

**Advice NI's response to the Courts Service Pre-Action Protocol for Possession Proceedings  
Based on Mortgage Arrears in Respect of Residential Property**

**Deadline: 31 July 2021**

**Background**

Advice NI provide advice service including Benefits, Personal and Business Debt, Tax and HMRC products and Immigration. Advice NI also works in partnership with its 69 members providing generalist and specialist advice in locations throughout Northern Ireland. In the last financial year, the organisation and our members dealt with more than 500,000 advice queries. Together, Advice NI and our members make up the Independent Advice Network and all local contact details can be found on the Advice NI website, [www.adviceni.net](http://www.adviceni.net)

Advice NI also delivers a range of advice services to the public including Welfare Benefits, Personal and Business Debt, Tax Credits & HMRC products/services and Immigration. All our advice services can be reached via,

- Freephone 0800 915 4604
- Email [advice@adviceni.net](mailto:advice@adviceni.net)
- Text ACTION to 81025
- Visit the Advice NI website on [www.adviceni.net](http://www.adviceni.net) for downloadable resources and web chat.

All of the options on the helpline are open Monday to Friday, 9am to 5pm with the exception of the EUSS line which is open 10am to 4pm, Monday to Friday

**General comments on the updated protocol:**

Under Scope 3.1, the document mentions Financial Services Authority, which is no longer active and was replaced in 2013 by the Financial Conduct Authority (FCA). Advice NI believes that this section need to be updated to include second charge mortgages which have been subject to the FCA regulation from 21 March 2016.

Advice NI advocates that in the initial contact and provision of information section that where it is possible the lender should appoint one to two staff to work directly with the borrower until the case is concluded. We believe this allows for a better working relationship and improved communications, which may lead to a better outcome. Where the lender cannot operate such a model they should at the very least have a separate vulnerability team to work with those who have extra needs. The appointed staff should be clearly identified, along with their contact details, on all correspondence.

Under 5.1 that the lender also provides details of the free, impartial and confidential advice services that are available to the borrower via the Independent Advice Network (see details in Background section). We believe that this is a prevention strategy to safeguard the borrower from getting into further serious debt and likely possession. Lenders should signpost or preferably refer to advice services at the initial stages when the borrower has missed one payment or when they tell their lender they are beginning to struggle, even before they fall into any arrears. The Independent Advice Network will be able to provide holistic advice on any benefits entitlements, options for dealing with money issues and is able to offer other support where needed. The lender should send information of the Independent Advice Network along with regular correspondence sent to the borrow updating their account information.

Under 5.3 we agree fully with the word '*refer*' and would like to see this strengthened throughout the document. A referral is where the lender makes contact with the advice organisations to pass the lender details on with their consent. Also, any information or referral should be a local advice organisation based in Northern Ireland. We also note, that the Office of Fair Trading has ceased operating and was replaced with the FCA. They have a public search register of all authorised firms. Where someone is in serious arrears then they should be referred directly to Housing Rights so that they can begin the mediation process immediately.

Under 5.4, we believe that the borrower should also be informed of the next steps, including appeal processes, if a lender refuses a payment proposal long with the reasons why it was refused. The lender should not overly pressurise the borrower into a payment but this should be reviewed on merit of the individual circumstances. Any contact should be made using the borrowers preferred method and should not be overly excessive. Where a third party advice organisation is acting on the borrowers behalf, the lender should recognise them to communicate and negotiate with them until advised otherwise.

We believe sanctions where the proper process has not been fully followed by the lender should be outlined clearly in the protocol.

Under 6.1., it would also be useful for lenders to check if there are any other circumstances of relevance relating to the borrowers case. For example the borrower is waiting for the outcome to any benefit claims, redundancy payments or any other potential income that could help the borrower's financial situation.

We also advocates that the N123 Mortgage pre-action protocol checklist should also be used in NI. This will provide clarity and consistency to the process.

Advice NI recommends that this protocol should be reviewed on a more regular basis so that it continues to be appropriate and relevant.

Contact information on this consultation response:

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