



Lending & Mortgages in Difficult Times

How to Avoid the Problems and Pitfalls

12 June 2008, London

“From an overview of the main problems facing lenders in the current economic climate through to issues relating to non-compliance with the conduct of business rules, this conference focuses on the most important issues affecting lenders and borrowers”

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9.00 Registration and Coffee

9.30 Chairman's Welcome and Introduction

Michael Nield, Maitland Chambers

9.45 The Credit Crunch: Implications for Lenders

- The changing economic picture from a lenders perspective
- Problems facing lenders today
- Changing lending practices and policies
- Outlook for the future

Nick Baxter, Baxters Business Consultants

10.30 Mortgage Repossession in the County Court

- Initial steps
- Taking the case to court
- Preparing for the hearing
- At the hearing
- After the hearing
- Common problems

Colum Leonard, Stewarts

11.15 Coffee

11.30 Enforcement: Avoiding the Pitfalls

- Statutory framework: rights to possession and sale
- Contractual limitations: the standard conditions
- Mortgages: conduct of business rules
- Civil procedure rules

Stephanie Tozer, Maitland Chambers

12.15 An Outline and Update on Liability for Bad Advice

- Banks and the duty to advise
- Types of liability for bad advice
- Complaint to the Financial Ombudsman Service
- Action for misrepresentation

- Action for breach of contract
- Action for negligence
- Action for breach of statutory duty
- Issues of causation

David McIlroy, 3 Paper Buildings

1.00 Lunch

2.15 Shortfall

- Money Judgments
- Bankruptcy
- Sue joint debtors
- Sue the lawyer
- Sue the valuer
- Lender's contributory negligence?
- MIPs/MIGs
- Recognise fraud

Michael Nield, Maitland Chambers

3.05 Mortgage Fraud and the Fraud Act 2006

- Typologies: application fraud, valuation fraud, intermediary involvement
- Recent trends
- Money laundering and property
- The Fraud Act 2006: fraud by false representation, failure to disclose offence, fraud by abuse of position

Neil Swift, Peters & Peters

3.55 Tea

4.10 Further Regulatory Issues

- FSA authorisation
- Consequences of non-compliance
- Fines and suspension
- Injunctions and prosecution
- Regulatory Decisions Committee
- Financial Services and Markets Tribunal
- Judicial review
- Liability in damages

Michael Nield, Maitland Chambers

5.00 Conclusion and Chairman's Closing Remarks

5.15 Conference Close

Lending & Mortgages in Difficult Times

From an overview of the main problems facing lenders in the current economic climate through to issues relating to non-compliance with the conduct of business rules, this conference focuses on the most important issues affecting lenders and borrowers during what promises to be a difficult time for all those involved. All the speakers are experts in this complex area of work and deal with the following key topics:

- The credit crunch: implications for lenders
- Mortgage repossession
- Enforcement: avoiding the pitfalls
- Liability for bad advice
- Mortgage fraud and the Fraud Act 2006
- Shortfall
- Mortgage repossession in the County Court

Chairman:

Michael Nield is a barrister in Maitland Chambers and has a general Chancery practice. He has considerable experience in advising and drafting documents for building societies and other lenders. He enjoys the chance to help create new products and clear out verbiage. He has served on the committee of the Chancery Bar Association and ran the Association's seminars from 1994 to 1996. He is a member of the Society for Computers and the Law and of Clarity. He has been an elected member of the Bar Council.

Speakers:

Nick Baxter worked for Building Societies from 1975 until 1993, ending up as Assistant General Manager (Mortgages) for the Cheltenham & Gloucester Building Society where he was responsible for all aspects of the Society's mortgage portfolio. In that year he set up what is now Baxters Business Consultants who are business consultants, freelance journalists and expert witnesses to the residential mortgage lending, building society and financial service industry. He is a regular speaker and trainer, a member of the Academy of Experts, and a Founding Member of the Society of Expert Witnesses.

Colum Leonard has been a Commercial Litigation Partner in Stewarts since 1989 and has been in practice for 23 years. He is a CEDR accredited Mediator and a Deputy District Judge.

David McLlroy is a barrister in chambers at 3 Paper Buildings. He has a broad-based commercial practice, with specialist interests in all aspects of banking and financial services law, insolvency and employment law. He is a visiting lecturer in Banking Law at SOAS, University of London.

Neil Swift is an experienced fraud practitioner in Peters & Peters' Fraud and Regulatory department. He has a broad range of experience regularly dealing with proceedings instituted by the Serious Fraud Office, HM Revenue & Customs, Crown Prosecution Service and Office of Fair Trading. He has extensive expertise in advising individual and corporate clients with often novel and complex criminal and quasi-criminal problems arising in a range of commercial contexts. He regularly advises in relation to a range of tax enquiries and cases involving multi-jurisdictional issues and multi-disciplinary teams of professionals. He is experienced in dealing with regulatory investigations by professional bodies including the Financial Services Authority and advises in relation to compliance issues.

Stephanie Tozer is a member of Maitland Chambers. She focuses particularly in work for lenders (in banking and property matters), and general property and landlord and tenant cases. Following a large number of cases concerning the limitation period for mortgage shortfall claims, which culminated in her appearing in the House of Lords in *West Bromwich Building Society v Wilkinson* [2005] UKHL 44; [2005] 1 WLR 2303, she advises lenders and represents them in a variety of cases, in particular in matters where the validity of the charge (or some underlying transfer) is questioned, and/or where there are priority or other problems with registration. She has also written a substantial part of a book on Dilapidations due to be published later this year.

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12 June 2008, London

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