



ABHAILE

Aid and Advice for Borrowers in
Home Mortgage Arrears

First Annual Report



Rialtas na hÉireann
Government of Ireland

Abhaile: First Annual Report

**Department of Justice and Equality
Department of Employment Affairs and Social Protection
17 October 2017**

Note on Data and Reporting Period

Abhaile brings together, and develops, a range of services to help borrowers to resolve their home mortgage arrears.

While most Abhaile services started operation in July – September 2016, other services began on earlier or later dates – see chapter 2, section 2.3 of this Report.

Accordingly, the core period covered by this Report is the operating year 1 July 2016 to 30 June 2017 – which is taken as ‘Year One’ of Abhaile operation.

Data provided thus generally refers to ‘Year One’. Where the available data refers to a different period, that period is specified.

Data for this report have been provided by the Insolvency Service of Ireland, Money Advice and Budgeting Service, the Legal Aid Board, and the Citizens’ Information Board.

ABHAILE

FREE MORTGAGE ARREARS SUPPORT

The First Year



Consultation Solicitors
helped

1,700

people at risk of losing
their home



Duty Solicitors
helped over

1,700

people facing
repossession hearings



Mabs Court Mentors
helped

2,200

borrowers and signposted
them to appropriate
service(s)



Helping to
keep
people
in their
homes



More than

8,000 Vouchers

issued to home owners
in mortgage arrears for

4,600 Homes



Public Awareness of

ABHAILE

FREE MORTGAGE ARREARS SUPPORT



increased from
23% → 41%

35,000
mortgage
accounts in
arrears of
>720 days
mid 2016

32,000
mid 2017



**Personal
Insolvency
Practitioners
(PIPs)**
helped over

4,500



people in
home mortgage arrears

MABS Dedicated Mortgage
Arrears Advisers
helped more than

4,200

people from

**51
offices**
around Ireland



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Glossary of Terms

ARA – Alternative Repayment Arrangement, a private contract between the borrower and their mortgage lender, agreeing a restructure of mortgage payments, as provided under the Central Bank's Code of Conduct on Mortgage Arrears

CB – the Central Bank of Ireland

CCMA – the Code of Conduct on Mortgage Arrears (revised version: 2013), which the Central Bank of Ireland requires all entities regulated by it to observe when dealing with borrowers in relation to their mortgage arrears

CIB – the Citizens' Information Board

Consultation Solicitor – a solicitor from the Abhaile panel established by the Legal Aid Board, who is providing to a borrower the Abhaile Consultation Solicitor Service as outlined in Appendix I

Court Mentor – A MABS adviser who attends outside court when the County Registrar is dealing with repossession cases, to provide support and information to borrowers (the Abhaile Court Mentor Service, see Appendix I).

DEASP – the Department of Employment Affairs and Social Protection

DJE – the Department of Justice and Equality

DMA – Dedicated Mortgage Arrears Adviser, a MABS adviser who provides financial advice and assistance to borrowers in mortgage arrears (the Abhaile DMA Service, see Appendix I).

DSA – Debt Settlement Arrangement – a statutory debt restructure under the Personal Insolvency Acts, suitable for resolving unsecured (non-mortgage) debt

Duty Solicitor – a solicitor from the Abhaile panel established by the Legal Aid Board, who is providing to a borrower the Abhaile Duty Solicitor Service as outlined in Appendix I.

ISI – the Insolvency Service of Ireland

LAB – the Legal Aid Board

MABS – the Money Advice and Budgeting Service

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MARP – the Mortgage Arrears Resolution Process, a minimum process which the Central Bank requires all regulated entities to observe, under the Code of Conduct on Mortgage Arrears when dealing with borrowers in relation to their mortgage arrears

Personal Insolvency Acts – the Personal Insolvency Acts 2012-2015

PDH – Principal Dwelling House (the identifier used in Central Bank mortgage arrears statistics for a mortgaged property which is the borrower's main residence)

PIA – Personal Insolvency Arrangement – a statutory debt restructure under the Personal Insolvency Acts, designed for resolving secured debt (including mortgage arrears).

PIA Court Review – the independent review which can be carried out by a court under s. 115A Personal Insolvency Acts, if creditors refuse a borrower's proposal for a Personal Insolvency Arrangement which includes arrears on their home. The court has power to impose the rejected proposal on the creditors where it considers the proposal was fair and reasonable to all parties.

PIP – Personal Insolvency Practitioner

PPR – Principal Private Residence, defined by the Personal Insolvency Acts as the dwelling in which the borrower ordinarily resides

Protective Certificate – a court order, issued under the Personal Insolvency Acts, that prevents creditors from taking enforcement action against a borrower for a number of months, while a personal insolvency practitioner is working to restructure the borrower's debts and return them to solvency (by means of a Personal Insolvency Arrangement or a Debt Settlement Arrangement).

RLEs – Reasonable Living Expenses – The recommended level of protected income to ensure that an insolvent borrower, who is entering a debt restructure, does not fall below a reasonable minimum standard of living: calculated using Guidelines published annually by the ISI under s. 23 Personal Insolvency Acts.

1. Executive Summary and Recommendations

Headline progress achieved under Abhaile:

- Over 8,700 borrowers have received detailed financial advice (4,200 from DMAs; 4,500 from PIPs)
- In Year One: over 1,700 unrepresented borrowers assisted at repossession courts by duty solicitors, some 2,200 assisted by court mentors
- Majority of borrowers helped are from the hard to reach category of arrears exceeding 720 days
- It takes several months for a case to conclude. Of DMAs' concluded cases, 85% of borrowers remain in their home. Where PIPs have secured a formal Statutory Arrangement, the equivalent rate is 91%.
- Public awareness of Abhaile has increased from 23% of the general population, to 41% nationally, over February - August 2017.

1.1 Introduction

Abhaile is a national mortgage arrears resolution service, provided free of charge to the borrower. It is focused on getting solutions into place to resolve the arrears and, wherever possible, help the borrower to remain in their home.

The aim of Abhaile is to help mortgage holders in arrears to find the best solutions and keep them, wherever possible, in their own homes. The unique element of Abhaile is that it brings together, for the first time, the full range of supports and services required by borrowers in home mortgage arrears.

The Abhaile service puts the borrower at the centre of a number of sources of financial and legal advice and assistance services, all aimed at helping them tackle an intractable problem, built up over time and wherever possible, keeping people in their home.

Borrowers who had not engaged with lenders were fearful and didn't know where to turn for the best help and could not afford to engage professional services. For those who tried to engage, they had to make their own way through a range of services offered by different organisations or agencies. Many borrowers felt overwhelmed and chose not to engage at all.

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Through the combination of targeted and suitable supports, Abhaile now provides an easily accessible State funded service, allowing borrowers to pass seamlessly through a supported process, helping them wherever possible to reach sustainable solutions. It is recognised from the outset that the process can be lengthy for borrowers to complete, given the complex nature of home mortgage arrears. Abhaile provides every opportunity to homeowners in serious mortgage arrears to have the range of available and suitable options for their individual situation explored.

Although no attempt has been made in this review to assess the indirect monetary savings to the State arising from the interventions offered by Abhaile supports to borrowers at risk of losing their homes, undoubtedly significant expenditure on dealing with health, mental health and homelessness problems has been avoided. It is clear that the implementation of Abhaile, in addition to delivering assistance dealing with home mortgage arrears, is also having a significant positive impact on the overall wellbeing and quality of life of borrowers and their families.

Borrower Testimonial on the value of Abhaile Aid and Advice:

“I am very grateful to MABS and to yourself for assisting me so generously and so professionally in all of this. The voucher scheme for the PIP is a truly marvellous one and is really the way forward for someone like myself who is overstretched in terms of loan and repayment commitments but who has means to pay everything off with a little forbearance on the part of creditors. I don't think things would ever have worked out for me without the information and support provided by MABS in the person of yourself. The day I used the voucher you gave me for a consultation with(PIP)... was the turning point for me and set me on the path to a successful resolution of my debt problems”.

1.2 Key Successes of Abhaile

1. Significant take-up, that has exceeded expectations, has been a consistent success of Abhaile

Take up of Abhaile services by borrowers in home mortgage arrears during Year One has significantly exceeded initial projections.

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The projected take-up for Abhaile (July 2016) was 9,400 households in total over the 3 years 2017 – 2019, with 47% of take-up (equivalent to 4,418 households in arrears) during 2017 (see chapter 3). The financial and legal advice vouchers issued by Abhaile during Year One exceed this projection, covering 4,602 households up to the end of June 2017.

During Year One¹:

- Abhaile provided borrowers with nearly 8,000 vouchers to obtain free independent financial and/or legal advice.
- These vouchers were issued in respect of 4,602 mortgaged homes.
- 6,029 vouchers were for financial advice and assistance from a Personal Insolvency Practitioner ('PIP')
- 75% of borrowers who received a PIP voucher in Q3/2016 used it
- 1674 vouchers were for the borrower to consult a solicitor and obtain written legal advice.
- Duty solicitors attended 454 Court repossession lists before County Registrars around the country, and assisted over 1700 unrepresented borrowers faced with repossession proceedings against their homes.
- Legal aid was provided for over 300 personal insolvency court review cases – either at first instance or on appeal.²

In addition:

- Over the period August 2015 - 1 September 2017³, Dedicated Mortgage Arrears advisers (DMAs) provided financial advice and assistance to 4,199 borrower households.
- Over the period October 2015 – 1 September 2017, Court Mentors were present at all Court repossession lists before Country Registrars around the country, to offer support and assistance to unrepresented borrowers.
- Over the sample period January – June 2017, Court Mentors offered this support at repossession Court lists to 1,148 unrepresented borrowers. Many borrowers engage for the first time with other Abhaile services, arising from this first contact.

¹ 'Year One' refers to the core period covered by this Report, the operating year 1 July 2016 to 30 June 2017, which is taken as 'Year One' of Abhaile operation. See text box on page 1.

² See chapter 3.1 for further details on take-up of legal aid provided under Abhaile for PIA court reviews.

³ DMAs (located in MABS offices across the country) began providing this service in September 2015. The DMA service, together with other MABS activities to support borrowers in mortgage arrears, was brought within Abhaile from July 2016.

Borrower Testimonial on the value of the Court Mentor service:

“The MABS Court Mentor was ever so helpful and professional in how she explained the court process and in the advice she gave us. She arranged vouchers for us, and phoned on a number of occasions to see how we were getting on.

On the day of our court appearance she could not have been more attentive and helpful to us, while at the same time supporting others whose cases were also before the County Registrar.’

2. Abhaile is reaching its key target group, of distressed borrowers in 2 years’ plus mortgage arrears

ISI analysis of all PIP financial advice vouchers redeemed during Year One indicates that in 68% of cases, the borrower was in arrears of 2 years or more. A further 20% were in 1-2 years’ arrears. The remaining 12% were in arrears of less than 1 year, but still at risk of losing their home.

3. A range of solutions and restructures have been concluded: the vast majority of these are keeping the borrowers in their homes

- 589 solutions (mainly Alternative Repayment Arrangements (ARAs) or Mortgage to Rent) were concluded for borrowers by DMA advisers over the period September 2015 - 1 September 2017.
- Given the types of solutions, it appears that 85% of these solutions will enable the borrowers to remain in their homes.
- ISI analysed the outcomes, up to August 2017, of PIP financial advice vouchers redeemed during Q3/2016. Of the sample (658 vouchers), 145 solutions were in place by August 2017 (22%). The 145 concluded solutions included 94 Personal Insolvency Arrangements (PIAs), 10 Debt Settlement Arrangements, 24 informal mortgage restructures, 8 borrowers who agreed a voluntary surrender, 1 borrower who was able to discharge their arrears in full following an inheritance, and 8 who opted for bankruptcy.
- ISI indicates, based on its Q3/2016 sample analysis that 91% of Abhaile borrowers who conclude PIAs remain in their homes.
- In one third of the PIAs agreed for Abhaile borrowers during Q3/2016, the arrangement involved a reduction in the outstanding principal, averaging €98,000.

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4. Further informal solutions and restructures have been put in place on a trial basis, or are being finalised, that are keeping people in their homes

- 336 trial ARAs are currently in place for borrowers assisted by DMA advisers. (A lender may require a borrower to do this, often for 6 or 12 months, before actually concluding a restructure.)
- DMAs indicate that a further 119 borrowers are in the final stages of concluding an ARA or other restructure.

5. A significant proportion of borrowers do not yet have a solution in place, but are currently 'in a protected process' (i.e. they are being advised and accompanied by an Abhaile financial adviser (PIP or DMA) who is seeking to get a solution in place for them)

- It is clear, from both MABS and ISI data sets, that getting solutions into place for this cohort of borrowers can take time.
- Of the 4199 borrowers assisted by a DMA adviser over the period August 2015 – September 2017, 58% (2425 borrowers) were in process on 1 September 2017.
- Of ISI's sample 658 PIP vouchers redeemed during Q3/2016, 47% (306 borrowers) were still in a (formal or informal) protected process with the PIP by end August 2017.
- Included in this group are cases:
 - where the borrower is gathering required documents,
 - where a PIA court review is in progress,
 - where the PIP/borrower are preparing to apply or currently applying for a Protective Certificate (the first step in seeking a PIA)
 - where the PIP/DMA is in ongoing negotiations with the lender for an informal restructure, or exploring Mortgage to Rent with the lender (mainly in the initial stages)
 - (a very small number) in process of applying for bankruptcy.

In some of these cases, the borrower is also facing repossession proceedings, but the Court will normally adjourn these to facilitate getting a solution into place, where the borrower is working with an adviser.

6. Assistance for borrowers at risk of repossession when engaging in the Court process.

- The Court Mentor service, provided by MABS at all repossession hearings, is providing much needed support and advice to distressed borrowers facing court proceedings.

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- The feedback to MABS on this service is that it is making a positive difference and is proving to be an important link in signposting borrowers to the free help they need under the Abhaile service.

7. Abhaile is providing solutions for households in deep mortgage arrears, at a very affordable cost

- The Abhaile scheme, is achieving its objective of helping borrowers in deep arrears to engage with their lenders. Borrower engagement with lenders can prevent or minimise more costly downstream interventions by the State such as social housing intervention.
- The estimated cost of Abhaile vouchers per household assisted is approximately 1093 euros (this was calculated by dividing the cost of Abhaile in the first year by the number of mortgaged homes assisted).
- This compares very favourably to the cost of alternatives which may occur downstream, if no mortgage restructuring options are explored or if they fail. For example, D/Housing indicates that:
 - €40,000 per year is considered an indicative median figure for the cost of supporting a homeless family – though this varies depending on a range of factors including regional variations, length of time spent homeless, household size, type of accommodation (hostel, hub, hotel...).
 - The overall yearly cost to a local authority on 30 June 2017 of providing HAP (Housing Assistance Payment) for a family of 2 adults and 2 children was €17,148 in Dublin, and an average of €9,912 for other local authorities nationally.

8. Abhaile is also assisting arrears resolution more widely, by supporting Court review cases to clarify reasonable and sustainable options for resolving home mortgage arrears

- Decisions from the High Court, in cases legally aided under Abhaile, are bringing important clarity on the types of PIA proposal that will be accepted as reasonable, fair and sustainable by a court, even where a mortgage lender has refused the proposal (see details in chapter 5).
- These recent judgments can also clarify and assist the resolution of mortgage arrears *outside* personal insolvency legislation. For example, the High Court judgment of *JD* in February 2017 has greatly clarified the options available for mortgage restructures generally, in the frequent situation where a borrower couple in mortgage arrears have separated, the partner/borrower still in the home is trying to resolve the mortgage arrears, but the absent partner/borrower is not contactable or is not engaging. This judgment has been welcomed both by lenders, and by

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organisations representing borrowers, and is being cited in ongoing cases seeking formal or informal solutions.

9. The DMA Advisers (now incorporated into Abhaile) provided a valuable service in supporting borrowers and concluding solutions.

- The DMA service, established within MABS, provides a comprehensive level of support to borrowers at imminent risk of losing their home. Although it takes time to put in place an arrangement, the DMA service is achieving success in cases where positive outcomes previously seemed unlikely.
- The DMAs' success in putting in place trial ARAs and providing the ancillary supports to borrower throughout the trial periods are an important feature in motivating borrower re-engagement in order to find more long-lived solutions in agreement with their lenders. Notably, the input and role of DMAs in such cases has received positive feedback from lenders.

10. Abhaile is achieving its objective of a joined up Government approach, providing a broad and integrated umbrella service to maximise help to borrowers with embedded mortgage arrears.

- Abhaile is jointly coordinated and funded by the Department of Justice and Equality and the Department of Employment Affairs and Social Protection. MABS, the ISI, the Legal Aid Board (LAB) and the Citizens' Information Board (CIB) are working together to provide the Abhaile services.
- The multi-agency approach adopted has worked fruitfully, with organisations and professionals across the Scheme demonstrating a strong commitment to its effective delivery. Examples of cooperative working and the development of joint approaches are emerging. For instance, there are now cases where DMAs and PIPs are working together to secure solutions for a borrower, with the DMA securing lender agreement on a Mortgage to Rent and supporting the borrower through that process, while a PIP is working to secure a write-down on the residual debt.

1.3 Key Challenges for Abhaile

- 1. Abhaile engages with challenging cases where borrowers are in deep arrears, and where knowledge and awareness of restructuring options has been low.**
- 2. Resolving mortgage arrears and getting solutions into place for Abhaile borrowers takes time**

Experience gained during the first year of Abhaile demonstrates that for a borrower in significant arrears, getting a PIA or an alternative restructure arrangement (ARA) into

place tends to take time. For example, MABS points out that securing an ARA or Mortgage to Rent for these borrowers takes an average of 294 days from start date to outcome. ISI indicates that on average, even where creditors approve a borrower's proposal for a PIA, the process takes 220 days from the beginning of the PIA process to court approval following the creditor agreement. It takes considerably longer if creditors refuse the proposal, and a court review is sought.

3. This means that at end of Year One, finalised outcomes are not yet identifiable in a significant proportion of Abhaile cases, which are still in process.

The length of time needed to reach a PIA or other alternative arrangement presents challenges to measuring the finalised outcomes of the Scheme following one year of operation. A substantial proportion of cases are still in a protected process (i.e. they are being supported and receiving advice and assistance through Abhaile).

4. Current funding of the DMA Service expires in June 2018, with resulting uncertainty on the future of this service.

In May 2015, the Government announced the establishment of the DMA service, together with funding provision of €10.2m over a 3 year period to mid-2018. The expanded MABS services encompassed the establishment of a new court mentor service, initially piloted with the ISI, and subsequently provided by MABS and rolled out countrywide.

Unquestionably, both the DMA and the court mentor services form vital elements of the overall suite of Abhaile supports available to distressed borrowers. Their interventions alleviate much of the fear and anxiety of the target borrowers in deep home mortgage arrears, avoiding more severe impacts on the physical and mental health and well-being of these individuals, their dependents and their families.

Extension of funding to continue both of these supports as part of the Abhaile offering is now considered crucial to see those currently being assisted through to completion, and to take on new cases presenting for help for the first time, due to the increasing awareness of the free supports now in place to help them. On the ground, there is a clear rationale for continuation of DMA and court mentor supports beyond mid- 2018, so that help and assistance is available, for example, where trial arrangements are in place with lenders and borrowers require ongoing support; referrals back from PIPs where an informal resolution may still be possible; and where new borrowers are presenting at repossession courts. It is therefore considered reasonable to request, in the first instance, that the DMA and court mentor services be extended in line with the Abhaile timeline, to end 2019.

5. **Data collection and management needs further work across Abhaile to ensure comprehensive tracking and collection of comparable data**

Data collection across the different organisations involved in Abhaile has proved initially challenging, given their different data systems and practices.

A series of measures have been proposed to improve and streamline the collection of comparable data, and to ensure comprehensive tracking of cases. These will be developed and put in place through the Abhaile Joint Working Group and Steering Board.

6. **Abhaile financial advisers identify continuing lender resistance to debt writedown - even when that is the only viable solution**

The majority of cases presenting under Abhaile relate to mortgage accounts that are in arrears for periods in excess of two years. This makes finding a sustainable solution all the more complex, but still achievable in the vast majority of cases. It is often the position that the traditional remedies offered by creditors do not solve these cases. Based on a thorough understanding of individual circumstances and future prospects, and having explored alternatives, in some cases it is evident that an element of secured debt write-down is the only viable solution to keep such borrowers in their homes. In many cases, MABS and PIPs continue to experience lender resistance to proposals which write down secured debt - notwithstanding that such a write-down is necessary for a sustainable mortgage to be achieved, and that all such proposals would continue to respect the underlying value of any security.

The possible benefits of introducing a ‘public PIP’ service should be examined urgently In the normal course, a PIP's professional fee is funded from a lump sum payment (for short Personal Insolvency Arrangements), or from monthly payments by the debtor to creditors (under longer Personal Insolvency Arrangements). However, the experience of Abhaile demonstrates that the solution for some borrowers with little or no repayment capacity is solely focused on restructuring the family home mortgage, with little if anything on offer for other creditors. In such situations, discharging the PIP's professional fee can be problematic.

A possible solution to deliver a more holistic service, assist overall restructuring, and address remaining obstacles to personal insolvency solutions for otherwise eligible borrowers, is that of providing a supplementary State-supported PIP service for these otherwise uncommercial cases. Such a solution would complement, extend and enhance the existing suite of Abhaile services and assist low-income borrowers. This option, together with any appropriate alternative solutions, will be examined urgently by the Abhaile Joint Working Group, with a view to bringing proposals to the Steering Board, together with estimated costings, at the earliest opportunity.

7. The projected Abhaile budget for 2018 may no longer be adequate, given higher than expected take-up to date.

As set out in chapter 6, Abhaile is a demand-led scheme. Its estimated budget provision for 2018 is to be reviewed in the light of take-up, outcomes and budget adequacy, following the first year of Abhaile's operation.

At the outset, the estimated 3 year budget for Abhaile (2017-2019) was €15m. The budget was frontloaded, with provision for 2017 – across all services – amounting to € 7.1 m.

This would leave a balance of €7.9 m to cover the remaining 2 years, 2018 and 2019, with an assumed 50/50 split between those years i.e. €3.95m each in 2018 and in 2019.

To date, take up of Abhaile has significantly exceeded expectations, with 49% of the total projected take up over 2017-2019 already reached by the end of June 2017. Given the continuing strength of demand, and the likely booster effects of the continuing Abhaile national communications campaign, the existing level of demand may continue through 2018.

In this event, budget provision more in line with 2017 expenditure would be required.

1.4 Key Recommendations of this Review

- Abhaile should continue in operation, given its high level of take-up, success in reaching its core target group, and promising initial outcomes.
- Budget provision for Abhaile services in 2018, should be closely monitored to ensure that it is adequately funded to meet demand in order to avoid loss of momentum achieved to date.
- Data collection across the different Abhaile services should be further coordinated and streamlined, following the lines proposed in this Review. The proposed measures are to be implemented by the Abhaile Joint Working Group and Steering Board.
- The DMA and Court Mentor services, established in MABS in 2015 with funding provision of €10.2 m over a 3 year period to mid-2018, form key elements of Government support to homeowners in mortgage arrears. Their funding should, accordingly, be extended beyond its current mid-2018 deadline.
- In the first instance, the timeline for DMA and Court Mentor services should be extended in line with the Abhaile timeline, to end 2019, to be further reviewed towards end of 2018.
- Proposals for a supplementary State-supported PIP to be brought forward to the Abhaile Steering Board for consideration, with a view to unlocking access to this

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option for low-income borrowers who may otherwise be prevented or excluded from achieving personal insolvency solutions. Such a solution would form part of the existing range of Abhaile services.

2. Objectives, Structure and Development of Abhaile

2.1 Objectives of Abhaile

Abhaile was launched in October 2016 by the Tánaiste and Minister for Justice and Equality and by the Minister for Social Protection, to help people who are insolvent, struggling to pay their debts, and are at risk of losing their homes due to mortgage arrears.

Abhaile is a national mortgage arrears resolution service, provided free of charge to the borrower and focused on getting solutions into place which will, wherever possible, help the borrower to remain in their home. It builds on reforms to personal insolvency and bankruptcy legislation in 2012-2015, and further develops practical supports introduced by Government in 2015 and others announced by Government in early 2016. The high priority attached to this commitment was underlined by chapter 2 of the *Programme for Partnership Government 2016* which affirmed that the Government “*wants to keep families in their homes and avoid repossessions insofar as is possible. We will protect the family home and introduce additional long term solutions for mortgage arrears cases*”.⁴

According to the Central Bank’s Q2/2017 statistics, the total number of Principal Dwelling House (PDH) mortgage accounts in any level of arrears has been declining for 16 consecutive quarters, and has now fallen by 48% since its peak in Q1/2013.⁵ Specifically, 73,706 PDH accounts, which correlates to circa 57,000 mortgaged homes, were in arrears at the end of Q2/2017.⁶ [See further Appendix II]

The category of home mortgage arrears of most concern, those in accumulated arrears equivalent to over 720 days’ missed repayments, stood at the end of Q2/2017 at 32,169 PDH accounts. This correlates to approximately 24,745 mortgaged homes.⁷ The statistics from the Central Bank demonstrate that this group **in over 720 days of mortgage arrears has now been declining for every consecutive quarter since its**

⁴ A Programme for Partnership Government, May 2016 at p. 30.

⁵ Central Bank of Ireland, *Statistical Release: Residential Mortgage Arrears and Repossessions Statistics Q2 2017*, 12 September 2017 at p. 1 [CB Statistical Release Q2 2017].

⁶ CB Statistical Release Q2 2017 at p. 1. Please note that the Central Bank statistics in relation to PDHs represents the number of accounts in mortgage arrears, rather than the actual number of households in mortgage arrears. Given that some PDHs can have multiple mortgage accounts, the actual figure of homes is generally the number of mortgage accounts divided by 1.3. See further Central Bank, *Residential Mortgage Arrears and Repossessions Statistics Explanatory Notes*.

⁷ CB Statistical Release Q2 2017 at p. 6.

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peak in Q2/2015 [See further Appendix II].⁸ Nevertheless, the number remains significant.

This core group of borrowers in deep mortgage arrears is generally regarded as particularly difficult to reach. Lenders stated that it was exceptionally difficult to get this group to engage with resolving their arrears, and that many did not do so even when issued with repossession proceedings. At the same time, organisations working with those in debt, together with an early research paper from the Central Bank on mortgage arrears⁹, suggested that many of these borrowers were struggling to manage financially due to the economic downturn, were highly stressed by their mortgage arrears, but were afraid to engage directly with their lenders or with the courts, as they could not afford independent financial or legal advice.

The overall objective of Abhaile was therefore to ensure that a person in this situation can access free, independent and expert financial and legal advice and support, which will help them to identify and put in place their best option to get back on track. Priority is given to finding solutions which will allow the person to remain in their home, wherever that is a sustainable option - whether through a Personal Insolvency Arrangement (“PIA”), a sustainable informal arrangement (mortgage restructure) with the mortgage lender, or through referrals to the Mortgage-to-Rent scheme.

2.2 Structure of Abhaile

The Abhaile scheme is coordinated by the Department of Justice and Equality (“DJE”) and the Department of Employment Affairs and Social Protection (“DEASP”). It is implemented by the Money Advice and Budgeting Service (“MABS”), working with the Insolvency Service of Ireland (“ISI”), the Legal Aid Board (“LAB”), and the Citizens’ Information Board (“CIB”).

MABS provides a ‘universal gateway’ for borrowers to access Abhaile – either by calling to a MABS office or by phoning the Helpline. Under Abhaile, these trained staff will assess the borrower’s situation, and direct him or her to the Abhaile adviser best placed to help them. Depending on the borrower’s situation, this may be one or more of the Abhaile services listed below, which respond to the different needs of borrowers at risk of losing their homes due to mortgage arrears [see further Appendix I for a full description of the aid and advice available]:

⁸ CB Statistical Release Q2 2017 at p. 1.

⁹ Insert CB paper reference

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- A. **Financial advice** and help from a MABS Dedicated Mortgage Arrears Adviser (“DMA”)
- B. Financial advice and help from a Personal Insolvency Practitioner (“PIP”) or an Accountant¹⁰
- C. **Legal advice** and help from a **consultation solicitor**
- D. Support and information at repossession court proceedings, from a **Court Mentor**
- E. Legal support and information at repossession court proceedings, from a **duty solicitor**
- F. Legal aid for a **court review** under the Personal Insolvency Acts, where creditors refuse a reasonable proposal that includes the borrower’s home mortgage arrears.

Abhaile also includes a national communications and information campaign, which aims to reach borrowers in serious home mortgage arrears, and to inform them how to access the free supports available under Abhaile.

All Abhaile services are provided free to the borrower, some of them under a ‘voucher’ system.

2.3 Development of Abhaile

The mortgage arrears resolution services now coordinated and developed under Abhaile started on different dates over the period since July 2015.

Following the Government announcement ‘*Strengthening Support for Mortgage Arrears*’, in May 2015, MABS was developed as a focus for provision of information and guidance to distressed borrowers in home mortgage arrears. Resources were provided to introduce DMA Advisers in a number of MABS offices across the country, who started operation in September 2015. The MABS Court Mentor service was introduced across the country from October 2015, following a pilot by MABS and ISI in July 2015.

The Government announced at the same time its intention to amend the Personal Insolvency Acts to introduce the personal insolvency court review, which was enacted in July 2015 and came into effect in November 2015.

In January 2016, the Government announced a new *Scheme of Aid and Advice for Mortgage Arrears*, to provide free professional financial and legal advice and assistance to homeowners in mortgage arrears. A small initial operating budget was provided from the Departments’ existing Votes of the two Departments concerned. The Department of

¹⁰ The Accountant Service is the latest addition to Abhaile services, with Abhaile vouchers available from October 2017 onwards for financial advice from an Abhaile panel accountant. The Accountant Panel is due to begin functioning shortly, outside Abhaile Year One, so there are no statistics as yet on its operation.

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Justice and Equality and the Department of Social Protection started work, with MABS, ISI, the Legal Aid Board and CIB, to establish the new Scheme. Scheme panels of professional advisers (PIPs and solicitors) were set up by ISI and the Legal Aid Board.

The Scheme of Aid and Advice went live on 22 July 2016, with the MABS Helpdesk issuing free vouchers for insolvent borrowers in home mortgage arrears to access financial and legal advice from panel PIPs and panel solicitors. The Scheme also established the duty solicitor service at repossession cases listed before County Registrars, and legal aid for a borrower to seek a personal insolvency court review, both services provided by the Legal Aid Board. In October 2017, a panel of accountants was established to provide advice to borrowers whose case involves more complicated financial issues.

In early July 2016, and following the commitments on mortgage arrears contained in the Programme for Partnership Government, the Government announced a new national Mortgage Arrears Resolution Service. The new Service was to encompass the Mortgage Arrears Aid and Advice Scheme, together with the activities of MABS to support borrowers in mortgage arrears (including the DMA service and Court mentors), as well as resources for a new national information and communications campaign to reach borrowers in deep mortgage arrears. It was to be provided under the Estimates process with funding for estimated multi-annual costs of 15 million euro over the period 2017-2019.

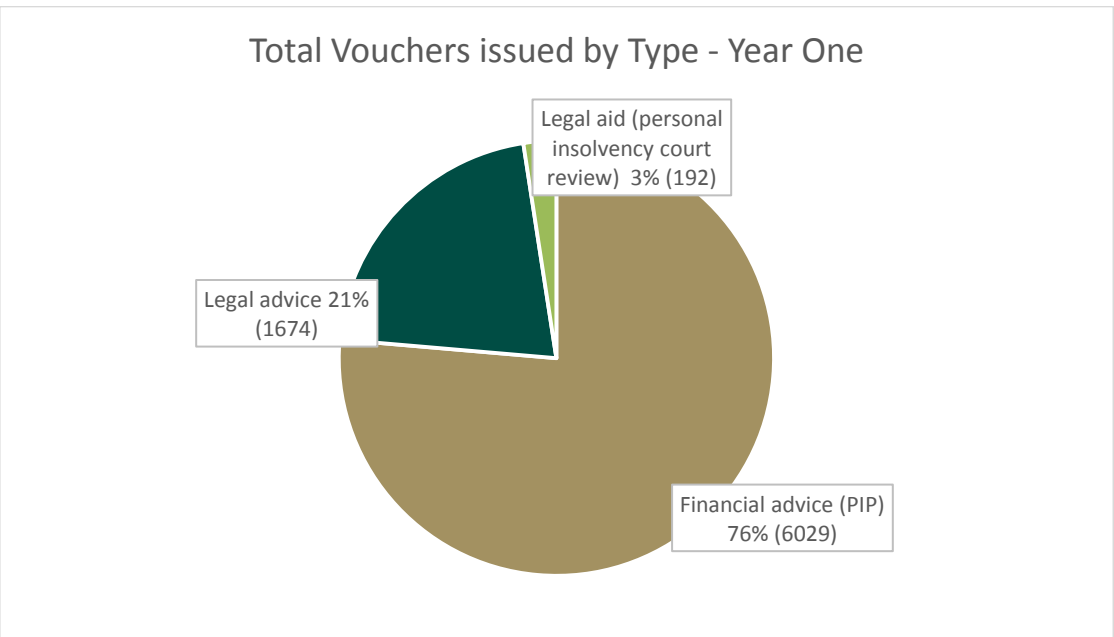
In October 2016, the Government formally launched the Mortgage Arrears Resolution Service under the name 'Abhaile'. The national communications and information campaign had been tendered meantime, and was launched in February 2017.

3. Take-Up of Abhaile

- During Year One, take up of services available under Abhaile has significantly exceeded initial expectations.
- Nearly 8,000 vouchers issued in that year for free financial or legal advice from a PIP or solicitor: these covered over 4,600 homes in mortgage arrears.
- Between DMA advisers working August 2015 –September 2017, and PIPs providing voucher services during Year One, 8,700 homeowners in mortgage arrears have actually availed of financial advice under Abhaile services, and have received help designed to resolve their mortgage arrears.
- Over 1600 borrowers received vouchers in Year One for free advice with a consultation solicitor.
- Duty solicitors and court mentors attended over 450 repossession court lists around the country during Year One: duty solicitors helped at least 1700 unrepresented borrowers there, and court mentors offered help to an estimated 2,200.
- Legal aid was provided for over 300 personal insolvency court reviews (either at first instance, or on appeal).

3.1 Measuring Overall Take-Up of Aid and Advice Vouchers

Figure 3.1 - Abhaile Total Vouchers Issued during Year One



Source: Statistics provided by MABS

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A total of **7,895 Abhaile vouchers** were issued during Year One, entitling borrowers to receive free financial or legal advice from professionals. 6,029 vouchers were for borrowers to receive financial advice and assistance from PIPs, while 1,674 vouchers were for legal advice and assistance from a consultation solicitor.

192 further ‘vouchers’ were referrals to the Legal Aid Board, of borrowers seeking legal aid for a personal insolvency court review.¹¹ These refer to some of the 285 certificates of legal aid granted by the Legal Aid Board for personal insolvency court review cases during Year One.

The 7,895 vouchers were issued in respect of 4,602 mortgaged homes. The number of vouchers issued is greater than the number of mortgaged homes, since a borrower may need both financial advice and legal advice regarding the mortgage arrears on their home, and in certain situations, co-borrowers may need separate advice.¹²

3.2 Take-Up of the Dedicated Mortgage Advisor Service

DMAs provided financial advice to 4,199 borrower households in home mortgage arrears, over the period 1 August 2015 to 1 September 2017.

During Year One, DMA advisers referred 779 borrowers to a PIP¹³ for further financial advice and help, by requesting the MABS Helpdesk to issue an Abhaile financial advice voucher.

As of 1 September 2017, the number of PIP vouchers issued by the Helpdesk on request from a DMA adviser had increased to 849.

¹¹ The number of Court review ‘vouchers’ (192 during Year One) should **not** be taken as a correct take-up indicator for the Court Review Service. The correct figure is the number of Legal Aid Board certificates granted (285 during Year One). This arises because a borrower needs an Abhaile identifier number to apply to LAB, but can obtain it in either of two ways. A borrower who was previously issued a voucher for financial or legal advice will already have their identifier number, and can use that to apply to LAB. A borrower who has not previously received a voucher needs to apply for an identifier number in order to apply to LAB, and is issued a token court review ‘voucher’ with the identifier number. So the number of applications to LAB (and of certificates granted) is larger than the number of court review ‘vouchers’.

¹² In the case of separating/separated co-owners, they may have different legal interests and may need to be separately legally advised, so two legal advice vouchers may be needed in respect of the same home. And under the Personal Insolvency Acts, a PIP is required to make separate personal insolvency proposals for each partner in a couple, unless they have exactly the same secured and unsecured debts.

¹³ Borrowers referred by a DMA adviser to a PIP are included in the 4,199 borrower households listed above as helped by DMAs. However, it does not appear that there is significant double counting of outcomes, as DMAs do not record any PIAs or bankruptcies in their outcome data. If the PIP advises that personal insolvency is not the best option for the borrower, he or she may direct the borrower to the DMA adviser, to seek an ARA or MTR solution.

3.3 Take-Up of the Personal Insolvency Practitioner Service (the ‘PIP Service’)

During Year One, MABS issued **6,029 Abhaile financial advice vouchers**, with that figure increasing to 6,843 as of 1st September 2017. These vouchers enable a borrower to the fixed PIP Service as detailed in Appendix I.

ISI carried out an in-depth analysis of the outcomes of the 1,109 PIP Service vouchers issued during Q3/2016. The PIPs redeemed 658 of the vouchers during the same quarter, and a further 177 in later quarters. **This indicates that 75% of borrowers, who received a PIP voucher, used it.** In annual terms, this would suggest that of 6,029 financial advice vouchers issued in Year One, at least 4,500 borrowers used the voucher and took up the consultation and advice.

Where a voucher is issued by the MABS Helpline, but is not used by the borrower, MABS currently makes a follow-up call with the borrower to enquire whether they still wish to engage or whether they have considered their options. According to MABS, there are a variety of reasons why a borrower may not take up a voucher immediately, (such as ill-health, bereavement, separation, employment changes, anxiety ...). In MABS’s experience, the borrower may in fact re-engage at a later stage when their personal and financial circumstances change. If the borrower still meets the eligibility conditions for Abhaile, a new Abhaile voucher can then issue.

3.4 Take-Up of the Consultation Solicitor Service

During Year One, **MABS issued 1,674 Abhaile legal advice vouchers**, with that figure increasing to 1844 on 1 September 2017. A legal advice voucher entitles the borrower to a face-to-face consultation with a solicitor from the Legal Aid Board’s Abhaile panel, who will assess and explain their legal position, and advise them on any repossession proceedings and any legal issues arising for resolving their mortgage arrears.

Normally the Abhaile financial adviser will request a legal advice voucher, where appropriate, for the borrower. Of the vouchers issued up to 1 September 2017, 59% were issued at the request of PIPs, 21% at the request of DMA advisers, and 20% at the request of MABS money advisers.

The Legal Aid Board indicates that as of 31 July 2017, 703 legal advice vouchers (42% of those issued) had been presented to it for payment. The LAB is currently examining the reasons for this rate of voucher usage.

3.5 Take-Up of the Duty Solicitor Service

A duty solicitor will provide help and advice to unrepresented borrowers attending court for repossession proceedings listed before the County Registrar, and may be able to speak for them in court in certain circumstances.

During Year One, duty solicitors were present around the country at 454 Court repossession lists before County Registrars. (The number increased to 505, as of 1 September 2017).

The duty solicitors assisted at least 1,704 unrepresented borrowers during Year One. This figure increased to 2,056, as of 1 September 2017.

3.6 Take-Up of the Personal Insolvency Court Review Service

During Year One, the LAB granted a total of 285 legal aid certificates to enable insolvent Abhaile borrowers to apply for a personal insolvency review by the Courts. These certificates were for first instance personal insolvency reviews, of which 279 were before the Circuit Court and 6 were before the High Court.

Legal aid was also certified during Year One for 21 appeals to the High Court against a Circuit Court review decision. The borrower was bringing the appeal in 15 cases, and defending it in 6.

The total number of Abhaile legal aid certificates for personal insolvency court reviews increased to 384, as of 1st September 2017.

3.7 Take-Up of the Court Mentor Service

MABS Court Mentors have been attending all Court repossession lists before County Registrars around the country since October 2015, to offer support and assistance to unrepresented borrowers attending for repossession cases against their homes.

Based on the number of County Registrar lists attended by duty solicitors (see above), this would involve Court Mentors attending about 500 court lists per year, around the country.

In the sample six-month period January- June 2017, the Court Mentors offered support and assistance to a total of 1,148 borrowers at these Court sittings. Allowing for court vacations in August-September, the total number of borrowers reached by Court Mentors per year is estimated at about 2,200.

4. Who is Abhaile Assisting? Eligibility and Case studies

4.1 Eligibility Criteria for Abhaile

To qualify for advice and assistance from Abhaile¹⁴, a person must:

- a. be **insolvent** (as defined under the Personal Insolvency Acts: 'unable to pay their debts in full as they fall due'),
- b. be **in mortgage arrears on the home in which they normally reside** (their principal private residence), and
- c. be **at risk of losing their home** (for example, they may have received from their mortgage lender repossession proceedings, a letter indicating that such proceedings will issue, a letter indicating that they are deemed non-cooperating, or an invitation to consider sale, surrender or other loss of all or part of the home).

A person will *not* be eligible for Abhaile, if the above conditions are satisfied, but the home is disproportionate to the reasonable living accommodation needs of the borrower and his or her dependents, taking account of the criteria set out at section 104 of the Personal Insolvency Acts.

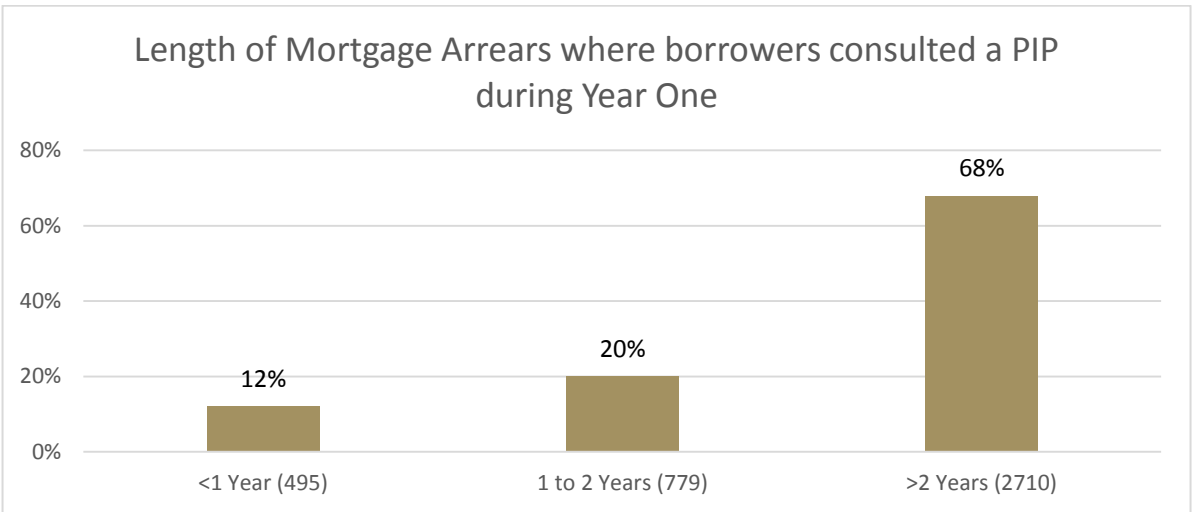
Abhaile focuses on risks to the borrower's home, and therefore does not cover a person whose mortgage arrears relate only to a buy-to-let property. However, a person in mortgage arrears on their home, who *also* owns a buy-to-let, will still be eligible, if he or she satisfies the conditions above.

4.2 Length of Mortgage Arrears and Reasons for Borrower Engagement

Data analysis undertaken by ISI suggests that take-up of Abhaile has been high amongst the cohort of borrowers in long-term arrears of 720 days and over. As Figure 4.2 demonstrates, 68% of borrowers directed to PIPs under Abhaile during Year One were in mortgage arrears equivalent to 2 years or more.

¹⁴ To qualify for the Personal Insolvency Court Review Service, a person must satisfy conditions (a) and (b), and must have already made a proposal for a Personal Insolvency Arrangement which includes their home mortgage arrears, and which has been rejected by their creditors. In this case, the borrower's PIP must also certify to the Legal Aid Board that the borrower satisfies the conditions required under s. 115A of the Personal Insolvency Acts for seeking Court review.

Figure 4.2- Length of Mortgage Arrears - PIP vouchers for Year One



Source: ISI, Abhaile Free Mortgage Arrears Support Analysis of Payments to PIPs for quarter ending June 2017

Data analysis undertaken by ISI on borrowers who consulted a PIP indicates that they engaged with Abhaile for a variety of different reasons:

- **26% were directed by MABS to consult a PIP**
- **18% engaged with Abhaile because they have a case at the repossession courts**
- **16% engaged because they had received a MARP ‘non-cooperative’ letter¹⁵**
- **12% engaged on the recommendation of a family member or friend**
- **4% engaged on the recommendation of someone who had already gone through personal insolvency**
- **4% engaged due to a scheme support advertisement.**
- **20% engaged for some other reason.**

4.3 Demographic of Borrowers Engaging with Abhaile

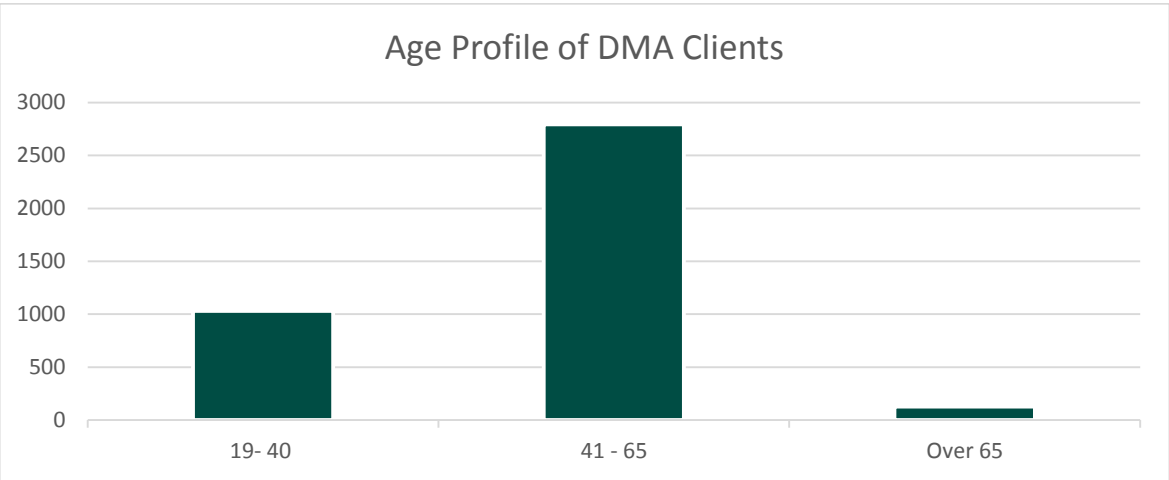
DMAs gather information about the borrowers that they help. The majority of borrowers were either in paid employment (47%) or self-employed (10%) - suggesting that many borrowers in mortgage arrears are struggling to pay their debts, despite being

¹⁵ A MARP letter is a notification to a borrower that they are in arrears, which a lender is required to send under the Central Bank’s Code of Conduct on Mortgage Arrears.

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economically active. Other borrowers had a diverse range of primary income sources, including Job Seekers’ Allowance (18%), Disability Allowance (6%) and others.

Figure 4.3- Age Profile of MABS DMA Clients

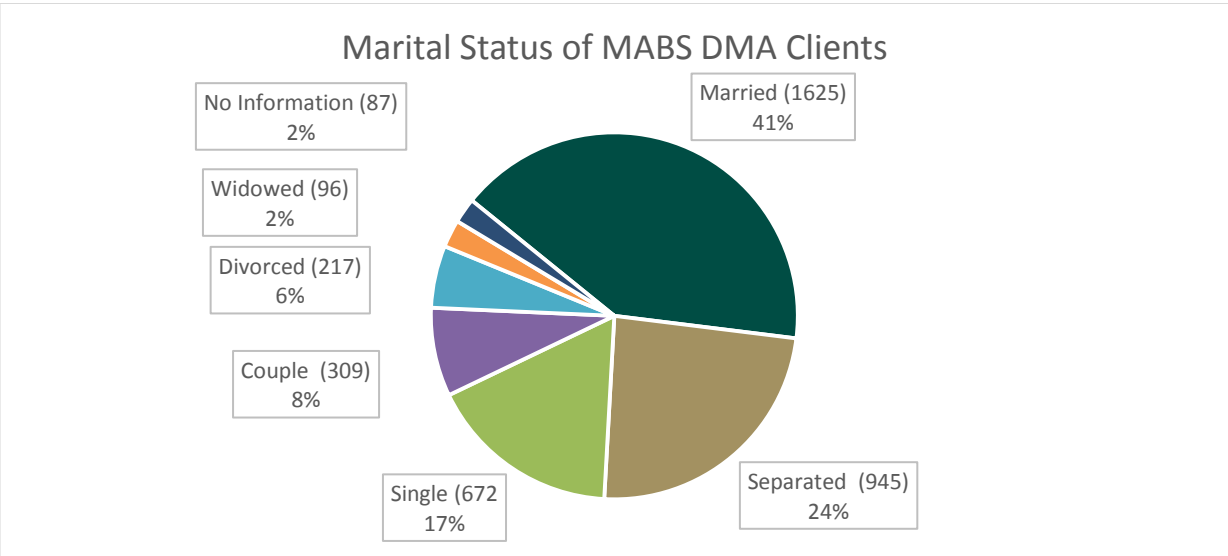


Source: Data provided by MABS

Figure 4.3 shows the age profile at which borrowers presented to DMA advisers. The majority of the borrowers (70%) fell into the 41-65 age bracket. A smaller number (26%) were younger, while very few (4%) were older.

4.4 Abhaile Borrowers by Household Type

Figure 4.4- Marital Status of MABS DMA Clients



Source: Data provided by MABS

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The marital status of DMA advisers' clients is provided above, with the largest proportion married (41%) and a significant proportion separated (24%). A total of 5,073 children are living in the households currently being supported by DMA MABS.

4.5 Profile of a personal insolvency borrower

ISI indicates that the profile of a typical PIA debtor (not specific to Abhaile) is a married employed person in their 40s with children and an average debt figure in excess of €450,000, as outlined below.

Figure 4.5

PIA Profile and PIA Debtor Profile	2014	2015	2016
Average Debt Figure	€460,281	€530,469	€448,104
Average Number of Debts per Debtor	5	6	5
Average Value of Debtor Assets	€153,482	€162,992	€153,079
Age of Typical Debtor	44 years	46 years	47 years
Typical Employment Status of Debtor	Employed	Employed	Employed
Average Income Before RLEs (Monthly)	€2,705	€2,633	€2,423
Average total RLEs (Monthly)	€1,774	€1,696	€1,710
Gender of typical debtor	Female (51%)	Female (50.6%)	Male (50.6%)
Typical Marital Status	Married	Married	Married
Household Composition (%)			
One adult household, no children	19%	15%	14%
One adult household, has children	6%	5%	7%
Two adult household, no children	19%	24%	21%
Two adult household, has children	56%	56%	58%
Employment Status Breakdown (%)			
Employed	66%	62%	59%
Unemployed	13%	16%	13%
Self-employed/Trading	11%	13%	16%
Other	10%	9%	12%

Source: Data provided by ISI

4.6 Abhaile Borrower Case Studies

Case Study 1 – Referral through Court Mentor to DMA, now in trial ARA

This borrower attended Dublin Circuit Court where the lender sought an Order for Possession. After discussion with the Court Mentor, the borrower explained his position to the Court, and received an adjournment to avail of assistance from MABS.

MABS National Helpline contacted the borrower the next week and received an assessment of the case from the Court Mentor. The case was passed to the Relief DMA

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who worked with the borrower to prepare a detailed Standard Financial Statement and detailed ARA proposal. The DMA communicated with the lender and obtained an agreement to seek an adjournment.

The lender offered the client a five-month trial with a view to offering the clients a term extension and capitalisation of arrears. In six weeks, with the help of the Court Mentor, Helpline and DMA, the borrower went from being in risk of losing their home, to being on a trial ARA working towards a long-term sustainable arrangement.

Case Study 2 – Solution put in place by DMA

The Borrowers came to MABS before Abhaile began - in January 2016 - after High Court proceedings had issued. The Lender advised MABS that they had received separate proposals from a solicitor and from a PIP representing the borrowers, both of which they rejected. The borrowers were continuing to pay the sum they had proposed.

MABS met the borrowers, completed an SFS, and advised the borrowers that the maximum they could offer to pay was what they had previously offered, and to apply for Housing Support.

In November 2016, the Court granted a possession order with a stay until February 2017. The DMA adviser met with the borrowers to discuss their options going forward. During the course of this meeting, it became apparent that there were issues with the title to the property; it was subsequently valued at less than a quarter of the mortgage due to these issues.

The DMA then advised the borrowers to contact a low-cost lender to secure funding to cover the value of the property and a proposal for a final settlement on the basis of the agreed advance and the borrowers' savings. This was rejected by the lender who requested an increase to one quarter of the value of the mortgage loan. This was achieved with the assistance of a family member, and the borrowers secured the deeds to the property in June 2017.

The borrowers are now repaying an unsecured debt slightly less than the amount they initially proposed and retain their savings.

Case Study 3 – Personal Insolvency Arrangement with Write Down¹⁶

Marie and James are a couple with three children under 12 years of age. Marie receives an Invalidity Pension and prior to that she was out of work for two years without pay. During this time they relied on her husband's income until he lost his job. He was unemployed for 16 months, receiving Job Seeker's Allowance. Consequently they were unable to meet their mortgage repayments and arrears accrued.

Marie and James availed of a free consultation with a Personal Insolvency Practitioner (PIP) under Abhaile. They had a face-to-face meeting with the PIP, who assessed their situation and advised them that a Personal Insolvency Arrangement was the best solution for them. The solution resulted in a write down of over €165,000 and their other debts were dealt with under the arrangement. The family home was retained under the arrangement.

Case Summary	
Mortgage Balance:	€286,000
Current Market Value of property:	€105,000
Negative Equity:	€181,000
ISI Reasonable Living Expenses: Two adult household with three children, aged four, six and twelve. + vehicle	€2,251
Solution	
Principal:	Write Down of €165,647
Term:	Proposed Mortgage €120,000 @ 2.5% for 72 months
Rate:	Rate to revert to 4.50% Variable post arrangement.
Other key features	Other debts also dealt with under the arrangement.

¹⁶ Case studies 3 and 4 provide an overview of PIAs put in place under Abhaile. Names have been changed to protect identities.

Case Study 4 – PIA for a Separated Couple with Write Down¹⁷

Lucy and Michael are a separated couple with one child in school. They have shared custody of the child, who spends 60% of the time with Lucy. Michael lives in the family home and Lucy lives in rented accommodation. Michael is the primary carer for an older family member and works part-time. Lucy is in full time employment, and pays childcare costs during school holidays.

Lucy and Michael availed of a free consultation with a Personal Insolvency Practitioner (PIP) under Abhaile. They had a face-to-face meeting with the PIP, who assessed their situation and advised them that a Personal Insolvency Arrangement was the best solution for them. The solution resulted in a write down of over €190,000 and their other debts were dealt with under the arrangement. The family home was retained under the arrangement.

Case Summary	
Mortgage Balance:	€466,000
Current Market Value of property:	€275,000
Negative Equity:	€191,000
ISI Reasonable Living Expenses: One adult household with one child (60% of time) + car	€1,870.75
Solution	
Principal:	Write off of €190,567
Term:	Mortgage extended by 6 years.
Rate:	interest only payments @ 3% for the duration of the PIA (6 years)
Other key features	Other debts also dealt with under the arrangement.

¹⁷ Case studies 3 and 4 provide an overview of PIAs put in place under Abhaile. Names have been changed to protect identities.

5. Outcomes of Abhaile

5.1 Timeframe for putting a solution in place

Experience gained during Year One of Abhaile demonstrates that getting a solution into place for a borrower in significant arrears tends to take time.

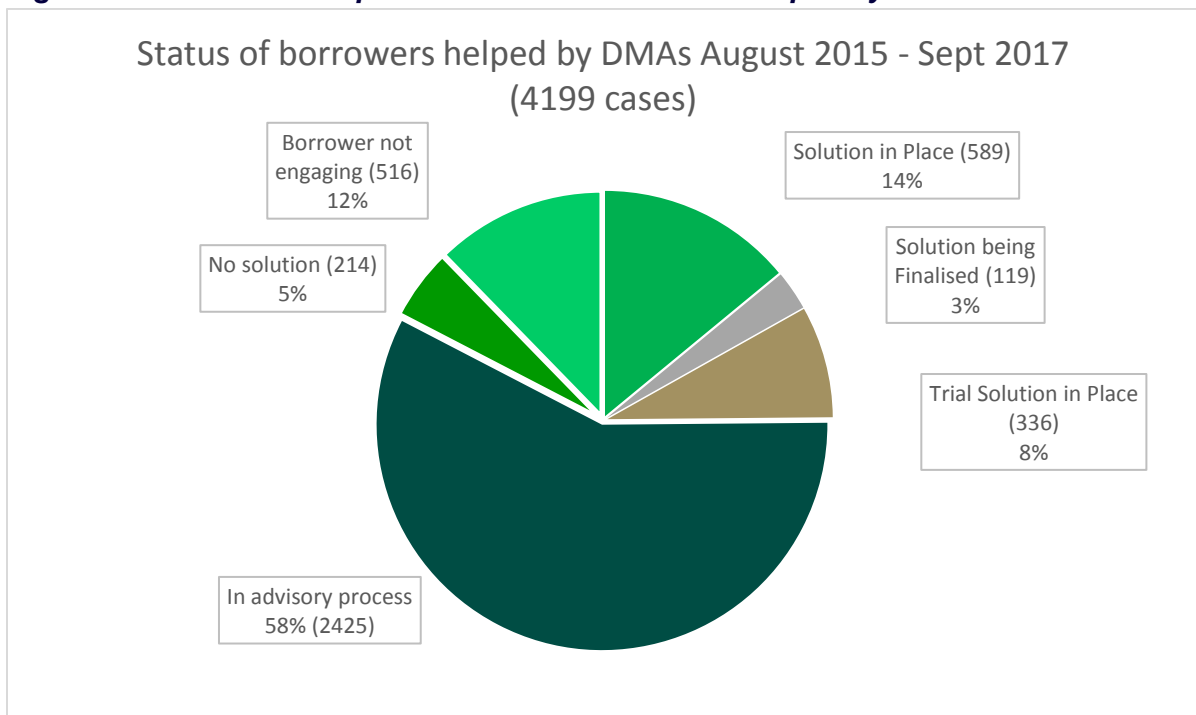
MABS points out that securing an ARA or Mortgage to Rent for these borrowers takes an average of 294 days from start date to outcome. In a limited number of cases (outliers) it has taken over 700 days from the first point of contact with MABS to reaching a finalised solution. MABS indicates that the length of time to reach an ARA is linked to the complexity of the case. Factors such as the borrower changing employment, family separation where the other spouse/partner is the co-borrower but is failing to engage with resolving the home mortgage arrears, and client vulnerability, are linked to the length of the case.

ISI indicates that on average for all borrowers; even where the creditors approve a borrower's proposal for a PIA, the process takes 220 days from the beginning of the PIA process to court approval following the creditor agreement. It takes considerably longer if creditors refuse the proposal, and a court review is sought.

5.2 Dedicated Mortgage Adviser Outcomes

DMA Advisers have **provided assistance to 4,199 borrower households** over the period from August 2015 to 1 September 2017. Figure 5.2 below provides a breakdown of these borrowers, by current status on 1 September 2017.

Figure 5.2 Status on 1 September 2017 of Borrowers Helped by DMAs since 2015



Source: Analysis derived from MABS Data

- **14% (589) Solutions in Place:** this means that a solution to the borrower's mortgage arrears is now in place. The different types of solutions vary considerably: see details provided below.
- **3% (119) Solutions being finalised:** DMAs reported that the borrower is in the final stages of concluding a solution to their mortgage arrears. (There is a possibility that some obstacle could still arise, but any borrower who has made it this far is likely to conclude a solution.)
- **8% (336) Trial solutions in place:** many lenders require a borrower to complete a test period in a proposed restructure (ARA) before it is agreed, to see how the borrower manages in meeting the terms of the arrangement. The trial period in many cases is 6 months, and in some instances can be up to 12 months.
- **58% (2425) In advisory process:** this means that the borrower is gathering the documentation required by the DMA, is continuing to receive advice in relation to his/her case, or the DMA is still negotiating a solution. In some of these cases, the borrower may be also at some stage in court repossession proceedings, but the Court will normally adjourn these to facilitate getting a solution into place.
- **5% (214) No solution:** this means that the borrower consented to an order for possession, the possession order was granted, or the borrower is in an arrangement, but the DMA considers that it is unsustainable.

5.3 Types of Solutions concluded by DMAs

The 589 solutions concluded by DMAs include many types of Alternative Repayment Arrangements, interest rate reductions, entry into the Mortgage to Rent Scheme, voluntary sale or surrender of the home, or a lump sum settlement for less than the outstanding balance.¹⁸ (See also case studies in Chapter 4.)

- Of the 589 solutions in place:
 - 424 borrowers obtained some form of ARA
 - 77 entered into the Mortgage to Rent scheme.
- 85% of these solutions will allow borrowers to remain in their homes.

In the main, where a borrower is not able to remain in the home the DMA is able to assist the borrower in several ways, such as in seeking residual debt write-down, where possible, securing improved terms from the sale or financial support with finding new accommodation, or achieving a stay on an execution order to allow children to complete exams before moving out of the home. In general, in MABS experience, in many instances where the borrower does not keep the home there has been an acceptance that the home mortgage is not sustainable. Achieving formal write-down of residual debt is very important in such cases.

5.4 Personal Insolvency Practitioner Outcomes

The ISI receives overall data on the nature of the advice given by PIPs to borrowers under Abhaile, and receives further details from PIPs during the progress of PIA applications. These data sets show the number and types of solutions reached under Abhaile, and the numbers of applications that are still in process.

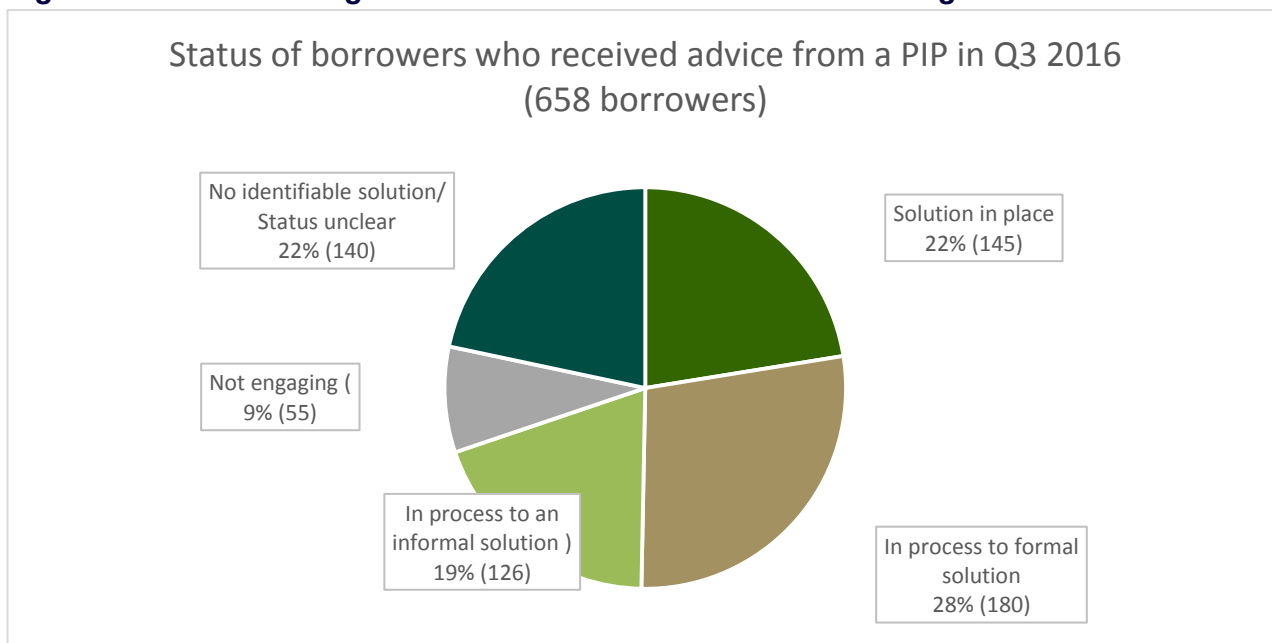
The ISI carried out an in-depth analysis of 658 PIP financial advice vouchers which were redeemed during Q3/2016. The analysis, summarised in this report, covers a wide range of areas including reasons for engagement, nature of advices issued, and outcomes secured.

The ISI is of the view that the trends identified in this analysis are unlikely to change materially in cases that have since commenced in subsequent quarters.

¹⁸ This is a sample of the types of ARA solutions put in place for borrowers by DMAs, rather than a comprehensive list.

Of this sample¹⁹:

Figure 5.4: Status in August 2017 of PIP vouchers redeemed during Q3/2016



- **145 (22%) Solutions in place:** this means that a solution to the borrower's arrears is now in place with the assistance of the PIP. Details of the range of solutions are provided below.
- **180 (28%) are in process to a formal solution:** this means that the PIP is acting for the borrower within the personal insolvency process. This group includes borrowers engaged in Court reviews: borrowers who have met and been advised by the PIP and are gathering information to allow the PIP finalise an application for a Protective Certificate; borrowers where the Protective Certificate application was being finalised; and borrowers who are applying for bankruptcy following PIP advice.
- **126 (19%) are in process to an informal (non-statutory) solution.** The borrower is involved in an ARA or MTR negotiation, assisted by the PIP; or the PIP has advised the borrower to establish a good payment history with the lender for a period of time, at the end of which the PIP will initiate a mortgage restructure or a personal insolvency solution.
- **55 (9%) are not engaging:** the borrower has stopped engaging with the PIP after receiving advice on their best options for resolution.

¹⁹ There are 658 vouchers (658 borrowers advised) but 646 outcomes. ISI indicates that this arises because the 658 borrowers included 12 couples who were jointly liable for the same secured and unsecured debts. In these 12 situations, a single PIA was concluded for the two borrowers concerned.

- **140 (22%) no identifiable solution/ status unclear:** this predominantly includes cases where the borrower's PIP obtained a Protective Certificate, but this lapsed before a formal solution could be agreed with creditors. In cases previously with MABS, these borrowers will have returned to their MABS adviser, and continue to receive advice and support within Abhaile. This group will be further analysed to identify the reasons why the PCs lapsed without a solution: procedures are also being reviewed to ensure (and measure) that all Abhaile borrowers continue to receive support from an appropriate Abhaile adviser until a solution is in place.

5.5 Types of solutions concluded by PIPs

- Of the 145 solutions concluded in this sample, the most common type (94 solutions: 64%) was a PIA. (See the case studies in Chapter 4.)
- The other solutions were 10 Debt Settlement Arrangements, 24 non-statutory mortgage restructures, 8 voluntary surrenders, 1 borrower who was able to discharge arrears in full following an inheritance, and 8 who had opted for bankruptcy.
- ISI indicates, based on its Q3/2016 sample analysis that 91% of Abhaile borrowers who conclude PIAs are able to remain in their homes.
- In one third of the PIAs concluded in this sample, the arrangement involved a reduction in the outstanding principal. The average write down in these cases was €98,000.

5.6 Court Mentor Outcomes

Attending repossession court, together with the fear of possibly losing their home, can be an overwhelming experience for borrowers. The Court Mentor service, provided by MABS at all repossession hearings, is providing much needed support and advice to distressed borrowers in this very situation, playing a pivotal role in signposting those attending court to the services that can best assist them.

A survey conducted as part of the Amárach Research Omnibus in January 2017 (, drawn from a sample of 1,000 respondents) indicated that 12% of Irish adults know of a friend or family member experiencing mortgage arrears; one third (33%) of those who have actually experienced mortgage arrears would not consult friends or family about their situation; and nearly two thirds of those in mortgage arrears admit to experiencing feelings of fear and depression.

The feedback on this service is that it is making a positive difference and is proving to be an important link in getting people directed to the free help they need under the Abhaile service.

1842 borrowers not already with Abhaile were made aware of the Court Mentor service at a repossession court list during the period 1 January 2016 – 31 July 2017.

5.7 Focus on Section 115A Court Reviews of Personal Insolvency Arrangements

As discussed in the previous chapter, the LAB granted a total of 285 legal aid certificates for personal insolvency court review cases during Year One.

LAB indicates that outcomes were available for 70 of these cases, as of 16 August 2017. Of the review cases already decided, **33% were decided in the borrower's favour**, resulting in the PIA being approved and imposed on the creditor by the Courts.

Conversely, 67% of these cases were decided against the borrower.

It should be noted that these cases represent the initial period of operation of the PIA review legislation. Many relevant issues of substance have not yet been considered by the Courts, making the merits of an application difficult to assess.

DJE, ISI and LAB have agreed to meet to examine the reasons for this, and whether any triage arrangements should be introduced in PIA review applications.

5.8 Value of Personal Insolvency Review Cases

Eighteen months into the operation of the personal insolvency court review, a number of important High Court judgments have now been issued that clarify the options available both to borrowers and to creditors seeking to resolve unsustainable mortgage arrears. These judgments are being actively used by DMAs and by PIPs to advise borrowers in relation to the acceptable options within proposed personal insolvency arrangements for borrowers.

In general, the High Court has reaffirmed that the purpose of the Personal Insolvency Acts and of section 115A is to allow for the rational resolution by the debtor of his or her debts, with a view to the debtor continuing to engage in economic activity within the State.²⁰ Specifically, Ms. Justice Baker has described the purpose of the section 115A review as follows:

²⁰ See for example *In the Matter of Part 3, Chapter 4 of the Personal Insolvency Acts 2012-2015 and the Matter of JD and in the Matter of an Application Pursuant to Section 115(A)(9) of the Personal Insolvency Acts 2012-2015* [2017] IEHC 119.

“[T]he common good sought to be achieved in s. 115A is the protection of the right to continue to enjoy residence in a person’s home. This focus must be kept in mind when considering the broad benefit of the PIA, and in considerations of whether a prejudice [to a creditor] is generally unfair.”²¹

Many of the appeals taken from the Circuit Court to the High Court have been undertaken with the legal assistance provided through Abhaile. Important cases are described further in Appendix III.

5.9 Focus on raising public awareness and engagement with Abhaile

Abhaile includes a national communications and information campaign which was launched in February 2017 and is managed by the Citizens Information Board (CIB).

The campaign aims to reach those who are not engaging or have not been able to engage with their lender, inform them of the help available, and encourage them to avail of the Abhaile service through MABS.

The campaign targets those who are in debt but also encourages friends, relatives and influencers in the community (not limited to, but including councillors, elected officials and community service providers), empowering them to inform those in mortgage arrears distress to take the first steps to getting help.

The communications team has produced an information booklet, varying leaflets and branded POS materials, such as pens, to support the awareness campaign. These assets explain the service, the benefits of engaging, and how to access the supports.

CIB indicates that since the launch of the Abhaile campaign, **the MABS Helpline has experienced a 27% increase in calls, compared to** the same period in 2016. It should be noted that over the period from June 2016 to June 2017 residential mortgage accounts in arrears reduced by 8,386 or approximately 10%.²²

A survey commissioned in August 2017 by Amárach, on behalf of the Abhaile communications team, has shown that awareness of free mortgage advice services has risen since January 2017 across the general public (+10%), mortgage holders (+15%)

²¹ *JD & Personal Insolvency Acts* [2017] IEHC 119

²² CB Statistical Release Q2 2017.

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and among those who have ever been in arrears (+18%). Specific awareness of Abhaile – Free Mortgage Arrears Support jumped (+78%) from 23% to 41% nationally.

There has also been an increase in spontaneous awareness of MABS as a service (+10%), as a result of MABS being the main gateway to Abhaile.

6. Budget Adequacy

6.1 Budget provision for Abhaile

There are two elements to the Abhaile budget:

- under the Government Decision of 17 November 2015, and
- under the Government Decision of 5 July 2016.

The November 2015 Decision²³:

- Authorised the Minister for Justice and Equality to set up a 3-year Scheme to assist people who are insolvent and in mortgage arrears on their home, to access independent expert financial and legal advice.
- The Scheme to be coordinated by a Joint Working Group of the Departments of Justice & Equality and of Social Protection, and the relevant agencies.
- Take-up expectations were very modest (a total take-up over 3 years by 3,550 households, with 40% of take-up (1420 households) in the first year).
- No budget was provided. The Departments found a modest start-up budget (total: €2.18m) from their overall 2016 Votes, with DSP contributing €1.43 m in 2016, and DJE contributing €0.75 m.
- This was intended to support getting the Scheme into preparation and operation: the Decision indicated that budget adequacy would be reviewed after 6 months, and again after 1 year.
- In fact, the Scheme began full operation on 22 July 2016. And in practice, take-up was encouraging from the start – with 3,592 vouchers issued by 31 December 2016, covering some 2,400 homes.

The July 2016 Decision²⁴:

- Designated the Scheme as a new national Mortgage Arrears Resolution Service (subsequently branded 'Abhaile').
- Increased expected take-up to 9,400 households over January 2017- December 2019.
- Allocated a 3-year indicative budget, total €15 million, for the operating period January 2017 –December 2019, with €7.1 million allocated to 2017.
- Noted that Abhaile is a demand-led Scheme: the proposed approach to be reviewed annually for take-up, outcomes and budget adequacy, with the results of such review to be reported to Government.

²³ Government Decision S180/20/10/1270A of 17 November 2015

²⁴ Government Decision S180/20/10/1270A of 5 July 2016

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- The funding to be provided would be examined on an annual basis in accordance with the outcome of this annual review.

6.2 Expected take up over the operating period 1 July 2016 – 30 June 2017

Based on the Government decisions therefore, the projected take-up during the first year of operation was as follows:

- Half year 2016 (projected take-up by 1420 households during whole year) = 710 households.
- Half year 2017 (projected take-up by 9,400 households over 3 years with 47% (4418 households) in full year 2017) = 2209 households.

Total projected take-up July 2016-June 2017 = 2919 households

6.3 Actual take-up over that period

Actual take up to date has substantially exceeded the projected 2,919 households.

By the end of June 2017²⁵, 4,602 households in mortgage arrears had already taken up Abhaile financial or legal aid or advice vouchers. (The figure was 5,004 households by 1 September 2017.)

This exceeds both the first-year target of 1420 households, and the 3-year target of 3550 households, set by the November 2015 Decision.

It also exceeds the full -year target of 4418 households set for 2017 by the July 2016 decision – although the Scheme was operating on a far smaller budget for half this period.

Moreover, these figures do not include the additional thousands of borrowers helped at repossession court lists by Abhaile duty solicitors, as set out earlier in this report.

²⁵ These figures refer to take-up of just 3 of the Abhaile services covered by the estimated budget – financial advice from a PIP, legal advice from a consultation solicitor, and (incomplete statistics only) applications for legal aid for a personal insolvency court review.

6.4 Projected take up Q3/2017 – Q2 2018

Given the high take-up to date throughout Year One, demand for the rest of 2017 and into 2018 is difficult to estimate.

Take up was expected to be strong during Year One, but to take off slowly during that period, as this target group was widely recognised as very difficult to reach. In practice, take-up was very strong from the first quarter onwards, and sustained that level throughout Year One.

There are some initial signs of a more measured rate of take-up, but it is too early as yet to know whether this will become a settled pattern.

The pattern of take-up in the coming months has important budget implications. The current 3-year budget structure allocates €7.1 million to 2017, but then €7.9 million across 2018 and 2019 combined (indicatively, €3.95 million for each of those years), assuming a drop in take-up as demand begins to be met.

Scenario 1: continuing very high demand in Year Two (July 2017-June 2018)

The number of households in 720 days' mortgage arrears remains around 25,000 (see chapter 2) and Abhaile is clearly reaching this previously non-engaging target group. It is crucial, therefore, not to lose the momentum achieved and to be adequately funded to meet demand.

If take-up were to continue in Year Two at similar levels to take-up in Year One, the Scheme risks being funded to meet only half of that demand.

While early indications suggest a moderation of take-up rate by mid-2017, demand is also expected to be progressively amplified over Year Two by the effects of the Abhaile national communications campaign (only launched in February 2017). In addition, the expected launch of the Abhaile Accountants Panel in October 2017 will open up a further stream of voucher advice.

In Scenario 1, there is a risk of significant underfunding to meet demand, possibly only half the level of funding required. If demand were to continue at the average rate seen in Year One, the required budget for 2018 could be as high as **€8.05m**, rather than the current indicative allocation of €3.95m (with €2.9m for financial advice/assistance and €1.2 m for legal advice/assistance.)

Scenario 2: stabilising demand in Year Two

Scenario 2 assumes that the pent-up demand for the Abhaile services is now being met, and that initial signs of a more measured take-up by mid-2017 will continue in the second half of 2017 and in 2018, even with the effects of the communications campaign and the addition of accountancy advice. The current budget structure for 2017-2019 assumes such a demand pattern.

In Scenario 2, it is likely that the 2017 budget will cover the level of activity achieved, and that in 2018 the Scheme will need, at least the same budget as in 2017.

Recommendations

1. The projected Abhaile budget allocation of €3.95 m for 2018 – down from €7.1 m in 2017 - may be adequate to meet expected demand, but very careful ongoing monitoring of take-up rates will be needed to ensure this is the case. It is very important, given the promising take-up to date, not to lose momentum, and to be adequately funded at all stages to meet demand.
2. Provision for 2019 should be reviewed, in the light of take-up and outcomes over the period July 2017-June 2018.

NOTE: The figures above do not include the additional cost of extending the DMA Adviser (and Court Mentor) Service timelines, in line with that of Abhaile (i.e. to end of 2019) – see Key Recommendations in chapter 1.4 of this Report. That additional cost is estimated at €1.0m (for 2018) and € 2.5m for 2019.

Appendix I

Range of Services available under Abhaile, and Eligibility Criteria

MABS Advisory Services – The First Steps

The Money Advice and Budgeting Service (MABS), under the aegis of the Citizens' Information Board, assists people who are over-indebted and need help and advice in coping with debt problems, in particular those on low incomes or living on social welfare payments. As part of its free services, MABS provides help and advice to those in mortgage arrears. MABS has offices around the country, and also provides a dedicated mortgage arrears Helpline, open Monday to Friday from 9am to 8pm.

In the context of Abhaile, MABS is the Government's 'one-stop shop' point of information and guidance for homeowners in mortgage arrears, and is the universal gateway for aid and advice under the Abhaile Scheme.

When a borrower contacts the MABS helpline or approaches a MABS office, a MABS adviser assesses the borrower's financial situation. If the borrower meets the eligibility criteria, MABS will direct them to the expert likely to be best placed to help them.²⁶ Depending on the borrower's situation, this expert may be a dedicated mortgage arrears adviser ('DMA') in MABS, or it may be a personal insolvency practitioner ('PIP'), a solicitor, or an accountant. If MABS directs the borrower to a professional adviser, the borrower will be provided with a voucher to access the relevant service(s), which will be provided at no cost to the borrower. Priority is given to first obtaining financial analysis and advice, as this is the most likely to identify a long-term financial solution which can help the borrower to get out of debt and get back on track.

In summary, Abhaile can provide **a range of different services to help the borrower, depending of his or her needs. These are described below. As well as the MABS services - the Helpline, the DMA advisers and the Court Mentor Service - Abhaile also offers five different fixed packages of professional financial or legal assistance**, all free of charge to the borrower. These are:

- The Personal Insolvency Practitioner Service
- The Accountant Service
- The Consultation Solicitor Service
- The Duty Solicitor Service
- The Personal Insolvency Court Review Service

²⁶ See Chapter 3 pp. 8-9 above.

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MABS can refer a borrower to one or more of these services, depending on their needs. The intention is that a borrower in need can be routed as quickly as possible to the expert best placed to help them, and that expert advisers can work together to help the borrower to get the best available solution into place.

Advice under Abhaile can cover all options for resolving the borrower's home mortgage arrears. Depending on the borrower's individual circumstances, these options may include restructure, personal insolvency, bankruptcy, sale or surrender of the home. The decision on what option to take remains the borrower's, but the professional services available to the borrower under Abhaile aim to ensure that the borrower can make that decision with the benefit of independent expert advice.

The Dedicated Mortgage Arrears (DMA) Adviser Service

The role of MABS in mortgage arrears was expanded in 2015, with the establishment of a Dedicated Mortgage Arrears MABS service (DMA MABS) across the MABS network, to help people specifically with home mortgage arrears. The service has since been incorporated into Abhaile.

There are now 32 specialist DMA advisers working across 27 locations countrywide, providing independent advice to borrowers, helping borrowers to assess the options available to them, and where required, negotiating with lenders on their behalf.

A DMA adviser will often be the first point of contact for the borrower in home mortgage arrears with Abhaile. They are qualified to give financial advice, and, working with the borrower, to negotiate a suitable Alternative Repayment Arrangement (ARA) from the lender, where a personal insolvency arrangement is not suitable.

The Personal Insolvency Practitioner Service

If the borrower wishes to explore their options under personal insolvency, MABS can give them a voucher for free advice and help from a personal insolvency practitioner ('PIP'), who is a member of the Abhaile PIP panel. The voucher entitles the borrower to a face-to-face consultation with a PIP, who will carry out a full assessment of the borrower's financial situation, prepare the Prescribed Financial Statement (PFS) required under the Personal Insolvency Acts, explain to them all the available options and the best option for them to deal with their mortgage arrears, and confirm that advice to the borrower in writing.

If the panel PIP advises that the borrower's best option is personal insolvency, they will also help them in taking the next steps. If the PIP advises that the borrower's best option is bankruptcy, they will also provide the borrower, under the voucher, with the certificate required by the bankruptcy court, confirming that the borrower has first been advised regarding their options under personal insolvency.

The Accountant Service

If the borrower's case involves more complicated financial issues, but is not suited to personal insolvency, MABS may direct the borrower for financial advice to an accountant who is a member of the Abhaile accountants' panel. To get free advice from an accountant, the borrower will need to first work with a MABS Adviser to complete the Standard Financial Statement (SFS) required by lenders under the MARP (Mortgage Arrears Resolution Process). The accountant will need a copy of this, in order to give them financial advice. The voucher entitles the borrower to a face-to-face consultation with the panel accountant, who will advise them on any financial issues relating to resolution of their mortgage arrears and on possible solutions, and will confirm that advice to them in writing.

The Accountant Service is the latest addition to Abhaile services, with an Abhaile panel of accountants established in October 2017 and Abhaile vouchers available for financial advice from a panel accountant from October 2017 onwards.

The Consultation Solicitor Service

After the borrower has completed their financial statement (Standard Financial Statement or Prescribed Financial Statement- see above) and received financial advice, their financial adviser (PIP, MABS adviser or accountant) may recommend that they also consult a solicitor if the case raises legal issues.

The financial adviser can then apply to MABS for a legal advice voucher for the borrower. The legal advice voucher will entitle the borrower to a face-to-face consultation with a solicitor from the Legal Aid Board's Abhaile solicitor panel, who will assess and explain their legal position, and advise them on any repossession proceedings and any legal issues arising for resolving their mortgage arrears.

If repossession proceedings have already been issued by the lender, the consultation solicitor may in certain circumstances be able to negotiate on the borrower's behalf, to settle the proceedings out of court.

The Duty Solicitor Service

If the borrower is facing Circuit Court repossession proceedings against their home due to mortgage arrears, they may be able to get some help at Court from the Duty Solicitor. The Duty Solicitor is a solicitor from the Abhaile solicitor panels, who will normally be on duty at a Circuit Court on the date where the County Registrar is due to deal with repossession cases.

The Duty Solicitor Service is **a limited service** to provide advice and help to unrepresented borrowers at court. The Duty Solicitor may be able to speak for the borrower in Court, to explain what steps they are taking to try and deal with their mortgage arrears, and may be able

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to apply for the court proceedings to be adjourned, if the borrower is trying to put a solution in place. The Duty Solicitor can also explain to the borrower what is happening in the proceedings.

The Duty Solicitor **cannot** act as the borrower's legal aid solicitor, or defend the repossession proceedings on their behalf. Abhaile does not cover legal aid for defending repossession proceedings. If a borrower has a valid legal defence to the repossession and wants to apply for legal aid, then s/he should apply to the Legal Aid Board separately. The Consultation Solicitor will explain to them how to do this.

The Personal Insolvency Court Review Service

The PIA Court Review Service is available where the borrower has worked with a PIP and proposed a Personal Insolvency Arrangement ('PIA') to their creditors, but the creditors have refused that proposal, although the borrower's PIP considers it fair and reasonable to all concerned. Under section 115A of the Personal Insolvency Acts, the PIP in this situation can ask the Courts, on behalf of the borrower, to review the PIA proposal. If the Court agrees that the proposal is overall fair and reasonable, using the criteria set out in section 115A of the Personal Insolvency Acts, it has power to impose the proposal on the creditors.

The opportunity to review a PIA proposal was introduced in the Personal Insolvency (Amendment) Act 2015, and was designed to protect mortgage holders by ensuring that fair debt solutions can be upheld by the Courts.

Under the Personal Insolvency Court Review Service, the Legal Aid Board can provide the borrower with legal representation by a solicitor and barrister to make the Court review application, as part of their Civil Legal Aid service. For this service, the borrower's PIP applies on their behalf to the Legal Aid Board. The PIP must certify to the Legal Aid Board 'that the borrower has reasonable grounds for seeking the court review and satisfies the other conditions for review laid down by the Personal Insolvency Acts'. If the Legal Aid Board is satisfied with the application, it can then issue a Legal Aid Certificate for the borrower. Section 115A sets out the criteria that a borrower must meet before he or she can seek a court review, and the factors that the court must consider. The personal insolvency proposal rejected by creditors must include arrears on the borrower's home mortgage, and the borrower must either have been in arrears on 1 January 2015, or have been in arrears before that date and have since entered into an alternative repayment arrangement with their secured creditor which is not sustainable. When considering these cases, the court will look at whether the proposed PIA meets the requirements set out in the Act, would allow the borrower to resolve their debt and remain in their home, and would allow the creditor to recover as much of the debt as the circumstances of the debtor reasonably permit. The court must also consider factors such as whether the debtor is likely to be able to continue to fulfil the terms of the arrangement, the debtor's home is disproportionately large for their needs, and the proposal is

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fair and equitable to each class of creditors that has not approved it, and is not unfairly prejudicial to any interested party. These factors will inform the court in deciding whether to impose the PIA.

The Court Mentor Service

A national network of Court Mentors has been established to provide support to distressed borrowers. Since October 2015, MABS staff have been in attendance as 'Court Mentors' at all Circuit Court repossession list hearings before the County Registrar. The Court Mentor provides a visible and accessible source of free and independent support to borrowers within the Court building. For example, the Court Mentor lets the borrower know where they are on the list of cases and provides guidance on the proceedings and how to address the County Registrar. The Court Mentor also provides an access point to the supports provided by MABS and Abhaile, and therefore acts as an important entry point to the Abhaile supports at the repossession stage. Positive feedback on the service has been received from legal professionals operating in Court, Court staff (including Registrars), and borrowers themselves.

As well as helping borrowers at repossession hearings, the Court Mentors also provide a very valuable function in tracking the number of repossession cases, the number of borrowers present at court, and the level of legal representation they have.

Appendix II

Background Statistics: Home Mortgage Arrears and repossessions

The Abhaile Scheme was introduced as part of Government actions to help borrowers struggling with home mortgage arrears and, in particular, to help in finding solutions for 'the remaining difficult-to-solve mortgage arrears cases' - identified, for example, as a Government priority in the relevant section of the *Programme for Partnership Government 2016*.

This Appendix looks at the trends over Abhaile Year One in three key issues of concern:

- the number of homes in mortgage arrears and particularly, serious mortgage arrears,
- the number of homes repossessed by lenders due to mortgage arrears, and
- the number of home mortgage restructures, and their impact on the extent and resolution of mortgage arrears.

The main conclusions at the end of Abhaile Year One are as follows:

- Overall, home mortgage arrears fell sharply and consistently in every quarter between their peak in late 2013 and the end of Abhaile Year One in June 2017. They reduced by almost 50% over that period, and continue to decline steadily.
- However, a substantial cohort of some 35,000 home mortgage accounts remained in serious, deep arrears at the beginning of Abhaile Year One, and forms the priority target group for help under Abhaile. This cohort reduced significantly during Abhaile Year One.
- A very large number of distressed home mortgages had already been restructured before Abhaile Year One. While historic arrears on these accounts are still counted in the mortgage arrears statistics, at the end of Year One some 87% of these accounts were reported by the Central Bank as meeting all repayments due under the current arrangement.
- However, there were concerns about the short term sustainability of some 13% of these restructures, where new arrears were arising. Concerns were also expressed by the Central Bank about the long term sustainability of some widely used forms of mortgage restructure.
- Home repossessions were also reducing steadily across all indicators. The numbers are very low, relative to the extent of arrears. Nevertheless, any repossession of a home occupied by the borrower risks having a serious negative impact on the borrower and their family. This underlines the importance of the help available under Abhaile.

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- Care is needed in analysing the various statistics available in this area. There are a number of information gaps, and some structural under-or over-counting, which need to be kept in mind.

A quick guide to the statistics used below

The following points are important to bear in mind when reading these statistics:

- The best available statistics for measuring the scale of home mortgage arrears, which are used in this Appendix, are those produced quarterly by the Central Bank²⁷. However, these statistics are frequently misinterpreted by the media and other commentators. In fact - as the Central Bank explains – **their statistics count mortgage accounts – not mortgaged homes**²⁸. No statistics are available on how many homes they represent. But it is generally accepted that there are significantly more accounts than mortgaged homes. This is because many borrowers, in a period of rising property values, took out a 'second mortgage' on their home at some point (to finance an extension or renovation, to guarantee a business venture, or to consolidate other borrowings). A borrower in this situation is counted in the Central Bank statistics as two mortgage accounts, rather than as one mortgaged home.
- Regarding the nature of home mortgage arrears, the Central Bank statistics measure mortgage arrears in terms of 'days past due'. For example, arrears equivalent in total to over 90 days, over 180 days, or over 720 days' worth of the borrower's scheduled mortgage repayments. However, these categories similarly are often misinterpreted by commentators who are less familiar with this area, and reported as indicating that a borrower has not made any mortgage payments for a period of 3 months, 6 months or 2 years. As the Central Bank underlines: ***'Arrears of over 90 days past due do not necessarily signify that borrowers have not made mortgage repayments for the last three months. For example, a borrower can be making partial repayments on a monthly basis, but may still be in arrears of a value equivalent to over 90 days past due.'***²⁹
- The statistics on the extent of home repossession proceedings, used in this Appendix, are those provided by the Courts Service, which provides statistics on the numbers of

²⁷ See Central Bank published data tables (updated quarterly) at: <https://www.centralbank.ie/statistics/data-and-analysis/credit-and-banking-statistics/mortgage-arrears>. The figures we use here are the Central Bank figures specific to owner-occupied homes ('PDH' (private dwelling house) accounts), as this is the target group for Abhaile. (The Central Bank statistics also provide separate figures for mortgage arrears on buy-to-let properties).

²⁸ 'Top-up' of existing mortgages, and re-mortgages, should also be recorded in [the residential mortgage account] category. ... This means that there may be more than one account per property, for example if a single property relates to a mortgage account and a separate top-up account.' Central Bank, [Residential Mortgage Arrears and Repossessions Statistics Explanatory Notes](#).

²⁹ Central Bank of Ireland, [Residential Mortgage Arrears and Repossessions Statistics Explanatory Notes](#).

repossession proceedings initiated in the Circuit Courts and the numbers of Possession Orders made by those courts.

The Central Bank in its quarterly Mortgage Arrears statistics, also provides data on repossession proceedings. However, it is important to note that the Central Bank figures refer to mortgage accounts rather than to mortgaged properties, and can include court dates where the repossession proceedings are adjourned. This can cause repossession proceedings against a specific house to be counted more than once in the Central Bank statistics.

The Courts Service data refers only to the number of mortgaged private dwelling houses ('PDH') which are the subject of repossession proceedings, and excludes adjournments. It thus provides a more exact estimate of the number of mortgaged homes affected by repossession than the Central Bank data.

Home Mortgage Arrears³⁰

Home mortgage arrears in Ireland escalated quickly in the period 2009-2013, reflecting the impact of the financial and economic crises.

At their peak, in June 2013, there were 142,892 home mortgage accounts in some level of arrears –representing almost 19% of all Irish home mortgage accounts. And **by September 2013, - 98,736 accounts were in over 90 days' arrears – a peak representing almost 13% of all Irish home mortgage accounts³¹.**

As the economy recovered, this trend reversed:

- The overall number of home mortgage accounts in some level of arrears first showed a decline at end Q3/2013 (to 141,269 accounts), and has continued to decline steadily in every quarter since. By end of Q2/2016 (just before Abhaile Year One began) it had **fallen by 41%**, to 82,882 accounts; and by end Q2/2017 (the end of Abhaile Year One) it had reduced further, to 74,410 accounts.
- Similarly, by end of Q2/2016, the number of home mortgage accounts in arrears equivalent to over 90 days' repayments had **fallen by 41%**, to 58,309 accounts. It dropped further, to 52,149 accounts, by the end of Q2/2017 (the end of Abhaile Year One), and has continued to decline in every quarter since.

³⁰ All figures cited here on home mortgage arrears are taken from the relevant quarterly statistical release in the Central Bank of Ireland's *Statistical Releases: Residential Mortgage Arrears and Repossessions Statistics*, published at <http://www.centralbank.ie/>.

³¹ Central Bank of Ireland, [Statistical Release: Residential Mortgage Arrears and Repossessions Statistics Q2 2013 and Q3 2013](#).

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The number of home mortgage accounts which were in low to medium arrears, ranging from 0 to 720 days due, also **dropped (particularly sharply)** – from a total of 109,435 at end Q3/2013, to 47,429 by end Q2/2016, and just 41,696 at end Q2/2017 (the end of Abhaile Year One): a reduction by 62% in total.

However, ***as overall, low and medium arrears peaked in late 2013 and then diminished steadily, the number of accounts in the deepest arrears initially continued to increase, then decreased at a much slower pace.*** This is the cohort of ‘remaining difficult-to-solve arrears cases’ targeted by Abhaile.

The number of home mortgage accounts in arrears equivalent to over 720 days’ repayments went on increasing until mid-2015, reaching a peak at end Q2/2015, when it stood at 38,043 accounts. It has ***dropped steadily in each subsequent quarter, reducing to 35,483 accounts at end of June 2016, and 32,714 at end of June 2017*** (the end of Abhaile Year One.)

This figure nevertheless represents a substantial number of borrowers who are still in deep mortgage arrears, and who may be at serious risk of losing their homes.

Repossession Applications and Orders

Where the borrower is in significant mortgage arrears on their home mortgage, the mortgage lender can apply to court to take possession of the home. Almost all of these residential mortgage repossession cases are dealt with in the Circuit Court.

The lender’s application (called a repossession ‘Civil Bill’) can result in the Court granting a possession order, refusing the possession order, striking out the proceedings, or (as is often the case) granting a series of adjournments (postponements) which may be requested by the borrower or the lender, to find a solution to the mortgage arrears. The Court also has a specific power, under legislation passed in 2013, to adjourn repossession proceedings if they are brought against the borrower’s home, in order to allow the borrower to explore the possibility of seeking a personal insolvency arrangement to enable them to remain in their home.

The scale of home mortgage arrears, set out above, led to fears of large-scale repossessions of borrowers’ homes, in cases where the borrower and their family might have no other accommodation available to them.

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The Courts Service statistics³² indicate that at peak (Q1 2015), the Circuit Court was granting a monthly average of 127 Possession Orders in respect of mortgaged homes (PDH – principal dwelling houses). The average for 2015 as a whole was 76 Possession Orders per month.

However, **this figure fell to an average of 71 Possession Orders per month in 2016, and fell further to 61 per month in 2017.** While any repossession order against a home risks having a very serious impact on the borrower and their family, these figures are very low relative to the scale of home mortgage arrears.

The issue of a Possession Order does not necessarily mean that a home is then repossessed, as negotiations between borrower and lender can continue after that point. An Execution Order is normally obtained if the borrower does not comply with a Possession Order, but again negotiations can continue up to a late stage. However, it should also be noted that a borrower may decide to surrender their home to the mortgage lender due to the scale of mortgage arrears, before repossession proceedings are issued or without a repossession order being made. Therefore, the Courts statistics on the numbers of Possession Orders or Execution Orders issued do not indicate the number of homes actually taken into possession by lenders from borrowers due to mortgage arrears.

The best available statistics for actual repossessions appear to be the Central Bank quarterly statistics, which include the number of homes actually taken into possession by lenders in each quarter – either on foot of a court order, or where the borrower has reached agreement with the lender to hand back ('surrender') the home, or has abandoned it (for example, if the borrower has left the house vacant for some years.)

The Central Bank figures indicate that during Q3-2015, lenders took possession of 422 homes: 207 of these on foot of a court order, and 215 under an agreement between borrower and lender or after the house were abandoned by the borrower. The total for **Q2-2016, just before Abhaile Year One, was slightly lower, at 396 homes (100 under court order, 296 where the borrower had surrendered or abandoned the house). The total for Q2-2017 (the end of Abhaile Year One) was 340 (109 under court order, 231 by surrender or abandonment).**

³² Statistics provided by the Courts Service to the Department of Justice and Equality. The figures cited here refer to Circuit Court repossession proceedings against owner-occupied houses ('PDH', principal dwelling houses). The statistics refer to average monthly totals, as the numbers fluctuate significantly each year between months where the courts are sitting and months where the courts are closed. These figures exclude repossession proceedings against mortgaged 'buy-to-let' or second properties owned by a borrower.

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The number of new PDH repossession cases (the number of repossession Civil Bills issued in the Circuit Court against the borrower's home) ***also declined across this period***. In 2014, the Circuit Court issued an average of 609 repossession Civil Bills per month. The monthly average dropped sharply to 341 in 2015. It continued to decline to 272 in 2016, and to decline to 203 per month in 2017.

It is also worth noting that ***a significant number of repossession cases never result in the granting of a Possession Order. Many applications are refused by the Court, struck out by the Court, or withdrawn by the applicant.*** The Courts Service statistics show that the Circuit Court refused or struck out, or the applicant withdrew, a total of 1,454 applications for Possession Orders in 2015; 1909 such applications, in 2016³³; and 1,153 such applications in 2017. As these results show, in 2017 there were more repossession cases refused, struck out or withdrawn - 1,153 – than there were possession orders granted.

The overall picture regarding home repossessions, therefore, is that (taking account both of court-ordered repossessions and of homes surrendered to the lender or abandoned by the borrower) **the numbers are reducing steadily across all indicators, and are very low relative to the extent of arrears. Nevertheless, any repossession of a home occupied by the borrower risks having a very serious impact on the borrower and their family; so the remaining numbers illustrate the importance of the assistance available under Abhaile.**

Restructuring Arrangements

The Central Bank quarterly statistics also report on restructures of distressed home mortgage accounts. At end of Q2 2016 (immediately before Abhaile Year One), the Bank reported that **120,752 distressed home mortgage accounts were restructured**, while the figure at end of Q2/2017 (the end of Abhaile Year One) was similar³⁴ at 120,398.

Three aspects of the restructure statistics are of particular interest for Abhaile:

- the number of performing restructures which are still included in the Bank's mortgage arrears statistics,

³³ Courts Service statistics provided to Department of Justice & Equality. On this point, the Courts Service statistics – presented above - don't differentiate between PDH and other properties.

³⁴ The Bank explains that small variations in this overall figure are not significant, as there is some inherent movement due to temporary restructures being reviewed or replaced.

- the number of restructures which appear (or appear not) currently sustainable, and
- the proportion of restructure types which could be at risk of proving unsustainable in the middle to long term.

Performing restructures counted as mortgages in arrears

As the Central Bank underlines, ***its mortgage arrears statistics also include a number of restructured mortgages, where the borrower is making all payments due under the restructured mortgage, but there are remaining arrears dating from before the restructure.*** The Bank adds that *'It must be noted that the number of restructured accounts possessing arrears at the end of the quarter does not indicate the level of mortgages that have slipped back into arrears after initial restructuring. In other words, restructured loans that are in arrears are comprised of loans that had arrears prior to restructuring (but are now performing under the new arrangement) and those loans that have slipped back into arrears post restructuring.'*³⁵

The Bank's statistical releases for the relevant quarters indicate that at end Q2-2016, of 120,752 restructured home mortgage accounts, 93,932 were not in arrears – with the remaining 26,820 therefore having either historic arrears, or in some cases new arrears, and accordingly being counted in the Bank's mortgage arrears statistics. The figures are largely similar at the end of Q2-2017, with 120,344 restructured mortgage accounts, of which 94,721 were not in arrears – with the remaining 25,623 accounts having either historic arrears, or in some cases new arrears, and accordingly being counted in the Bank's mortgage arrears statistics. As the Bank reports that 88% and 87% respectively of these restructured accounts were meeting all repayments due under the restructure, it would appear that the vast majority of restructures with arrears refer to historic arrears.

Current sustainability of restructures

As just indicated, 88% at end Q2/2016, and 87% at end Q2-2017, of the restructured home mortgage accounts were reported as meeting the terms of the restructure. The Bank defines this as meaning that the borrower is, at a minimum, making the agreed monthly repayments according to the current restructure arrangement.³⁶

³⁵ Central Bank of Ireland, [Residential Mortgage Arrears and Repossessions Statistics Explanatory Notes](#).

³⁶ Central Bank, *Statistical Release Q2 2017: Residential Mortgage Arrears and Repossessions*, at p. 4.

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It follows that a corresponding (but relatively small) percentage – 12% to 13%, or approximately 15,000 restructured mortgage accounts - are not meeting all the repayments due under the restructure, and are accruing new arrears.

Long term sustainability of restructures

The restructures represented by the Central Bank statistics include a wide variety of options available from different lenders.

The Bank identified, in particular, deferred-interest, and less-than-interest-only, repayment arrangements as ones where a significant proportion of home mortgage borrowers (28% and 23% respectively) were not proving able to meet the terms of the restructure.

A particular concern may also arise regarding restructures based on arrears capitalisation³⁷. The Bank noted for Q2-2017 that these were the single most common form of restructure, accounting for 33% of restructured accounts, but that *'just under 22% of these restructures are not meeting the terms of the current restructure arrangement, i.e. the arrears balance has increased since the arrangement was put in place.'*

Conversely, the two next most common forms of restructure, split mortgages and term extension, accounted respectively for 23% and 12% of restructured accounts: and the Bank indicated that 94% and 93% respectively of these restructures were meeting their repayments, at end of Q2-2017.

The Abhaile Scheme aims to ensure that a borrower in home mortgage arrears can have access to independent financial advice and help from a MABS Dedicated Mortgage Adviser or Personal Insolvency Practitioner to identify and put in place a solution to their home mortgage arrears which is financially manageable and sustainable in the borrower's individual circumstances - whether by a Personal Insolvency Arrangement, or by a non-statutory solution agreed with the creditor.

Conclusion

The statistics outlined above demonstrate that there are a number of ongoing positive and encouraging trends within home mortgage arrears. Most notably, a quarter on quarter decline in the numbers of homes in mortgage arrears; a large number of

³⁷ The Central Bank defines arrears capitalisation as 'an arrangement whereby some or all of the outstanding arrears are effectively added to the remaining principal [capital] balance, to be repaid over the life of the mortgage. '(Statistical Release Q2 2017, page 3.)

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restructured arrangements, with the vast majority of borrowers meeting the terms of their arrangement; and a quarter on quarter decline in the number of repossession orders being issued by the Circuit Court in respect of home owners in mortgage arrears. Notwithstanding overall positive trends, there is a cohort of homeowners in ongoing and long term mortgage arrears, particularly those with mortgage arrears of 720 days and upwards, that is likely to need the assistance of interventions such as the Abhaile Scheme in order to get back on track.

Appendix III

Important Court judgments in personal insolvency cases supported under Abhaile

Some eighteen months in to the operation of the personal insolvency court review, a number of important judgments have now been issued providing helpful interpretation of the provisions of the Personal Insolvency Acts, in particular section 115A. These have important implications for a large numbers of cases coming through the system and clarify the range of options available under the personal insolvency legislation - and in some cases, in mortgage arrears resolution more generally. The following three judgments are of particular interest:

JD Case – Treatment of Co-borrowers in cases of Separation³⁸

The debtor in this case, JD, is a woman who is residing in her principal private residence with her two young children which she holds jointly with her former husband. The couple are co-borrowers and co-mortgagors to EBS in respect of a loan obtained in 2007 for €300,000. The loan fell into arrears primarily following a serious illness suffered by the debtor and the subsequent break down of her marital relationship. The co-debtor failed and refused to make any contribution towards the mortgage repayment since their informal separation. The principal private residence of JD was valued in accordance with section 105 of the Act at €190,000 and the secured debt at the date of the PIA was €322,227, leaving a negative equity of €132,227.

The objecting creditor appealed to the High Court following an order by the Circuit Court confirming the coming into effect of the debtors' proposed Personal Insolvency Arrangement. The PIA proposed to write off uncapitalised arrears and a further €80,000, so as to leave a balance of debt of €220,000 split into two parts, a live mortgage balance of €140,000 and a warehoused loan of €80,000. The objecting creditor argued a number of different grounds, including that the PIA agreement unfairly prejudices the creditor because the co-debtor had not agreed to the proposed variation of the loan and mortgage contract. Specifically, the creditor argued that there was an underlying unfairness in the PIA having regard to the position of the co-borrower and co-mortgagor, and that notwithstanding he is on notice of the making of this application, the fact that he has not engaged with the PIP or with the Circuit Court means that there is considerable uncertainty as to what approach he might take in the future.

³⁸ In the Matter of Part 3, Chapter 4 of the Personal Insolvency Acts 2012-2015 and the Matter of JD and in the Matter of an Application Pursuant to Section 115(A)(9) of the Personal Insolvency Acts 2012-2015 [2017] IEHC 119.

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Ms. Justice Baker confirmed the overarching purpose of the personal insolvency legislation is to enable the resolution of personal debt, and the common good sought to be achieved in section 115A is the protection of the right to continue to enjoy residence in a person's home. She observed this focus must be kept in mind when considering the broad benefit of the PIA, and in consideration of whether a prejudice is generally unfair.

The judge noted that joint debts, whether secured or not, are included within the scheme of the Acts, and a debtor is not precluded from seeking relief under section 115A on account of the fact he or she does not own the entire of the interest in the principal private residence and is not the sole mortgagor. Section 116 of the Acts provides that upon registration in the Register, a PIA shall bind the debtor and, in respect of every specified debt, the creditor concerned. By its statutory nature therefore the Judge observed a PIA does not bind or benefit a debtor not a party thereto. The protection for the creditor therefore is contained within the PIA itself from which no inference can be drawn or is intended to be expressed that the creditor intends by virtue of the agreement with the debtor to discharge any co-debtor.

Ms. Justice Baker went on to consider as relevant to the question of unfair prejudice the comparison between the outcome under the proposed PIA and the likely outcome in bankruptcy. She concluded that the outcome for all the creditors concerned is more beneficial under the PIA than in bankruptcy, and that the comparison with bankruptcy does not suggest any unfair prejudice to any class of creditors.

Callaghan Case – Judgment relating to treatment of Warehoused Debt³⁹

For example, in the *Callaghan Case* the High Court provided clarification in relation to the circumstances in which the warehousing of debt within a proposed PIA will be considered a sustainable form of write off. In this case, the debtor's proposed PIA included a write down of most of the negative equity, leaving a live mortgage of €120,000. Under the mortgage lender's proposal, €15,000 of the debt was to be written off leaving a balance of approximately €270,000 to be treated as follows:

- Mortgage payments were to be made on one half of the remaining debt (€135,000)
- The remaining €135,000 to be warehoused at 0% interest. The debtors were to be given a "lifetime tenure" in the property and the security was not enforceable until after they died.

The mortgage lender argued that their proposal would have enabled the debtors to continue to reside in their home and would have resulted in a better return for the creditor in the long term,

³⁹ In the Matter of Part 3, Chapter 4 of the Personal Insolvency Acts 2012-2015 and in the Matter of Paula Callaghan and in the Matter of an Application Pursuant to Section 115(A)(9) of the Personal Insolvency Acts 2012-2015, [2017] IEHC 332

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as they would in time recover the balance of the loan amount. Ms. Justice Baker formed the view that there was nothing in the Personal Insolvency Acts precluding the warehousing of part of the debt, or precluding that such warehoused amount becomes payable after the expiration of the term of a PIA.⁴⁰ However, the Judge stated that the means engaged **“are present income and capital assets and not projected means at a time so far into the future that the test is based on hypotheses and conjecture”**.⁴¹ Ms. Justice Baker clarified that a warehousing proposal should offer a solution to indebtedness that is *likely to be achieved on present and known income*. In this instance, there was no further pension lump sum available that could deal with the warehoused amount. She concluded, therefore, that the lender’s warehousing proposal was not sustainable, and made an order imposing the borrower’s rejected PIA proposal.

⁴⁰ Ibid. at para. 53.

⁴¹ Ibid. at para. 68.

Appendix IV Abhaile Budget

GOVERNMENT DECISION 5 July 2016 (S180/20/10/1270A)

Estimated Costings based on a take up of 9,400 households

	Funding for 2016*	Total over 3 years 2017-2019	Year 1 2017	Years 2 and 3 (2018/2019)
Financial advice (DSP)	0.6m	5.8 m	2.9m	<i>2.9m</i>
Legal advice and assistance/representation (DJE) plus Legal aid for insolvency reviews (DJE)	0.75m	4.8 m	2.4m	<i>2.4 m</i>
Communications Campaign (DSP)	0.63m	3.5m	1.5m	<i>2.0m</i>
CIB Resources to support the new National Service (DSP)	0.2m	0.9m	0.3m	<i>0.6m</i>
Total	€2.18m	€15m	€7.1m	€7.9m <i>(assumed = €3.95 m each per year)</i>

Costs for 2016 were met from within the overall DSP and DJE Votes

