal recently made by FLAC in to No One's Credit. This would help to prevent unnecessary enforcement applications. Suspension or variation of orders should also be provided for. Consolidated Instalment Orders, i.e. one payment divided amongst a number of creditors, should also be allowed with creditors receiving *pro rata* payments, but the Commission notes that these should only be allowed where the debtor is solvent, i.e. where each of the judgments in their entirety are likely to be paid in five

years. Otherwise, it suggests that the insolvent debtor may be rerouted into debt settlement, where a debt settlement arrangement, a debt relief order or a judicial bankruptcy are all available options.

In relation to **Garnishee or Attachment of Debt Orders**, the Commission proposes that access to a debtor's bank account should be allowed as well as access to monies owed by a third party to a debtor. It recognises that this may be a significant interference with privacy rights and also acknowledges that there will be concerns over the maintenance of living standards. In this respect, it proposes that the minimum amount the debtor must be allowed to retain in the account should be equivalent to a month's exempted income. We would be extremely concerned with how this proposal would operate in practice and how it would impact on any small level of savings that a debtor might understandably wish to retain as a buffer against illness and other life events, in addition to the debtor's need to be pay ongoing utility and other essential bills.

There are detailed provisions in relation to the potential introduction of **Attachment of Earnings Orders**, a matter also considered in depth in 'An End Based on Means' in 2003. Recommendations here include that the assessment of the debtor's minimum income following attachment should be left to the discretion of the Enforcement Office, subject to the imposition of an absolute minimum and guidelines thereafter on further protected earnings. The prohibition of the adverse treatment of debtors by their employers caused by attachment is also carefully considered and the Commission concludes that such adverse treatment should be made a criminal offence. However, there may be significant onus of proof difficulties here and a more practical remedy for debtors/employees may lie in employment rights legislation. Finally, although the Commission makes no direct recommendation on whether attachment of social welfare payments should be allowed, it notes that the majority of submissions were against it. In an era of declining social welfare payments, we believe it would be entirely unjustified.

In the area of **execution against goods or goods seizure**, the Commission notes its primacy as a method of enforcement up to now and suggests that the Enforcement Office produce guidelines as to when it might be used. It is clearly suggested that more appropriate and less restrictive forms of enforcement be considered first and the Commission is particularly anxious that Enforcement Officers are subject to a specific Code of Practice when carrying out these functions. It is proposed that the terminology involved in this area of enforcement is unnecessarily complex and must be simplified. In the key area of which

goods should be exempt from seizure, the general recommendation is that any assets of the debtor reasonably necessary to ensure that the debtor and his or her dependents may maintain a reasonable standard of living should be exempt from seizure. This should include household goods and such material items that are necessary to the debtor for use in his or her employment, business, profession or trade.

Imprisonment

It is only 18 months or so since the decision by the High Court in the McCann case brought orders of imprisonment in the debtor's absence to an end. As yet, however, the McCann case is the only tangible legislative change to the debt enforcement system in Ireland in well over 20 years, over two years after the Government gave the bank guarantee, and it resulted from a High Court challenge brought by an NGO, our colleagues in Northside Community Law Centre (NCLC). Just two weeks ago nonetheless, the Examiner newspaper reported the imprisonment of two debtors who had failed to meet the terms of an Instalment Order and who it is believed then failed to engage in the subsequent court process designed to find out why. Many had assumed that post-McCann imprisonment related to non-payment of debt had come to an end as a result of the Enforcement of Court Orders (Amendment) Act 2009.

The Commission nails its colours very firmly to the mast on this issue in recommending that procedures for the imprisonment of debtors for failure to repay a judgment debt should be abolished. It further recommends that a person should continue to be criminally liable where he or she wilfully refuses to pay a personal debt arising out of a court order, but that such a person should be liable on summary conviction to a community service order under the Criminal Justice (Community Service) Act 1983.

I would now propose to move on to deal with some issues that are relevant to the future of debt enforcement in Ireland but are not considered in detail in the report.

Reckless lending

It is now commonly accepted that a large amount of reckless lending took place during the so called boom in Ireland, to consumers as well as developers. Again, however, it is only after the event that this

is now admitted, even though many had been pointing this out for some time. Article 8 of the revised EU 'Credit for Consumers' Directive[1] recently transposed into law by regulation in Ireland provides that Member States shall ensure that a creditor assesses the creditworthiness of consumers for loans, both through information provided by the consumer and, where necessary, by consulting a relevant database. However, these provisions are somewhat watered down from what was a stronger initial proposal in the first draft from the European Commission. European groups working with those in debt and lobbying in the area of consumer credit have been critical of the degree of consumer protection in this provision of the Directive. The European Coalition for Responsible Credit (ECRC) to which FLAC is affiliated, in an extract from one of its core principles, suggests that:

> '*Credit markets need rules that allow the benefits of credit provision to flow to all people and not just to the more fortunate, whilst rules are also required to protect those who are most vulnerable to exploitative lending practices. This balance between providing access to credit, whilst preventing the worst excesses of an unbridled market, is central to the concept of responsible credit*.[2]

Some countries have taken a bolder approach than has been the norm in Europe. In South Africa, the National Credit Act 2005 contains a specific chapter entitled 'Over-indebtedness and reckless credit'.[3] This legislation obliges credit providers to assess both the proposed consumer's general understanding and appreciation of the risks and costs of a proposed credit and his/her debt repayment history under credit agreements and his/her existing financial means, prospects and obligations. A court may declare a credit agreement to be reckless if the credit provider failed to conduct the necessary assessment or, having conducted it, entered into the credit agreement despite indications that the consumer either did not sufficiently appreciate the risks and costs involved Serious potential consequences follow for the credit provider if a court declares a loan to be reckless. The court can set aside all or part of the consumer's obligations under the loan agreement or suspend or restructure the agreement. Critically, a credit provider has a complete defence to any allegation that a credit agreement is reckless if it can show that the consumer failed to answer fully and truthfully requests for information and that this materially affected the ability of the credit provider to make a proper assessment.

[1]Council Directive 2008/48/EC of the European Parliament and Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 97/102/EEC.
[2] See http://www.responsible-credit.net/ under 'ECRC principles of Responsible Credit'.
[3] National Credit Act No 34/2005, Part D, Sections 78 – 88.

A comprehensive national database complying fully with data protection laws where information is accurate and kept up to date should be an essential feature of a responsible credit market and would help to curb unwise lending in the future in Ireland. However, in our view, loans negligently made in the past should also carry consequences for the credit provider. Both the courts and any new Enforcement Office should have the right to examine the circumstances in which a loan was made and the due diligence carried out by the lender. A potential sanction that would impact on the lender's right to bring legal proceedings or on the outcome of those proceedings or on the prospect of enforcement should form part of any new enforcement regime.

In our view there is also a causal connection in some cases between unaffordable credit and the fact of default. During the boom some lenders exploited consumers who had insufficient knowledge and experience of accessing financial products, in particular people on low to moderate incomes that were targeted and induced into unaffordable agreements at punitive interest rates. This occurred not just in the area of sub-prime mortgages and moneylender's loans but also personal lending, including many hire purchase agreements for top of the range motor cars. Some of these personal loan agreements also saw the borrower being lent an amount for 'optional' payment protection insurance on the loan at the same inflated interest rate. Sometimes these loans were topped up, so that the borrower gradually got less and less money up front but increased his/her liability.

Throughout this time, the State and the Financial Regulator steadfastly refused to intervene in terms of imposing stricter lending terms and conditions, despite being aware of the high interest rates and other charges being imposed. The market, we were told, would look after consumer. In our view, over-indebtedness caused by excessive charging must be curbed in the future and this must involve examining the relationship between risk and charge and considering the imposition of maximum interest rates for different classes of credit agreements.

Mortgage debt

It would be remiss of me as a member of the Mortgage Arrears and Personal Debt Group to shy away from commenting, in the context of discussing the future of debt enforcement, on the dangers that many borrowers face that their homes may be repossessed in the coming years. Many have expressed disappointment that a debt forgiveness scheme was not recommended by the group in its final report

and this disappointment is very understandable, especially in light of the ongoing bank bailouts. Needless to say, because of financial constraints and the further burden it would place on the taxpayer, this never appeared to be an option from the State perspective. However, the infrastructure recommended by the group for a Mortgage Arrears Resolution Process (MARP), incorporated in large part in the Central Bank of Ireland's revised Code of Conduct on Mortgage Arrears which comes into operation on January 1st 2011, do place an onus on lenders to explore all options for alternative repayments of mortgages in arrears. It is also important to say that all the other recommendations made by the group have been accepted by government and we will work to ensure that they are implemented quickly.

These recommendations are framed in a context which assumes that lender forbearance will continue and that repossessions will thus be minimised, although it is clear that some mortgages are unfortunately financially unsustainable in medium to long term. In these cases, the State must pick up the slack in terms of affordable social housing provision where appropriate. In our view, if mortgage lenders do not honour the spirit as well the letter of the Code and associated measures to avoid repossessions such as the voluntary Deferred Interest Scheme (DIS), the situation must be rapidly reassessed. It is worth noting as such that a formal review is recommended within 18 months. If repossession levels increase substantially, a more fundamental response is needed.

In the interim, we should examine what a debt forgiveness scheme for mortgage arrears would look like - who would qualify, who would not and upon what kind of criteria, how much would be written off or written down, who would bear the cost and how would the future sustainability of the mortgage be assessed. Such a scheme would by its nature be difficult to design, but that must not mean that it should not be carefully considered. Free Legal Advice Centres would like to take this opportunity today to invite interested parties to make contact with us with a view to discussing this further.

Finally, in this area, I draw your attention to the group's consideration of the mortgage shortfall where a property in negative equity is repossessed. The reports both of the group and the Commission have made it clear that the shortfall is, from a legal perspective, an unsecured personal debt like any other and eligible for inclusion in any application that debtor may wish to make for non-judicial debt settlement, although the timeframe for settlement may be longer where a shortfall is sizeable. This should enable those mortgage holders who unfortunately have lost their home to limit the time over which any shortfall and other personal debt is paid before earning the right to a fresh start.

Conclusion

In conclusion, it is vitally important for lawmakers and policymakers not to underestimate how difficult it is for those in a financial crisis to face their problems. A stigma still lingers in Ireland for many in relation to over-indebtedness despite our recent exposure to financial crises. Practical changes in the legal system must therefore be accompanied by a change in attitude and culture around the phenomenon of over-indebtedness. New provisions and documents must be properly communicated in straightforward language but must also contain enough flexibility to take into account the occasional lapses in payment that are part of human nature. Clear information in hard copy and online and direct services to assist must be immediately available that will encourage debtors to engage at the earliest possible opportunity. In return for such early engagement, there must be tangible gains from the debtor's perspective. Otherwise, people already in huge difficulties will feel victimised by their honesty and that will encourage others to hide.

Finally, it is to the eternal credit of the Law Reform Commission that they have grasped this nettle and held on despite the pain, producing a Consultation Paper, an Interim Report and a Final Report that sets out a comprehensive scheme for reform. On behalf of Free Legal Advice Centres, I would like to thank the Commission for their inclusive and thorough approach and to assure them that we will be carefully watching the future legislative space and remain both able and willing as always to contribute to the creation of a more enlightened system.

Many thanks for your attention