

Tracker scandal: 'I was forced into this predicament... I've lost everything'



Peter Hamilton

Family in legal battle with Bank of Ireland after losing their home describe their 'hell on earth' ordeal

Between the birth of their daughter and moving into a new home in Limerick, the early part of 2002 was a "happy time" for Mike and Susan Coffey.

They had moved to a better area of the city, Mike had a good job and they were in the process of renovating their home in anticipation of the arrival of their daughter Jessica.

Fast forward 17 years and the Coffeys' life has changed dramatically. They allege that they were forced out of their family home due to a series of events that started with them not being placed on the correct tracker rate when their mortgage came up for review in March 2010.

In two separate actions, the family are suing Bank of Ireland for personal losses and damages that they argue have been caused by the bank's actions.

It was 2001 when the Coffeys bought 6 Southville Gardens for €225,000 with a Bank of Ireland mortgage. Having sold their previous house, the couple brought €90,000 with them in equity. They were also helped financially by the sale of an investment property in Spain "when things were good".

The proceeds from that sale – about €40,000 – were used and they ultimately spent roughly €50,000 renovating the property.

Unfit for work

Soon after the move, Jessica was born and for the most part life was normal. Mike was employed as a paramedic and was the main breadwinner. Susan suffered a period of ill health and had been deemed unfit for work.

Despite having only one earner in the household, the Coffeys were given two top-ups on their mortgage, referred to as equity releases, to fund new work at Southville Gardens.

Around the onset of the financial crash in late 2008, money "became tight" for the couple. And the introduction of the universal social charge – a levy on gross income – by the Government post the crash only made matters worse.

Mike was earning about €3,200 a month after tax working as a supervisor in an ambulance control centre operated by the HSE, and the family began to make sacrifices to ensure that the mortgage would be paid on time. This included cancelling their private health insurance.

With pressure mounting, Mike approached his brother Vincent for a €31,000 loan to tide him over. Around the same time the Health Service Executive (HSE), Mike's employer, moved to restructure its operations to counter the impact of recession, which had gripped the country.

The HSE's Limerick control centre – where Mike was a supervisor – would close. His options were to move to its Dublin or Donegal control centres, return to working as a paramedic, or lose his job.

Initially, he moved to Dublin to help establish the National Ambulance Control Centre, leaving his family in Limerick. He worked in Dublin for seven months before returning to Limerick having made the decision to leave the HSE.

All of this occurred in parallel with the increasingly burdensome mortgage the couple were paying.

By August 2015, Mike had left the HSE and was working for a private ambulance operator as a paramedic. "I had to function for my family and then when the bank put the knife to my neck to sell, I came up with an idea that I'd ask him [his employer] would I be able to transfer and rent a house in Castlebar, avoiding any onerous questions," Mike said.

Ultimatum

The family allege that Bank of Ireland provided them with an ultimatum: sell the property or have it sold forcibly and then bear the legal costs incurred by the bank having to offload their home.

And so, in February 2017, the Coffeys sold their family home, which was in negative equity to the tune of €50,000, and upped sticks to Co Mayo.

In an effort to save face they told friends that Mike was moving job and, for the most part, nobody knew of their financial troubles.

The move to Castlebar coincided with ever worsening health issues for the family. Both Mike and Susan are receiving treatment for a plethora of illnesses including anxiety and depression. Susan has withdrawn into her shell since the move, while Mike says he has "no inkling" to do anything having previously been a keen golfer.

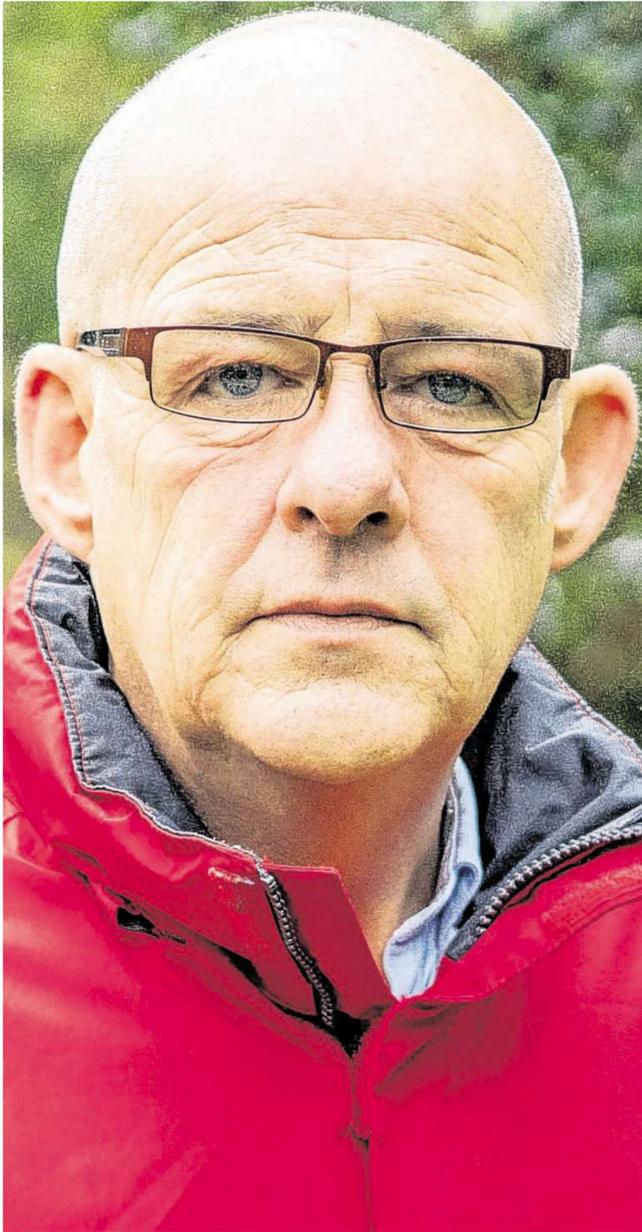
There is a cloud hanging over the family, not least because their ability to buy another home has been severely damaged because of their poor credit rating.

It was February 6th, 2018, when the Coffeys received a call from Bank of Ireland. Mike was told the bank had made a "catastrophic error".

According to Mr Coffey, the caller, Ronnie Feeney, head of the bank's mortgage arrears resolution strategy, told him that the residual debt, which was in the form of an overdraft, would be immediately written off.

While the Coffeys aren't unique, they are part of an exclusive group within the wider cohort of 40,100 customers who were affected by the tracker scandal. They are one of 99 families who lost their home "as a result of lenders' failings", the Central Bank's final report on the matter said.

Trackers became a feature of the Irish market between 2003 and 2008, as com-



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– Mike Coffey

petition heated up, driven by overseas lenders opening here.

These cheap mortgages tracked the European Central Bank interest rate by a fixed margin.

When interest rates started to rise between 2006 and 2008, many customers on variable rates including trackers opted to fix their mortgages to have certainty over how much they'd pay each month but without realising the consequences of such a move.

Disastrous

When the financial crisis hit in 2008, all Irish lenders stopped offering trackers to new customers.

They also failed to take account of their obligations to existing customers, the Central Bank noted. And as a result of that, a number of customers who had chosen to fix their rates between 2006 and 2008 lost their tracker and were never offered it again, sometimes with disastrous consequences.

For the Coffeys the consequence was the loss of their home. Bank of Ireland, in a letter to the family in 2018, noted that had the correct rate been applied to their mortgage between March 2010 and February 2017, when their home was sold, the family would have been €18,367.20 better off.

Because the wrong rate was applied to their mortgage, they paid interest of €32,116.22 in the seven-year period when they should have paid €13,749.02.

"We apologise for our failure and we want to put things right," the bank said in its letter last year. "During our review, we identified that we failed to provide you with the correct interest rate on your mortgage. In this letter we will explain our failure, how it affects you and what we will do now to make things right," the bank wrote.

In total, Bank of Ireland offered the Coffeys €131,896.18.

This comprised €19,285.56 in redress, €50,000 in compensation, €1,000 toward the cost of getting independent professional advice, €26,045.13 based on the increase in the value of the couple's home had they not sold it, and €35,565.49 in compensation for not having the benefit of a tracker on the value of the sale proceeds applied.

The total payment was, as it happens, considerably less than the average of €194,000 in redress and compensation paid to mortgage holders for the loss of their homes.

The Coffeys accepted the offer while also obtaining professional advice about possible litigation. The Central Bank has made clear that customers who accept redress and compensation from their bank are not precluded from also suing them through the courts.

Evan O'Dwyer, a solicitor in Ballyhaunis, took up the case and wrote a letter in March 2018 to Bank of Ireland chief executive Francesca McDonagh and John Clifford, then chairman of its mortgage bank, outlining the Coffeys' dire situation.

"We have now instructions to issue proceedings on behalf of our client Michael Coffey and our client Susan Coffey and our client Jessica Coffey for the im-

measurable harm that you have caused to them," the letter said.

"They can never return to their family home. They can never undo the lies that they told their family and friends in order to maintain their dignity. Jessica will never return to the classroom where she sat in and enjoyed life with her friends. Her innocence and her time when she should be enjoying life as a young teenager can never be returned."

In his letter, Mr O'Dwyer advised Bank of Ireland that he will be issuing and serving proceedings for damages including exemplary aggravated and punitive damages.

Ms McDonagh did not respond to this letter but Mr Clifford did. In his email to Mr O'Dwyer, dated March 23rd, 2018, he wrote: "Based on the circumstances outlined in your letter, I want to express my personal apology to the Coffey family for the serious distress they have suffered. As your letter states, I am no longer involved with the company but I have forwarded your correspondence to my successor as chairman, who will ensure that the case is properly handled from here on."

With the exception of the initiation of the legal action, there has been little movement in the case.

In a statement relating to the case, a spokesman for Bank of Ireland said: "On the grounds of customer confidentiality we cannot comment on individual customer accounts or matters related to active legal proceedings."

"The tracker issue should never have happened and Bank of Ireland, including our chief executive and other senior management, has publicly apologised to customers on a number of occasions. We reiterate that apology again.

"As a matter of general application, a write-off of residual debt on a mortgage account does not incorporate other debts on current accounts or credit cards. However the bank strives to deal compassionately with customers and in a number of cases where we have identified customers that have been impacted by the tracker issue, we have paused or cancelled legal action related to other debt."

'Unforgiving'

Assessing the couple's chances of success, New Beginnings founder Ross Maguire SC noted that while there have been a number of similar actions initiated, "none of them have been determined by a court yet".

"Bank of Ireland may have been the most difficult bank to deal with over the years because their philosophical approach was to be unforgiving and go for people. Other banks took a cooler and calmer approach," he said.

For Mike, the situation has been like "hell on earth".

"I should be working for another number of years if things were right. Because I had to leave early, because I was forced into this predicament, I lost out additional years on my pension, additional lump sums. My credit rating has gone through the floor, nobody would give me a red cent. I've lost my private [health] insurance, I've lost everything."

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