FROM PILLAR TO POST

A Series of Papers on issues arising in new and existing consumer debt cases in light of the Covid 19 pandemic

Paper One:

Setting the Context:

a critical examination of data relating to consumer debt, welfare, labour market and the economy

flac
promoting access to justice

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Free Legal Advice Centres,
June 2021

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—Foreword—

Eilis Barry, Chief Executive, FLAC

As a human rights organisation with a core objective of access to justice, FLAC has engaged in advocacy, research, campaigning, policy analysis and the provision of second-tier legal advice and training to money advice staff in Ireland on consumer credit, debt and financial services for over twenty-five years. A *rights-based approach* to supporting people experiencing financial difficulties has been and continues to be the hallmark of our work in this area. By this we mean that in a marketised economy that is heavily dependent on the provision and the use of financial services, consumers availing of financial products – particularly credit – must be properly informed and protected and must be supported when circumstances outside their control cause a change in financial capacity.

The Covid 19 pandemic has suddenly and radically altered the financial circumstances of thousands of individuals and households with latest figures revealing over 300,000 still in receipt of the Covid PUP Social Welfare payment. As vaccines are rolled out and we emerge from the pandemic, we believe it is a crucial time to put the issues of debt, both old and recent, under the microscope and importantly, to ask what is the plan to deal with the serious issue of unmanageable debt and all that goes with it including social exclusion.

With the government indicating that Covid income supports will need to be phased out and the Central Bank suggesting that up to 100,000 job losses might be on the way, FLAC's Senior Policy Analyst, Paul Joyce, in collaboration with Dr Stuart Stamp, examines the existing and potential consumer debt problem in this new series of papers. Written from a debtor advocacy perspective, the objective of this series is ultimately to raise the question, what next? How will we prepare for the real cost of Covid and what is the strategy to confront it? An important context here is the obligation on public bodies with responsibilities in the areas of credit and debt, including the Departments of Finance and Justice, the Central Bank, the Insolvency Service of Ireland, the Competition and Consumer Protection Commission, the Legal Aid Board, the Courts Service and the Citizens Information Board (the body responsible for MABS) to have regard in the performance of their functions to the need to promote equality of opportunity, eliminate discrimination and promote human rights.[1] Providers of financial services have a considerable advantage over consumers in terms of power and resources and it is therefore incumbent on these state bodies to ensure that redress mechanisms are available where rights are infringed. Entitlement to comprehensive information, legal advice and, where necessary, legal representation, are therefore key components of these obligations.

In summary, what is required is a rights-based approach; one that aims to assist individual consumers to make fully informed choices in relation to their options and to protect consumers from unfair treatment, particularly when they have acted in good faith. Critically, such an approach also seeks to identify and highlight the underlying conditions that give rise to situations of injustice and inequality of opportunity and income. The ongoing process of campaigning for law reform is therefore a core part of FLAC's work in this area. Financial services are at the heart of how our economy and society functions, and how they are provided and supervised affects everyone.

[1] Irish Human Rights and Equality Commission Act 2014, s.42. IHREC have also developed a guidance note that sets out questions that should be considered by public bodies in considering responses to Covid-19. See: https://www.ihrec.ie/app/uploads/2020/08/Guidance-Note-on-COVID-19-and-the-Public-Sector-Equality-and-Human-Right-Duty-002.pdf

— About FLAC —

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FLAC (Free Legal Advice Centres) was founded in 1969 and is one of Ireland's oldest civil society organisations. It is a voluntary, independent, legal and human rights organisation which for the last fifty years has been promoting access to justice. FLAC works in a number of ways, it:

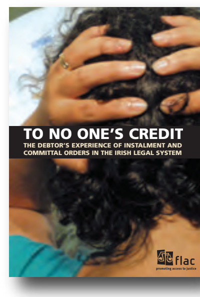
- Operates a telephone information and referral line where approximately 12,000 people per annum receive basic legal information.
- Runs a nationwide network of legal advice clinics in 71 locations around the country where volunteer lawyers provide basic free legal advice to approximately 12,000 people per annum.
- Is an independent law centre that takes cases in the public interest, mainly in the areas of homelessness, housing, discrimination and disability.
- Operates a legal clinic for members of the Roma Community.
- Has established a dedicated legal service for Travellers.
- Operates the public interest law project PILA that provides a pro bono referral scheme that facilitates social justice organisations receiving legal assistance from private practitioners acting pro bono.
- Engages in research and advocates for policy and law reform in areas of law that most affect the marginalised and disadvantaged.

FLAC's vision is of a society where everyone can access fair and accountable mechanisms to assert and vindicate their rights. FLAC makes policy recommendations to a variety of bodies including international human rights bodies, drawing on its legal expertise and providing a social inclusion perspective.

FLAC reports in the areas of debt and credit:

An End Based on Means
A Report on how the legal system in Ireland treats uncontested debt cases with an examination of alternatives and proposals for reform (May 2003)

To No One's Credit
The Debtor's experience of Instalment and Committal Orders in the Irish legal system (June 2009)



Redressing the Imbalance
A study of legal protections available for consumers of credit and other financial services in Ireland (March 2014)

For more of FLAC's work in the area of debt law reform visit https://www.flac.ie/priorityareas/debt-law-reform/

For more of FLAC's work in the area of consumer credit law reform visit https://www.flac.ie/priorityareas/consumer-credit-law-reform/

— About the Authors —

Paul Joyce, BL, works as Senior Policy Analyst with Free Legal Advice Centres (FLAC). He is the author of both of FLAC major reports on debt and the legal system in Ireland, 'An End based on Means' published in May 2003 and 'To No One's Credit' published in July 2009, and numerous policy reports and submissions. He is a former member of the Financial Services Ombudsman's Council and served as a member of the government-appointed Expert Group on Mortgage Arrears and Personal Debt in 2010. Paul is also co-author, with Dr Stuart Stamp, of FLAC's report, 'Redressing the Imbalance', a study of the legal protections available for consumers of credit and other financial services in Ireland, published in March 2014. On behalf of FLAC, he has provided technical legal support and training to staff of the Money Advice and Budgeting Service (MABS) for over two decades. He also has extensive experience in the area of employment rights. Paul is a law graduate of University College Dublin (UCD) and the King's Inns.

Dr. Stuart Stamp is an Independent Social Researcher and Research Associate of the Department of Applied Social Studies at Maynooth University. His main areas of interest are personal over-indebtedness and financial exclusion from an inequality and human rights perspective. He has helped to establish services in both Ireland and the UK to assist people who are over-indebted, and has worked in casework, co-ordination and support/training capacities. In recent years, Stuart has focused more on research and policy analysis on these topics. He has authored/co-authored studies for the Combat Poverty Agency, Citizens Information Board, Money Advice and Budgeting Services (MABS), Dublin Region Homeless Executive, and for the Free Legal Advice Centres (FLAC); he has further contributed to a number of national and international conferences, research projects, academic resources and policy consultations on personal debt issues.

— Introduction — to the series of Papers

Today, June 30th, Free Legal Advice Centres (FLAC) launches the first in a series of papers assessing the difficulties facing consumers of financial services whose payment capacity remains impaired following the economic damage inflicted by the pandemic. In our view, a substantial challenge awaits our debt resolution system as individuals and households emerge from Covid, and this issue requires a proactive and decisive approach by all parties, especially the State institutions involved. The key objective of this series of papers is to assess what the available data tells us about current levels of personal over-indebtedness and the success or otherwise of the mechanisms put in place in recent years to attempt to resolve it, together with the services in place to support people to navigate those mechanisms.

COVID-19 has both shone a light into inequalities within Irish society and magnified them. In terms of personal or household over-indebtedness, a body of research tells us that certain individuals and groups remain persistently at risk over time; recent data indicates that to these persons should be added a new cohort, namely those whose employment or business has become more precarious in the context of a global pandemic. Taken together, there is a substantial number of consumer borrowers with continuing unresolved debt problems and a new category likely to face payment difficulties as Irish society emerges from the pandemic, including many for whom this will be a new and fearful experience, coinciding with the very time they most need a break from external worries after extensive periods of severe restrictions.

Since the onset of Covid, preventative action by government on a number of fronts has cushioned the worst of the impact of the virus on household incomes. A combination of specific income supports for employees and for business; creditor forbearance and payment breaks; a ban on utility disconnections; a ban on evictions; a rent freeze for those whose income has been adversely affected by Covid; and the partial curtailment of debt collection and related legal processes, have collectively mitigated some of the financial stresses of the pandemic. In the face of the widespread turmoil induced by the pandemic itself, with the deep fears for mortality, health and welfare that it has brought, these measures have helped to limit not just the financial but also the emotional distress for many households.

In recent months, however, the tone of the narrative and the direction of travel concerning Covid has begun to change. It has been increasingly signalled that the government borrowing which has financed the range of income supports has created an additional costly public debt burden. On April 20th, 2021, the Irish Times reported that at a webinar event hosted by the University of Limerick[2], the Minister for Finance, Paschal Donohoe TD explained that "*with a value of almost €38 billion, or nearly a fifth of national income, the budgetary support provided by Government to tackle the economic impact of the pandemic has been extraordinary*". Although he went on to assure that "*We have not fought this pandemic and its economic fallout for over a year on a scale that is unprecedented in Irish economic history just to fall at the final hurdle*", he also warned that *"we are committed to restoring the public finances to a sustainable trajectory, and ensuring that Ireland does not become a fiscal outlier as we emerge from the pandemic period",* a signal that income supports, though they may not be abruptly removed, may be gradually wound down.[3]

The following week in the Dáil, the Taoiseach, Micheal Martin TD, in response to assurances being sought by the leader of Sinn Féin, Mary Lou McDonald TD, promised that there would be no 'cliff edge' in the withdrawal of Covid-19 financial supports to businesses and people, and that as society and non-essential businesses reopen, pandemic supports will begin to be phased out.[4] In response, Ms McDonald tweeted that the Taoiseach had failed to give a clear answer on continuation of full income supports for workers

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[2] Enterprise, Financing and Investment in Ireland – tackling the challenges of Covid 19, digitalization and climate change, April 19th 2021.

[3] Eoin Burke Kennedy, Irish Times, April 20th, see: https://www.irishtimes.com/business/economy/central-bank-says-survival-prospects-of-many-covid-hit-firms-highly-uncertain-1.4541430

[4] See www.breakingnews.ie. Cate McCurry, April 28th.

and businesses beyond the current extension to the end of June 2021.

It would seem likely from this exchange that the future of both the Pandemic Unemployment Payment (PUP) and the Employment Wage Subsidy Scheme (EWSS) is at best uncertain, with a series of 'opening up' announcements also clearly flagging that a renewal of economic activity is now considered essential to mitigate the public debt burden. In tandem, it is clearly envisaged that with the vaccine rollout now considerably ramped up, the public health picture will improve at a greater pace. All this offers the prospect of a return to 'normality' but, ironically perhaps, the closer we come to this juncture, the closer we may also get to those currently experiencing financial difficulties being called upon to engage and negotiate - or re-engage and renegotiate - with their creditors. This will also see the potential return of enforcement processes including debt collection and legal proceedings, likely to be an intimidating prospect for many.

It is notable that throughout this period there has been little public or political debate on the issue of over-indebtedness, particularly in 2021, despite the obvious financial pressures building on households and businesses and the relative inevitability that the opening up, when it materialises, will likely crystallise insolvency for some. This can be partly explained by the supports outlined above, which to some extent also suspended processes between creditor and debtor and provided badly needed breathing space for borrowers. However, the cliché – 'fail to prepare, prepare to fail' – comes to mind and regrettably, we have been here before. For almost a decade before the Global Financial Crisis (GFC), the relevant authorities did little to prepare for the possibility of widespread personal insolvency while a climate of reckless lending reigned, leaving an out-of-date debt resolution system to scramble ineffectively to deal with a personal debt crisis of unprecedented proportions, one that still endures for many people.

This time, at least, the gravity of any spike in personal debt will likely be of more controllable proportions and we now have an improved debt resolution infrastructure in place. It is very far from perfect, however, and any complacency that the system is well placed to swiftly deal with the problems we are likely to face should be vigorously interrogated. In our view, efforts at resolution over the past decade have been partially successful and improvements are urgently required. A personal insolvency regime delivering disappointing numbers of solutions, a mortgage arrears resolution process that resolves too few cases, a mortgage-to-rent 'scheme' that too few can avail of successfully and an insufficient emphasis on unsecured debt cases – each of these are substantial concerns.

This series of papers will be published in real time, as the scaffolding put in place during Covid begins to be dismantled. In the course of these papers, we will make recommendations that we believe are crucial to supporting the rights of those individuals and households. While no one can be entirely clear right now on the scale of new debt cases that will be added to the unresolved legacy ones, it is past time that a plan was prepared for how these will be approached and what we need to do better. Some 14 months after the onset of the Covid pandemic we can hardly claim to be surprised by what the Central Bank of Ireland (CBI) terms 'distressed debt'. And it is not just the debt that is distressed, but more importantly, those who have to live with it.

Update - On June 1st, the Government announced under its Economic Recovery Plan that the Pandemic Unemployment Payment (PUP) will continue to be paid after 30 June 2021 with a gradual reduction in rates, but will close to new applicants from 1 July 2021. The weekly payment rate will reduce by €50 on 7 September 2021, 16 November 2021 and 8 February 2022 respectively. PUP claims for students are extended until the start of the 2021/2022 college year with the final payment on 7 September 2021. The Minister for Housing has also proposed to extend protection against eviction or rent increases for tenants, who are in arrears and have been financially impacted by Covid-19, until 12th January 2022.

— Paper One —

Setting the Context:

A critical examination of data relating to consumer debt, welfare, labour market and the economy

In this Introductory Paper, we set the scene for the series by critically examining data in both the run up to and aftermath of Covid-19 relating to:

1. **Consumer debt;**
2. **Welfare, labour market and the economy.**

We conclude that a much more household-focused approach to data gathering and publication is needed to provide an evidence base for social policy in light of the spike in personal over-indebtedness likely to follow from the tapering or ending of social supports and household protections. A series of recommendations are made in this regard, together with some broader ones in terms of reviewing our policy and service architecture for dealing with financial difficulty, and increasing awareness of the supports and options available to those who may require them going forward.

Recommendation 1:

Where not currently provided, we recommend that more policy-centred, analytical and longitudinal analyses focusing on the circumstances and experiences of client households could be undertaken by or on behalf of the CIB/MABS on a "rolling" basis to provide early intelligence to policymakers on developing trends in relation to personal debt issues. As regards published information, more depth to the data would be useful both in terms of particular cohorts and presenting the lived experiences of the client households concerned, appropriately anonymised.

Recommendation 2:

We recommend that a more meaningful and dynamic national household picture on consumer debt be assembled for future policy-making and regulatory purposes. It may be that this is a job for an organisation with greater research capacity to focus on consumers – such as an academic body, the Central Statistics Office (CSO), the Economic and Social Research Institute (ESRI) or the Competition and Consumer Protection Commission (CCPC). The Central Bank of Ireland (CBI), given its consumer protection remit, might periodically commission such independent research.

Recommendation 3:

We recommend that arrears data on unsecured credit should also be collated and published by the CBI on a quarterly basis as per the data series on mortgage arrears; again, the household perspective and lived experience of the debtor should also be explored.

Recommendation 4:

The Social Justice Ireland analysis of the 2018 SILC data provides important policy context on the financial vulnerability of Irish households. We recommend that a similar assessment is undertaken annually as a matter of course by or on behalf of the Central Statistics Office as part of SILC and the results published.

Recommendation 5:

Omnibus surveys are a useful way of gaining insights into people's circumstances and expectations. It is recommended that a survey profiling potential problem debt should take place at least every twelve months to inform planning around personal debt policy in general.

Recommendation 6:

We recommend that policy development on personal over-indebtedness focuses not just on debt resolution, but also on debt prevention. Human rights standards such as living with dignity, adequacy of income, financial resilience and wellbeing, financial inclusion, and ensuring that people do not have to borrow for basic services and necessities, should be promoted.

Recommendation 7:

Given the comparatively low uptake of Debt Relief Notices to date, we recommend that the ISI in conjunction with approved intermediaries should examine the obstacles to access and what might be done to improve both awareness and take-up and that the reforms to the DRN process proposed by MABS be commenced as a matter of priority.

Recommendation 8:

It is time for a more substantive Bill on personal insolvency to go beyond the planning stage. We recommend that it be prioritised and introduced as a matter of urgency in good time to prepare for any spike in consumer debt that may occur when the economy and society opens up and payment supports are withdrawn.

Recommendation 9:

We recommend that it is made compulsory for an employer placing existing staff on temporary lay-off to use the RP9 form and that the Redundancy Payments legislation be amended to this effect at the earliest opportunity.

Recommendation 10:

We recommend that the responsible agencies of State—and the advice services funded through it—engage in a co-ordinated, targeted awareness campaign to advise those in vulnerable employment sectors of their rights and options as consumers/debtors and the services available to support them.

Recommendation 11:

We recommend that an audit of the existing regulatory and statutory debt resolution frameworks, and an assessment of the state-funded services put in place to access them, is urgently required to ensure that both existing and new personal debt cases arising out of the pandemic are resolved in a manner that respects the dignity of the consumers involved; further, that mechanisms are put in place to evaluate the progress that is being made in this regard on an ongoing basis.

1.1 PRE-PANDEMIC HOUSEHOLD OVER-INDEBTEDNESS

At the time of writing (May 2021), the Covid pandemic has been with us for well over a year. During that period, a wide range of data pertinent to the economic and social challenges posed by the virus has been assembled and examined by a suite of publicly funded organisations with diverse functions. Nonetheless, accurate forecasts as to what this data means for a post-pandemic society opening up in terms of job losses, business failure and associated financial difficulty, are still difficult to make with any certainty as circumstances ebb and flow and trends have evolved.

Our purpose in this first paper of a series of four is to broadly look at some of the data that is currently available through the specific lens of how the ongoing personal debt problem in Ireland might play out at the household level. Thus, broad indicators such as developments in the client base of the Money Advice and Budgeting Service (MABS), social survey data on poverty and debt and rates of unemployment, and numbers of PUP (Pandemic Unemployment Payment) and Employment Wage Subsidy Scheme (EWSS) recipients are all examined.

1.1 Pre-pandemic household over-indebtedness

Introduction

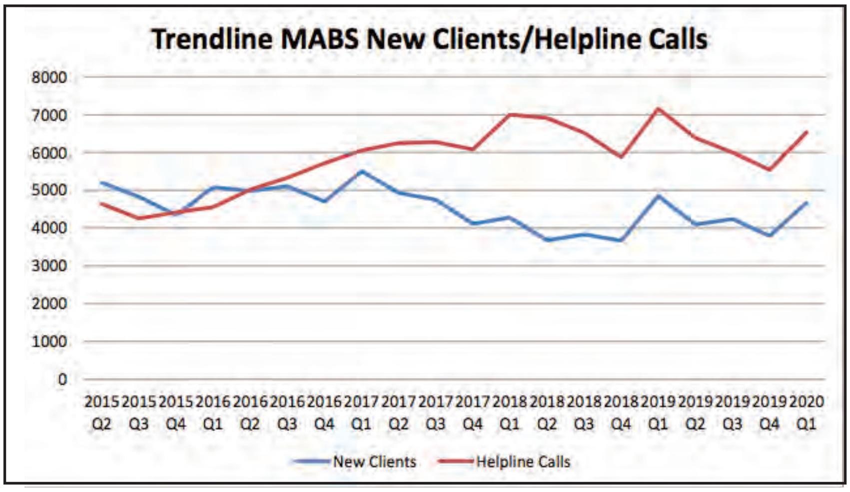
A first and important context to any assessment of the debt problem arising out of Covid 19 is the position in the months *leading up to* the arrival of the virus. Important sources of data in this respect include: Money Advice and Budgeting Service (MABS)[5] statistics; Central Bank of Ireland (CBI) mortgage arrears data; and an October 2019 omnibus survey of a representative sample of the Irish population. Added to this information, is a body of social research undertaken in recent years that informs us as to: (i) the broader extent and nature of financial difficulty across our society; (ii) those groups traditionally most at risk of over-indebtedness, and; (iii) the factors and consequences associated with it. In this section, we draw on these various sources to describe the household debt landscape upon which the pandemic landed.

MABS statistics

MABS statistics suggest financial difficulty to have remained a reasonably persistent phenomenon in recent years, with around 19,000 new MABS clients presenting on average each year and circa 23,000 calls per annum to the MABS Helpline, based on quarterly figures. (See Chart 1 below)

[5] MABS is the state-funded debt and money advice service in Ireland. It operates out of over 60 locations countrywide and also runs a National (telephone) Helpline.

Chart 1: MABS client trend-line: Q2 2015 to Q1 2020 inclusive



Source: MABS statistics, various years.

Furthermore, relative to the general population, the *underlying* characteristics of the MABS client base over time have been shown in various discrete pieces of research[6] to reflect over-indebtedness risk factors identifiable in the academic literature.[7] The evidence here is both consistent and robust, illustrating that personal and household over-indebtedness is strongly correlated with the following factors, many of which are outside the control of the debtor.[8]

- Poverty;
- Lower than average income;
- Precarious income;
- Social tenancy;
- Social welfare dependency;
- Parenting alone;
- Being ill or with a disability;
- Property purchase at "peak" when prices were inflated (2004-2008).

As regards the *types of debt(s)* owed by MABS clients, these are very much in line with previous MABS statistical releases and demonstrate that those presenting to services in the run up to COVID continued to owe money in respect of a wide range of both priority and secondary debts, with personal loans and mortgages the leading categories, followed by credit cards and utility bills.

[6] See for example: Stamp, S. and Joyce, P. (2016). *An Analysis of Mortgage Arrears among South Mayo MABS' Clients: A spatial dimension to a national problem?'* Castlebar: South Mayo MABS; Stamp, S. (2016) *'It's All About Access: An Independent Evaluation of the Waterford MABS Personal Insolvency Practitioner (PIP) Research Project'.* Dublin: Citizens Information Board and Waterford MABS; Stamp, S. McMahon, A. and McLoughlin, C. (2018) *Left Behind in the Cold? Fuel Poverty, Money Management & Financial Difficulty Among Dublin 10 & 20 MABS Clients: 2013 and 2017.* Dublin: Dublin 10 & 20 Money Advice and Budgeting Service;

[7] Russell, H, Maitre, B. and Donnelly, N. (2011). *Financial Exclusion and Over-indebtedness in Irish Households.* Dublin: Economic and Social Research Institute; McCarthy, Y. (2014). *Dis-entangling the mortgage arrears crisis: The role of the labour market, income volatility and housing equity.* Dublin: Central Bank of Ireland.

[8] These are sometimes described as "force majeure" factors, which may be defined as *'unforeseeable circumstances that prevent someone from fulfilling the terms of a contract'.*

Chart 2: MABS client debt count (new clients, Q1-2020):*

*Debts may not be recorded for all clients

Active Debt Types	Q1	Q2	Q3	Q4
Personal Loans with Financial Institutions	1684			
Utilities	567			
Credit Card	712			
Mortgage	1675			
Hire Purchase Loan	186			
Money Lender	185			
Overdraft	199			
Rent	172			
Catalogue	65			
Fine	59			
Sub Prime	11			
Waste Charges	2			

Source: MABS statistics, Q1-2020

The public reporting of information on MABS service users focuses on a straight-count, quarterly method which in essence provides headline data. A considerable amount of additional information is garnered by services, but it is not known if more in-depth details on clients' circumstances, experiences and policy matters arising are provided to government and relevant departments on a more regular basis. Such information would be an excellent evidence base for policymakers were it to be so available.

Recommendation 1:

Where not currently provided, we recommend that more policy-centred, analytical and longitudinal analyses focusing on the circumstances and experiences of client households could be undertaken by or on behalf of the CIB/MABS on a "rolling" basis to provide early intelligence to policymakers on developing trends in relation to personal debt issues. As regards published information, more depth to the data would be useful both in terms of particular cohorts and presenting the lived experiences of the client households concerned, appropriately anonymised.

Central Bank of Ireland mortgage arrears data

Central Bank mortgage arrears statistics on principal dwelling houses (PDH) – in other words, family homes – provide a further indicator of the scale and nature of household financial difficulty in the run up to COVID, in this case solely among those who are mortgaged.[9] It should be noted that these mortgage arrears data are presented with reference to *accounts* as opposed to *households*, and it is generally estimated by the CBI that a household in arrears has 1.2 mortgage accounts on average.[10] A slight increase in numbers in arrears is identifiable as the pandemic struck:

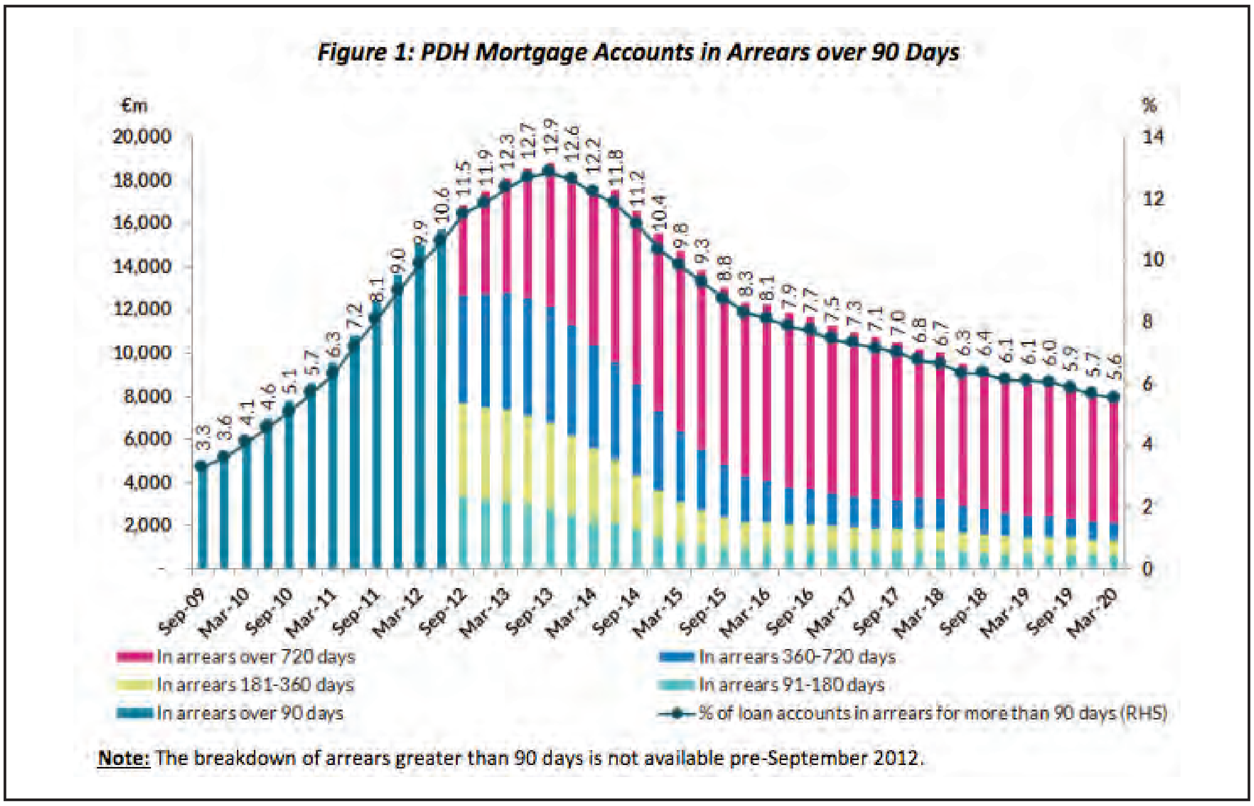
> *At end-March 2020, there were 739,592 private residential mortgage accounts for principal dwellings held in the Republic of Ireland, with a value of €98 billion. Of this total stock, 63,437 accounts were in arrears, representing an increase of 2,841 accounts or 4.7 per cent over the quarter. This increase in arrears was driven by increase in accounts in arrears up to 90 days by 3,827 accounts.*[11]

[9] Around a third of households are "mortgaged" according to Census 2016.

[10] Duignan, D. Hopkins, A. Meehan, C. and Sherman, M. (2020). *Behind the Data: Understanding Long-term Mortgage Arrears in Ireland.* Dublin: Central Bank of Ireland.

[11] Central Bank mortgage arrears statistics, Quarter 1-2020. See: https://www.centralbank.ie/docs/default-source/statistics/data-and-analysis/credit-and-banking-statistics/mortgage-arrears/residential-mortgage-arrears-and-repossession-statistics-march-2020.pdf?sfvrsn=4 p2.

Chart 3: Mortgage arrears accounts on Principal Dwelling Houses (2009-2020)



Source: Central Bank of Ireland, mortgage arrears statistics.

The trend line here differs markedly from the MABS statistics, with a linear increase and peak clearly identifiable in the post Global Financial Crisis (GFC) period, followed by a gradual decline in general, but where the problem deepens among a cohort in long term arrears (i.e. arrears of over 720 days).

The "bubble" in the Chart above reflects the increased financialisation of Irish households during the latter part of the Celtic Tiger period,[12] principally due to institutional practices facilitated by government policy.[13] Risk of encountering mortgage arrears is highly correlated with certain factors,[14] not dissimilar in many cases to those associated both with over-indebtedness more generally and recourse to MABS services:

- Income/employment precarity;
- Income shock;
- Change in employment conditions;
- Unemployment;
- Lower education levels;
- Having dependent children;
- Lower savings/wealth;
- Larger households;
- Low paid employment;
- Drawdown at "peak" (2004-2008);
- Higher Debt Service to Income (DSI) ratios;
- Higher Loan to Value (LTV) ratios.

As with the MABS statistics, more detail is needed from the mortgage arrears data in our view, particularly given the persistence of the problem over a lengthy period of years. Nonetheless, at least we now have many years of

[12] Downey, D. (2014). 'The Financialisation of Irish Homeownership and the Impact of the Global Financial Crisis', in *Neoliberal Urban Policy and the Transformation of the City*, (Eds) Andrew MacLaran and Sinéad Kelly, London: Palgrave Macmillan.

[13] Houses of the Oireachtas (2016). *Report of the Joint Committee of Inquiry into the Banking Crisis, Volume 1*. Dublin: Houses of the Oireachtas.

[14] McCarthy (2014), ibid; Kelly, R. and O'Malley, T. (2016) "The good, the bad and the impaired: A credit risk model of the Irish mortgage market," *Journal of Financial Stability*, 22, 1–9; McCann, F. (2017). *Resolving a Non-Performing Loan crisis: The ongoing case of the Irish mortgage market.* Dublin: Central Bank of Ireland, Research Technical Paper, 10/RT/17.

mortgage arrears data to ponder over and the CBI has, to its credit, produced in its Q.3 and Q.4 2020 figures a much wider range of information than heretofore. This data enables a much more detailed assessment to be made of our efforts to resolve mortgage arrears from the fallout of the Global Financial Crisis (GFC) to the present day. In our view this data contains important lessons for how we treat new debt cases in the future.

For this reason, the second paper in this series will consider the mortgage arrears data provided by the CBI in considerable depth. The primary purpose of that analysis will be to consider the chain of evidence provided by many years of such figures and draw conclusions as to how successful we have been in resolving arrears cases and what policy considerations underpin that attempt. We also analyse the current reporting format to understand what it is—and equally importantly what it is not—telling us about the households involved. We suggest that this assessment will be particularly important as social restrictions ease and society opens up during the second half of 2021 and into 2022.

The CBI focus on recording data in relation to family home mortgages in difficulty is extremely important – the eviction of households from their family homes is potentially at stake as well as the financial stability of the institutions involved – and the increased level of detail has enabled us to make a more informed assessment of progress from a debtor perspective. **We conclude nonetheless that the mortgage arrears data collation and publication process as it currently stands tells us little about the circumstances of the households involved, beyond the extent of their arrears and where they stand in the collections, resolution and litigation processes. These datasets are by definition institution focused, consisting of responses by regulated mortgage lenders to a set of information requirements posed by their regulator, the CBI, concerning the arrears of their customers, and where the solvency of those institutions and their ratio of non-performing loans is the main focus. The CBI does not, to our knowledge, speak to the households involved and there is little data gathered on the circumstances of the households themselves.**

Recommendation 2:

We recommend that a more meaningful and dynamic national household picture be assembled for future policymaking and regulatory purposes. It may be that this is a job for an organisation with greater research capacity to focus on consumers – such as an academic body, the Central Statistics Office (CSO), the Economic and Social Research Institute (ESRI) or the Competition and Consumer Protection Commission (CCPC). The Central Bank of Ireland (CBI), given its consumer protection remit, might periodically commission such independent research.

Of parallel and equal importance should be assembling detailed data in the area of unsecured credit agreements—for example personal loans, car finance agreements including hire purchase and personal contract plans, overdue credit card and overdraft balances and credit sale agreements. However, a notable deficiency in the data published by the CBI at present is any specific data on arrears on *unsecured credit agreements* offered by institutions it regulates. More detail would be very valuable here, particularly in terms of assessing the dangers of personal insolvency at critical junctures such as we currently face.

Recommendation 3:

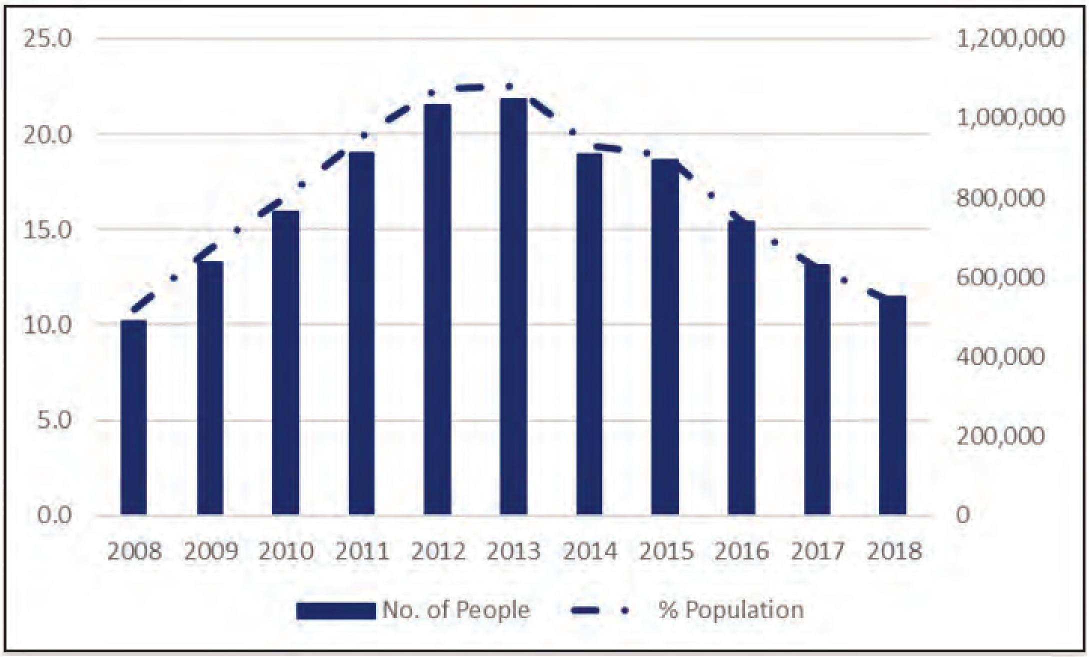
We recommend that arrears data on unsecured credit should also be collated and published by the CBI on a quarterly basis as per the data series on mortgage arrears; again, the household perspective and lived experience of the debtor should also be explored.

Social survey data

The most useful data source in terms of providing a nationwide, household-level picture of over-indebtedness over time is the annual Survey on Income and Living Conditions (SILC), conducted and published (generally at the end of each succeeding year), by the Central Statistics Office.[15] Its nature, detail and scope means that there is an understandable data lag in publishing results, and as described below, its primary focus

[15] See: https://www.cso.ie/en/silc/

Chart 4: Arrears on mortgage or rent, utility bills or loan payments, % Population and No. of People, 2008 to 2018



Source: Social Justice Ireland

is to provide an annual snapshot of trends in relation to poverty and deprivation. Nonetheless, the survey also contains a number of questions on households' experiences of arrears and financial difficulty, and in an insightful piece of analysis, Social Justice Ireland (SJI) used SILC data gathered during 2018 to give a sense of the extent and persistency of debt problems across Irish society over time during the preceding decade. The SJI review concluded as follows:

> *In 2018, 11.2 per cent of the population, some 551,208 people, were in households with arrears on mortgage or rent, utility bills or loan payments, compared to 489,607 people (10.8 per cent) in 2008... That is over 61,000 more people.*[16]

The report's core finding is that despite a return to almost full employment and a constriction of mainstream credit in the latter years of the decade following the 2008 "Crash", the prevalence of debt problems among Ireland's households remained similar in 2018 to that of ten years earlier. SJI also examined people's ability to face an unexpected expense over the same period and identified a strikingly similar pattern and result.

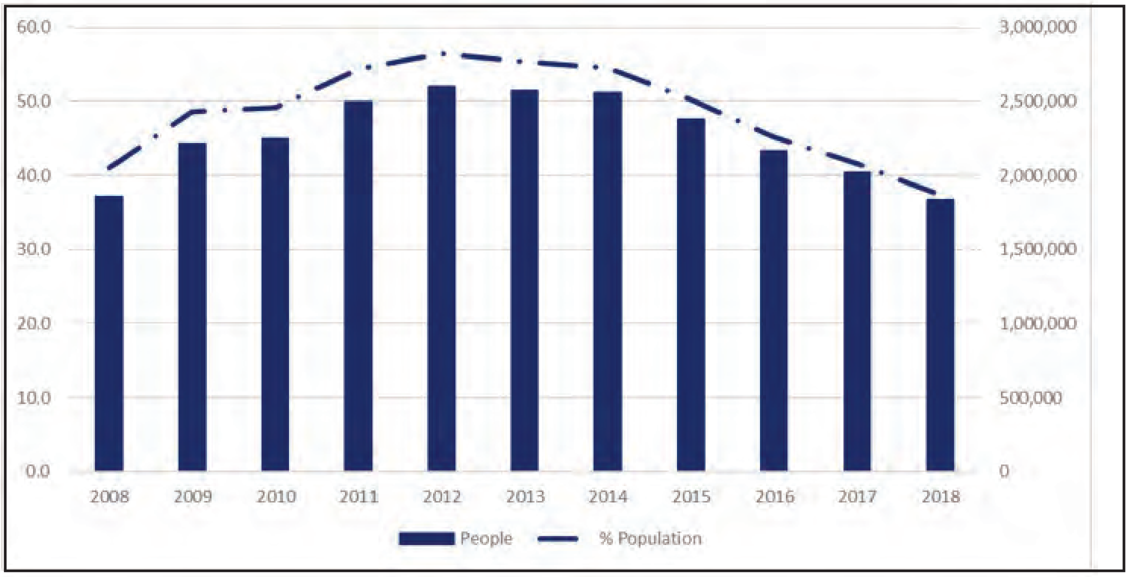
Presuming that these trends continued during 2019 and up to the advent of COVID, we can project in broad terms that in the run up to the pandemic:

- Around 1 in 10 of the population would have been living in households with current or recent experience of arrears, and;
- Around a third of the population would have been resident in households unable to deal with a financial shock.

In other words, financial difficulty and debt problems were affecting a considerable and substantial minority of the Irish household population *even before* COVID-19 arrived on Irish shores.

[16] Social Justice Ireland (2020). https://www.socialjustice.ie/content/policy-issues/need-personal-debt-taskforce-thousands-lose-their-jobs-wake-Covid-19

Chart 5: Inability to face unexpected financial expenses, % Population and No. of People, 2008 to 2018



Source: Social Justice Ireland

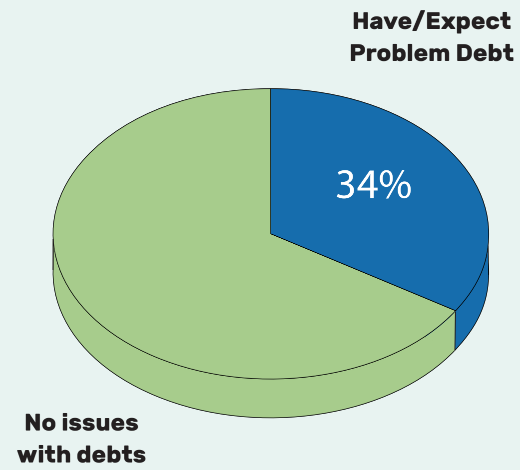
Recommendation 4:

The Social Justice Ireland analysis of the 2018 SILC data provides important policy context on the financial vulnerability of Irish households. We recommend that a similar assessment is undertaken annually as a matter of course by or on behalf of the Central Statistics Office as part of SILC and the results published.

In addition to SILC and related analyses such as the above, we also have information from a more recent, point in time, population survey, as part of an 'omnibus' survey[17] commissioned by the Citizens Information Board (CIB) to inform MABS service planning, and carried out by Opinions Market Research. The fieldwork for this survey was carried out during October 2019 (some five months pre-COVID) and involved interviews with a sample of over 1,000 people, out of which broad results and findings were extrapolated for the population in general. The findings are somewhat sobering in that they suggest there to have been a relatively large, incipient pool of potential service clients even *before* the pandemic struck. This 'baseline' enquiry estimated that around 1.2 million adults in Ireland - around one third - were concerned about current and future debt in the run up to the pandemic as of autumn 2019.[18]

Chart 6: Estimated incidence of those with problem debt - October 2019

"Profiling Problem Debt Holders"



3,695,000 Adults; 1,256,000 have problem debt

Margin of error = +/- 3.151%

Source: Opinions Market Research.

[17] An omnibus survey is a method of quantitative marketing research where data on a wide variety of subjects is collected during the same interview.

[18] https://www.mabs.ie/downloads/publications/Irish_Attitudes_to_Debt_and_MABS_October2019_V5.pdf

Recommendation 5:

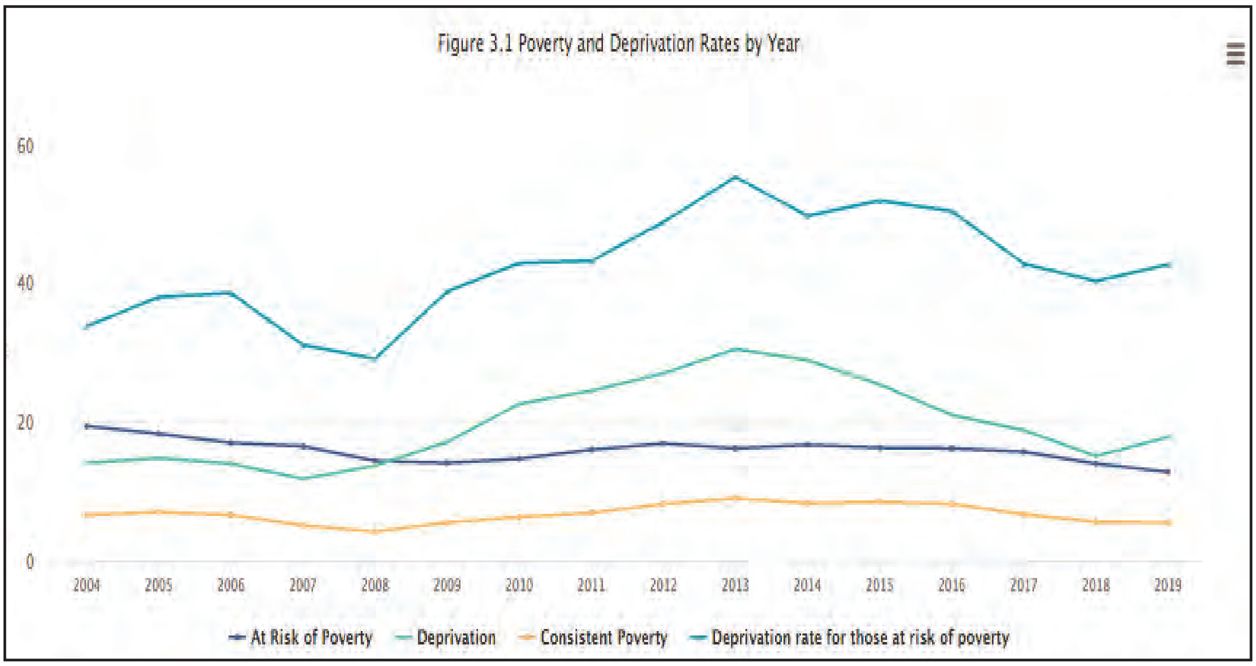
Omnibus surveys are a useful way of gaining insights into people's circumstances and expectations. It is recommended that a survey profiling potential problem debt should take place at least every twelve months to inform planning around personal debt policy in general.

Poverty and deprivation data

The statistics presented so far give a sense of the dimensions to pre-COVID debt problems in terms of the lack of income and savings available to considerable numbers of households. These deficiencies can also be related to broader societal issues such as risk of poverty[19] and /or enforced deprivation,[20] which are closely associated with the experience of over-indebtedness.[21]

As the Chart below shows, even during periods of economic growth and at a time of almost "peak employment", the risk of poverty continues to affect a significant proportion of the population, with those at highest risk repeatedly identified as those experiencing illness or disability, unemployment, or parenting alone.[22]

Chart 7: Poverty and deprivation rates in Ireland: 2004 to 2019



Source: Central Statistics Office

[19] Defined by the Central Statistics Office as having an individualised (equivalised) income below 60% of the national median.

[20] Defined by the Central Statistics Office as being unable to afford two or more of eleven basic goods and services conventionally considered essential.

[21] Russell et al (2011), ibid;); Stamp, S. (2009). *An Exploratory Analysis of Financial Difficulties Among Those Living Below the Poverty Line in Ireland',* Research Working Paper. Dublin: Combat Poverty Agency.

[22] Central Statistics Office, Survey on Income and Living Conditions statistics, various years. See: https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2019/povertyanddeprivation/

In line with previously discussed datasets, these data also suggest a large amount of people to be exposed—or potentially exposed—to financial difficulty in the pre-COVID period. As the Chart shows, in 2019 around 13% of the population were at risk of poverty with just short of 18% experiencing enforced deprivation. Although the overall trend in each case is downward and therefore welcome, the latter actually *increased* from 2018 to 2019.

Overall, pre-pandemic data on over-indebtedness and related phenomena are limited in parts, but nonetheless instructive in illustrating its extent, nature, and impacts across household types and time. Debt problems have remained a stubborn feature of Irish society in the years and indeed months leading up to the onset of COVID-19, even during the latter period when the economy was growing and unemployment was at low levels. Although all types of household can be affected – resulting in multiple types of debts and arrears—certain groups and individuals are particularly at risk of over-indebtedness, and these are commonly those more affected by poverty and social exclusion more generally.

Recommendation 6:

We recommend that policy development on personal over-indebtedness focuses not just on debt resolution, but also on debt prevention. Human rights standards such as living with dignity, adequacy of income, financial resilience and wellbeing,[23] financial inclusion,[24] and ensuring that people do not have to borrow for basic services and necessities should be promoted.

This background is crucially important to understanding the potential scale, characteristics and consequences of *post-lockdown* financial difficulties for citizens and households, some of whom are likely to experience debt problems for the first time as income supports associated with the pandemic are withdrawn along with the (albeit gradual) re-opening of society. Just to be clear, we are talking here potentially about *many thousands* of people, each of whom will have undergone his or her own personal trauma around the pandemic; the last thing they need is to have to undergo further worry about financial difficulty and potential personal insolvency.

Over the last 12 months, we have also begun to get some data on who is being impacted by COVID in a monetary sense; thus there are some clues here as to which groups or sections of society are most at risk of post-COVID over-indebtedness, and it is to an assessment of these risks that we now turn.

1.2 Over-indebtedness during the pandemic

Introduction

A range of policy measures including payment breaks, household protection measures and income supports, swiftly implemented in the immediate aftermath of COVID's arrival, undoubtedly served to cushion the financial blow for many households.[25] As with the pre-pandemic period, we draw on various data sources, in this instance to estimate the extent and nature of financial-related difficulty *likely to manifest itself* as social supports are withdrawn, protective measures taper, and society re-opens, albeit probably gradually in each instance.

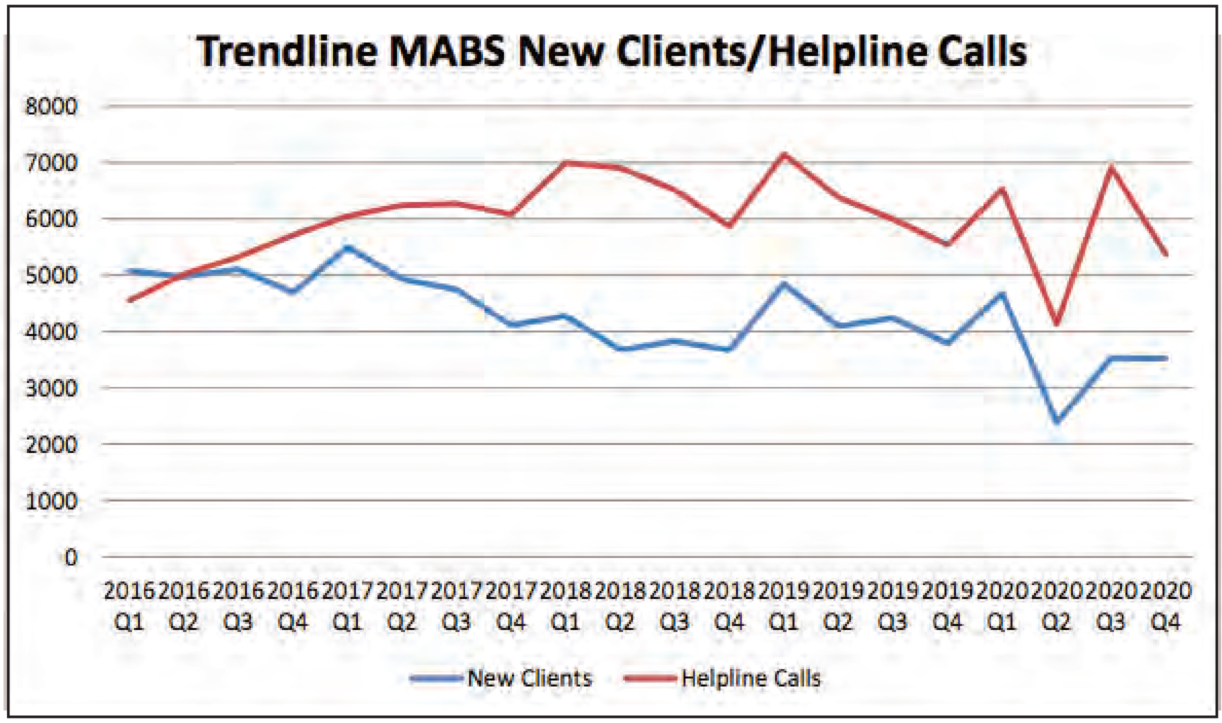
Again, social surveys provide some useful indicators, as do MABS statistics for the first three 'pandemic Quarters' (2, 3 and 4, 2020). Important labour market and social welfare information, regularly updated and published by statutory agencies, also gives us insights into those adversely impacted by COVID-19 in terms of employment; these data further provide a sense of amongst whom an emerging pool of new debtors is likely to emerge.

Three 2020 Central Bank research pieces on payment breaks (in addition to the ongoing publication of mortgage arrears data referred to above) provide additional important information, although these datasets are more limited from a household perspective given that the units of

[23] In essence to have control of one's money and related decisions, and be able to cope with future shocks.
[24] The ability to access and use appropriate, affordable financial services such as banking, credit, savings and insurance.

[25] Stamp, S. and Joyce, P. (2020). 'COVID-19 and the financial consequences in Ireland', in European Consumer Debt Network (2020). Debt Advice in Times of the COVID-19 Pandemic, *Money Matters*, Vol 17, 2020. Copenhagen: European Consumer Debt Network.

Chart 8: MABS client trend-line: Q1 2016 to Q4 2020 inclusive



analysis used tend more towards aspects of financial stability such as accounts, loan balances and arrears portfolios. Nonetheless, these data do provide an important opportunity to assess the degree of perceived financial difficulty amongst consumer borrowers during the first six months of the pandemic in particular, although there is no follow up data for 2021 as of yet of which we are aware.

One of these pieces, focusing on family home mortgage accounts only, provides important context on those who were more likely to avail of payment breaks in terms of the sector of the economy where the borrower works, indicating a correlation with recipients of PUP and EWSS support payments. Other variables such as drawing down the mortgage in the years immediately prior to the Global Financial Crisis (GFC) in 2008, the age of the borrower/s, a previous history of forbearance and high loan-to-income and loan-to-value ratios were also significant indicators of an initial tendency to seek a payment break.

Given that this is the principal source of data on payment performance during the pandemic, the third paper in this series will look at the payment break data in detail.

MABS statistics

Emerging data from MABS supports the omnibus research's suggestion of a likely problem incubation period followed by a client surge once society begins to open up and supports are withdrawn. During the period April to June (Q2), 2020, when Ireland was in heavy lockdown, the number of new MABS clients *reduced* by almost half compared to the previous Quarter (Q1). As already posited, this reduction was in all probability linked to the implementation of payment breaks, household protection measures and income supports in the immediate aftermath of COVID's arrival, together with the suspension of most court related activities.[26]

As restrictions eased or came to an end during the summer of 2020, so we see (Chart 8) a corresponding *increase* in MABS client numbers. In Q3 (July to September), calls to the MABS Helpline rose by 67%, while new client presentations increased by 46%; presentations to the former— and to a lesser degree the latter —*fell* again during Q4 with the advent of enhanced restrictions during the early winter. Looking further ahead, the omnibus survey prediction of a significant surge in debt advice queries once society reopens is reflected in analysis from the UK,

[26] Stamp, S. and Joyce, P. (2020), ibid.

which projects there will be a 60% increase in debt advice cases post-COVID.[27]

Further important context was provided by the Citizens Information Board/MABS 2021 Pre-Budget Submission published in October 2020. It observed that the availability of payment breaks (to be discussed in detail in Paper 3 of this series) and income supports was a factor in keeping new client numbers low, but it was suggested that this situation was unlikely to continue:

> *'Were it not for these emergency measures, we could have anticipated a very different level of activity and anticipate a strong growth in client numbers across all advice channels, (face-to face, helpline and social) as the breaks end and State payments are tapered/reduced'.*[28]

Similarly, this submission is unequivocal about the challenges that the existing MABS client base faces:

> *Many clients of MABS remain financially 'scarred' by the last recession and are still carrying unresolved legacy arrears often together with an overriding 'precarity' to either their employment/ income status, their accommodation or both. MABS staff report that there is much fear and uncertainty amongst both existing and new clients to the Service over the last several months.*

Additional consequences of pandemic related financial difficulty have also begun to emerge. In a recent piece of analysis undertaken by MABS Services in the Dublin Region for the Quarter following the first cases of COVID (March to June 2020), among the salient findings to emerge were: (i) contrary to popular discourse, many marginalised households are now facing *increased* expenditure as a result of increases in household size and more home time; (ii) presentations following the advent of COVID are *overwhelmingly new* to the service, whereas pre-pandemic, more were likely to be previous service users; (iii) remote engagement with service providers, including MABS itself, has served to further marginalise, and: (iv) the cessation of moratoria (e.g. on debt recovery and utility disconnection) rapidly leads to the *re/commencement* of debt recovery activity.[29]

The picture emerging from these data sources is both illustrative and predictive. MABS service data in the immediate post-COVID period show that tough social restrictions accompanied by income supports, moratoria and reduced court activity led to a drop off in client numbers. However, this may only be a deferment, as the lifting of moratoria and re-commencement of debt collection and court proceedings may bring about a rapid increase in clients. Once society begins to reopen on a more permanent basis, underlying debt problems will almost certainly come to the surface.

As regards who will be most at risk, official sources of data on labour market and welfare take-up trends are informative, suggesting that precarity of employment now affects many more sectors and therefore more employees and businesses than heretofore, a development corroborated by recent MABS experiences.[30] There is a huge personal and societal cost to financial difficulties as we have seen, and **we must use the current period to plan ahead and ensure people emerging from the trauma of COVID are assisted to rapidly address and resolve the effects of related over-indebtedness.**

Social surveys

A Behaviour and Attitudes Survey conducted in late March/early April 2020, just a few weeks after the first societal lockdown, revealed worryingly high levels of economic anxiety across Irish society.[31] Nearly all respondents (97%) were worried about the economic impact of the pandemic, with 42% reportedly "extremely concerned". The vast majority (91%) felt that the economy would be worse off this time the following year, while

[27] See: https://moneyandpensionsservice.org.uk/2020/06/09/extra-38-million-for-debt-support-in-england-in-the-wake-of-coronavirus/

[28] 'Leaving Nobody Behind' Protecting Citizens' Rights and Entitlements Post Covid-19, Citizens Information Board Pre-Budget Submission, 9th October 2020, Page 25.

[29] Stamp, S. (2021). *Social Distancing on the Margins: COVID-19 & Associated Issues for Dublin Region MABS Clients.* Dublin: Dublin South MABS and North Dublin MABS.

[30] 'Covid-19 and financial distress: 'What we're seeing now is only the beginning', MABS helpline receiving growing number of calls from workers in sectors hit by restrictions', *Irish Times*, 17th October 2020.

[31] 'Majority expect economy to be in worse shape next year, survey shows', *RTÉ News,* 7th April 2020.

around 3 in 10 (29%) were worried about job security, rising to 38% of those working part-time, and just over 40% expected their salary to reduce during 2020. Around the same time, a leading mental health charity reported a 420% increase in the numbers accessing information and support.[32]

Several months later, a further study also uncovered additional negative impacts. This enquiry was a follow up in June 2020 to the Opinions Market Research omnibus survey carried out on behalf of CIB/MABS some seven months previously (in October 2019).[33] This subsequent study,[34] some three months into the pandemic, identified COVID-19 associated impacts among a specific cohort (n=1,007) who had previously indicated financial difficulty in the baseline survey.[35] The headline findings were as follows:

- COVID had impacted negatively on *over three quarters* of this cohort but of these, less than half had sought help, with the report suggesting that around 3 in 10 propose to do so in the near future (equating to an estimated 350,000 adults);
- Around 12% of borrowers with current or expected future debt distress (equating to an estimated 144,000 adults) reported likelihood of contacting a debt resolution organisation in the future as a result of Covid-19; of these, just over half (an estimated 78,000 adults) specifically cited MABS as the organisation they would approach;
- Drawing on previous research, the authors go on to observe that "there is also evidence to suggest that we tend to freeze in a time of crisis – indicating that the real financial impacts are yet to come".

It is likely therefore on this evidence that debt problems have been and continue to be *'incubated'* in some households, which is understandable given the traumatic effect COVID-19 has had on so many and their willingness or capacity to reach out to avail of assistance. As to which households are being particularly affected, there are in essence two broad types: those *already* marginalised and those finding themselves *newly* at risk. With regard to the former, emerging evidence suggests that the impact of the pandemic is disproportionately felt by those most disadvantaged to begin with such as: those affected by homelessness; women experiencing domestic violence; migrant communities; those with addictions; and, people with limited capacity or opportunity to cope and adapt, such as those less able to access or use information technology.[36]

Among the new groups emerging to be at potential risk of financial difficulty going forward are younger people and particularly those from disadvantaged backgrounds, with traditional mitigation options unlikely to be available:

> *Job losses have been concentrated among younger and lower-income groups, and unemployment is predicted to remain at relatively high levels in the short to medium term… the phasing-out of the Pandemic Unemployment Payment and the Temporary Wage Subsidy Scheme, will negatively affect the wellbeing of children and young people. Young people making the transition to the labour market are likely to face particular difficulties in obtaining employment, especially as emigration is no longer an option for those who face difficulties in accessing jobs in Ireland.*[37]

Amongst these potential cohorts where consumer debt presents amongst the financial problems, it is more likely that it will be payment difficulties with *unsecured* rather than secured debt that will predominate, in particular unsecured credit agreements and rent and utility arrears, rather than family home mortgages.[38]

[32] 'Covid-19 has exacerbated a mental health crisis', *Irish Times*, 28th April 2020.

[33] Ibid.

[34] https://www.mabs.ie/downloads/publications/Irish_Attitudes_to_Debt_and_COVID19_MABS_June2020_V5.pdf

[35] Representative of a cross section of the 'concerned' population out of which more general forecasts are posited.

[36] Frazer, H. (2020) *Covid-19: Lessons from disadvantaged communities for EU social policy.* OSE Working Paper Series, Opinion Paper No. 24, Brussels: European Social Observatory.

[37] Darmody, M. Smyth, E. and Russell, H. (2020). *The Implications of the Covid-19 Pandemic for Policy in Relation to Children and Young People: A Research Review,* ESRI Survey and Statistical Report Series, Number 94, July 2020. Dublin: Economic and Social Research Institute. https://www.esri.ie/system/files/publications/SUSTAT94_3.pdf

[38] 'Bank of Ireland loans remain resilient despite longer lockdown: Level of distress on mortgage books has so far turned out to be much lower than feared', *Irish Times,* 30th April 2021.

Conceivably, there may be implications here for the work of the Approved Intermediaries within the Money Advice and Budgeting Service (MABS), the Irish Mortgage Holders Organisation (IMHO) and others working to arrange Debt Relief Notices (DRN's) for clients under the Personal Insolvency Act 2012. From the beginning of 2014 to the end of 2020, a period of seven years, a total of 1,740 DRN's were approved,[39] arguably a disappointing number and reflective of a process that could do with review and potential reform. In 2017, the Money Advice and Budgeting Service - the principal approved intermediary for processing Debt Relief Notices under the Act – made a number of proposals to reform the personal insolvency legislation to improve the system of DRNs. With one notable exception, these proposals remain to be implemented at the time of writing.[40]

Recommendation 7:

Given the comparatively low uptake of Debt Relief Notices to date, we recommend that the ISI in conjunction with approved intermediaries should examine the obstacles to access and what might be done to improve both awareness and take-up and that the reforms to the DRN process proposed by MABS be commenced as a matter of priority.

The exception is contained in an amendment to the personal insolvency legislation which, at the time of writing, has just been passed by both Houses of the Oireachtas. Apart from the overall maximum debt threshold of €35k to apply for a DRN, a further significant barrier to obtaining a DRN to date has been the very low limit of €400 worth of 'disposable assets' that an applicant can own. The Personal Insolvency (Amendment) Bill 2020,[41] initiated in the Seanad on 16th December, 2020 proposed to increase this limit almost fourfold to €1,500. Despite its initial progress being slow, this Bill has recently been prioritised. On May 13th, 2021 James Browne TD, Minister of State at the Department of Justice moved that the Bill be read a second time and stated that:

> *"I am pleased to have this opportunity to move second stage of the Personal Insolvency (Amendment) Bill 2021. The main purpose of the Bill is to make a number of urgent amendments to the Personal Insolvency Act 2012 which will make it easier for insolvent persons, including those in financial difficulties arising from the economic impact of the Covid-19 pandemic, to avail of the legislation effectively".*

On May 19th, the Bill was passed by the Dáil and went to the President for signature. On the change to the DRN asset threshold, Minister Browne stated:

> *"I'm glad to say that the Bill will also help people on very low incomes, who don't own a property or have any significant assets, and are currently burdened with debts they have no prospect of being able to pay. The Bill removes a potential obstacle to people in this situation availing of a Debt Relief Notice, to help them return to solvency."*

One further and long overdue change brought about by this Bill concerns the removal of a significant barrier to the right of an insolvent debtor in mortgage arrears, whose proposal for a Personal Insolvency Arrangement has been rejected, to appeal that rejection to the Circuit Court.[42] Minister Browne further observed on the wider question of further reforms that:

> *"There are important amendments in this Bill. That is why they had to be brought forward before the more comprehensive reforming Bill, which will be introduced later to help people who find themselves, unfortunately, and through no fault of their own, in very serious financial circumstances as a result of the pandemic. While the government has introduced substantial supports for individuals and businesses, inevitably and unfortunately, some will not make it*

[39] See:
https://www.isi.gov.ie/en/isi/pages/media_&_statistics

[40] For a summary of these proposals, see FLAC Submission on analysing current developments in the resolution of mortgage arrears & related issues and the review of the Personal Insolvency Act 2012 (as amended), August 2017, Pages 33-35.
http://www.justice.ie/en/JELR/FLAC%20Submission.pdf/Files/FLAC%20Submission.pdf

[41] Bill No.76/2020

[42] This change will be discussed in detail in the second paper of this series on the subject of mortgage arrears.

through financially to the other side of the pandemic. That is why these amendments are so important and so urgent. As I said, the Bill responds to real needs across the economy and society and forms part of a suite of amendments, supports and programmes brought in by Government.

This statement is a welcome indication of a greater awareness and sense of urgency that the pandemic has adversely affect the solvency of a number of people and that further changes will be needed to the insolvency regime to help to resolve such cases. However, the 'more comprehensive reforming Bill' to which the Minister refers has been on the agenda for quite some time now, with no apparent explanation as to why it has not materialised.[43]

Recommendation 8:

It is time for a more substantive Bill on personal insolvency to go beyond the planning stage. We recommend that it be prioritised and introduced as a matter of urgency in good time to prepare for any spike in consumer debt that may occur when the economy and society opens up and payment supports are withdrawn.

[43] In response to a parliamentary question (27200/18) from then opposition TD, Michael McGrath (Fianna Fail), then Minister for Justice and Equality, Charles Flanagan TD, in a written answer of **June 21st 2018,** stated that 'my department is currently finalising the section 141 review of Part 3 of the Personal Insolvency Acts' and 'I expect to receive a report from my officials on the review in the coming weeks. In consultation with the Minister for Finance, I expect shortly afterwards to bring proposals to government to address the review's recommendations, including proposals for legislative change'.

1.3 Data on wage supports, the Pandemic Unemployment Payment (PUP) and rates of unemployment

As part of the 2020 July Jobs Stimulus Package, the Temporary Wage Subsidy Scheme (TWSS) was replaced by a new Employment Wage Subsidy Scheme (EWSS) at the end of August 2020, which is (currently) due to run until the end of June 2021.[44] Under this scheme, employers and new firms in sectors impacted by COVID-19 whose turnover has fallen by 30% receive a flat-rate subsidy from €203 to €350 per week depending on the earnings of the employee, including seasonal staff and new employees.

In turn, the COVID-19 Pandemic Unemployment Payment (PUP) is available to workers who have lost their job or have been temporarily placed on lay-off on or after 13th March 2020 due to the COVID-19 pandemic. It is also available to self-employed persons whose trading income has ceased or reduced to €960 over a rolling 8 week period due to COVID-19 after that date. The PUP payment currently remains open to new applications from employees or the self-employed who have lost their income due to Covid and will continue to be paid until 30th June 2021.

Central Statistics Office (CSO) data on rates of unemployment

In addition to the standard monthly figure on unemployment, the Central Statistics Office has since April 2020 published what it describes as:

'An alternative COVID-19 adjusted unemployment measure to estimate the share of the labour force that were not working due to unemployment or who were out of work due to COVID-19 and receiving the Pandemic Unemployment Payment'.

By the end of February 2021, for example, while the standard rate of unemployment had eased quite significantly, the Covid 19 Adjusted Measure of Unemployment (and therefore the number of recipients of the PUP payment) had risen quite sharply:

[44] https://www.revenue.ie/en/corporate/communications/stimulus/employment-wage-subsidy-scheme.aspx

*While the standard measure of Monthly Unemployment was **5.8%** in February 2021,[45] the COVID-19 Adjusted Measure of Unemployment could indicate a rate as high as **24.8%** if all claimants of the Pandemic Unemployment Payment (PUP) were classified as unemployed.[46]* (our emphasis)

The CSO release goes on to explain that:

The lower bound of Monthly Unemployment rates and volumes… are the non-seasonally adjusted estimates for February 2021 based on the standard methodology. These lower bounds are based on the assumption that none of those in receipt of the PUP would have been classified as unemployed if the payment did not exist. (our emphasis)

If all claimants of the PUP were classified as unemployed, the upper bound, or COVID-19 Adjusted Measure of Unemployment indicates a rate of 25.4% for males and 24.0% for females in February 2021. Breaking the results down by broad age group, the new COVID-19 Adjusted Measure of Unemployment is 56.8% for those aged 15 to 24 years and 21.1% for those aged 25 to 74 years.

It is further clarified that:

'The COVID-19 adjusted measure assumes that all those who are in receipt of the PUP would be classified as Employed for the standard measure on Monthly Unemployment and considers them as Unemployed for the COVID-19 Adjusted Measure of Unemployment. This assumption would have held in March 2020 when those who started benefitting from the scheme were required to have lost income from employment to be eligible to receive the payment. The assumption would still hold for new applicants for the PUP but is unlikely to hold now for all recipients given that the scheme has been extended and some recipients would now be in receipt of it for over 11 months'. (our emphases)

In terms of the Employment Wage Subsidy Scheme (EWSS) the CSO release suggests that:

'Those benefitting from the EWSS, having an attachment to their employer, would continue to be classified as Employed using the internationally agreed criteria for reporting on official labour market status'.

Data on Employment Wage Subsidy Scheme numbers (EWSS)

In terms of numbers and use of the EWSS, the Department of Finance recorded in March 2021 that:[47]

The coverage of the EWSS remains significant with 28% of all employers in January (2021) making a claim for that month (36,500 employers). January claims also related to a substantial percentage of the workforce, an estimated 352,100 workers which is 15% of all employees in January. This is proportionally more than were in the EWSS in November (when 23% of all employers and 12% of all employees were in EWSS) and December (when 23% of all employers and 13% of all employees were in the EWSS).

This report adds that:

'The total numbers of workers in receipt of State income supports in January is notable, at 1 million, although it is still less than the estimated 1.2 million supported in May 2020'.

Although it is not specifically stated**,** we assume that this figure of one million includes the combined total number of recipients of either the PUP or the EWSS. In terms of the interplay between the EWSS and the PUP schemes, in March 2021, the Department of Social Protection stated that:

45 Unemployment figures for February 2020, the month before Covid 19 took hold in Ireland, suggested that 125,200 were unemployed, seasonally adjusted as 5% of the Labour Force. By February 2021 that figure has risen to 140,800, seasonally adjusted as 5.8% of the working population. This represents an increase of 15,600, just over 12%. Of additional note is that the rate of unemployment is disproportionately high in young people, with 15.1% of those aged 15 to 24 years old unemployed compared to 4.7% for the 25 to 74 years old age group.

46 https://www.cso.ie/en/releasesandpublications/er/mue/monthlyunemploymentfebruary2021/.

47 Utilisation of the Employment Wage Subsidy Scheme, Department of Finance, 4th March 2021.

The latest Revenue statistical release… also indicates that as of February 18th 2021, 55,200 January EWSS employees appeared on PUP in February. By contrast just 7,000 people moved from PUP to EWSS during January. This is in addition to the 85,900 December EWSS employees who received PUP in January (71,000 PUP recipients moved in the reverse direction during December). In general, the December/ January movements indicate that people may have moved off PUP to EWSS during the limited period of re-opening of the economy during December but moved back to PUP income support in January.[48]

The critical question that arises out of these data, from both a personal debt and an economic perspective is where the rate of unemployment will land when society reopens, when large numbers of employees return to work and the array of Covid related income supports are tapered or withdrawn.

How much closer will it be to the standard measure on Monthly Unemployment, at 5.6% according to the figures available at the end of April 2021, rather than the COVID-19 Adjusted Measure of Unemployment, at 22.4% as of the same date? Equally, a further vital metric will be how many businesses will find it difficult to continue trading without the help of wage subsidies and other subsidies such as the COVID Restrictions Support Scheme (CRSS).[49] On the former question, it is notable that Social Justice Ireland (SJI), in its 'Employment Monitor' published on May 24th 2021, suggested that the rate of unemployment post-pandemic could reach as high as 16.1%. The Monitor further observed that data from the Central Statistics Office shows that 1,225,800 people had their employment impacted by Covid-19. Of this number, almost 246,000 people do not expect to return to their previous job, one in every five.[50]

It is beyond our capacity as a legal rights organisation to provide an expert view on these matters which are difficult to assess and predict in any case, with a number of variables at play. For example, a number of current PUP recipients are in full-time education and therefore would not ordinarily be classified as unemployed and eligible to receive Job Seekers Assistance or Job Seekers Benefit.[51] The CSO therefore suggests that *'this analysis indicates that caution needs to be exercised when interpreting the COVID-19 Adjusted Measure of Unemployment particularly for those aged under 25 years'.* This note of caution seems particularly relevant when it is noted that the composition of the COVID-19 Adjusted Measure of Unemployment percentage wise is far greater for young people; 61.8% for those aged 15 to 24 years compared to 18.4% for those aged 25 to 74 years at April 2021.

In conclusion, it is notable that even the CSO is wary of over-reliance on this data suggesting that:

'Information is not currently available to establish the status of those who are currently in receipt of the PUP based on the International Labour Organisation (ILO) definitions for employment and unemployment. Thus, the CSO have decided to continue with the previous methodology for the COVID-19 Adjusted Measure of Unemployment. It is important for users to note that it is a short-term measure and is designed to be an upper bound rate'.

[48] Statistical Report Labour Market and Trends in the Pandemic Unemployment Payment March 2020 to March 2021, Department of Social Protection, p.4.

[49] See www.revenue.ie. The CRSS was introduced to financially support businesses significantly affected by restrictions introduced to combat the COVID-19 pandemic. The business must have been required to prohibit or considerably restrict customers from accessing their business premises. Generally, this refers to COVID-19 restrictions at Level 3, 4 or 5 as explained in the Government's Plan for Living with COVID-19.

[50] Social Justice Ireland Employment Monitor, Issue 9, ISSN 1649-4954, May 24th 2021.

[51] The CSO reports that the *'Department of Social Protection (DSP) have supplied supplementary information on whether PUP recipients were in full-time education when asked to certify their status on the MyWelfare.ie service. While it should be noted that this information is not complete, it is estimated that at least 8.1% of all recipients of PUP since last March were attending full-time education at the time of certification. For those aged 25 years and over this could be as low as 1.3% while it is at least 33.1% for those aged under 25 years'.* See:https://www.cso.ie/en/csolatestnews/pressreleases/2021pressreleases/pressstatementmonthlyunemploymentmarch2021/

1.4 Potential redundancies and the risk to household finances

Notwithstanding these quite reasonable cautionary notes, it is still of great concern that the COVID-19 Adjusted Measure of Unemployment stood at between one-quarter and one-fifth of the Labour Force at the time of writing, the end of April 2021. While the percentage of young people within this cohort is greater and young people are perhaps less likely to be involved in credit agreements and therefore to potentially have debt repayment issues, there are still a significant number of people – almost one in five – either unemployed or in receipt of the PUP who are aged between 25 and 74. Some of these will have mortgages, others will have rental obligations in private rented or public housing accommodation and many will have unsecured debt obligations, such as car loan repayments or credit card balances, as well as ongoing utility bills, some of which may be in arrears.[52]

How many of these persons are in financial difficulty as it stands and how many will encounter further or new payment problems down the line? A lot will depend on the decisions their employers make over the next six months and more. Thus, it is sometimes easily forgotten, but vitally important to understand, that many current recipients of the PUP payment are not strictly speaking unemployed; in fact many are still, theoretically at least, on temporary lay-off, and have not as yet permanently lost their jobs or been made redundant by their employer.

What is not clear is the relevant number, as there does not appear to be a separate figure within the PUP figures that isolates continuing lay-offs. Indeed, in this regard, the pandemic has served to accentuate an ongoing flaw here in the employment rights architecture. There is no compulsory documentation in place that an employer must serve upon an employee when placing that employee on lay-off, despite lay-off being prescribed and defined in the redundancy payments legislation. A document called the RP9 form may be used by an employer, but despite the legislation providing that the employer must give notice (but not written notice) of lay-off,[53] the use of the RP9 is still not mandatory.

This omission is much more than an inconvenience and has had profound impacts on a number of workers during the pandemic, as illustrated by a number of queries to FLAC's phone line over the past 12 months. Some callers have reported being left completely in the dark by their employer with no paper trail of any kind, while it comes to their attention that some of their colleagues have been called back and have returned to work. There have also been instances where callers have suggested that their employer has hired new staff to do their jobs with no notice, consultation or explanation.

A further important context here is that employees in a lay-off situation are still currently legally precluded from claiming a (limited) redundancy lump sum they could normally have chosen to claim after a period of four continuous weeks' lay-off, as a result of measures enacted by the government in emergency legislation at the beginning of the pandemic, further extended at present until the end of June 2021.[54] **It is regrettable therefore that the opportunity was not also taken to make the RP9 mandatory at the same time to protect the interests of employees in such vulnerable situations.**

[52] According to the Commission for Regulation of Utilities (CRU), over 240,000 household electricity customers - and almost 113,000 household gas customers - had fallen behind with bill payments as of February this year. 'Families and employers face mounting arrears on electricity bills: Regulator to lift ban on electricity and gas disconnections from June', *Irish Times*, 12th May 2021.

[53] Section 11 (1) of the Redundancy Payments Act 1967 provides: '*Where an employee's employment ceases by reason of his employer's being unable to provide the work for which the employee was employed to do, and—*
(a) it is reasonable in the circumstances for that employer to believe that the cessation of employment will not be permanent, and (b) the employer gives notice to that effect to the employee prior to the cessation, that cessation of employment shall be regarded for the purposes of this Act as lay-off.

[54] See Section 29 of that Act amending Section 12 of the Redundancy Payments Act 1967 by the insertion of a new Section 12A as follows: *'Section 12 shall not have effect during the emergency period in respect of an employee who has been laid off or kept on short-time due to the effects of measures required to be taken by his or her employer in order to comply with, or as a consequence of, Government policy to prevent, limit, minimise or slow the spread of infection of Covid-19'.*

Recommendation 9:

We recommend that it is made compulsory for an employer placing existing staff on temporary lay-off to use the RP9 form and that the Redundancy Payments legislation be amended to this effect at the earliest opportunity.

Should a number of these lay-offs ultimately result in redundancies, the loss of income in terms of the differential between the current PUP rate and Jobseekers Benefit/Allowance for those who may lose their jobs is very marked. For example, a person on the PUP who has been earning an average of over €400 per week when at work is entitled to a payment of €350 per week (though there is no payment for adult or child dependants). The equivalent Jobseekers Benefit payment for a person who had been earning €300 or more per week is currently €203 per week (with additional adult and/or child dependent rates).

The implications may be similarly troubling for employees who are still currently in work but whose employer is being supported to pay their wages through the employment wage subsidy scheme, or who are employed in businesses whose premises are closed to customers or whose operations are substantially restricted due to COVID-19 restrictions and who are therefore availing of the COVID Restrictions Support Scheme (CRSS). There may also be costs implications for the relevant employers who are legally obliged to meet in full the cost of redundancy lump sums.[55] All in all, the prospect of a number of businesses finally closing their doors after a long struggle to survive the pandemic is unfortunately very real.

One firm of solicitors has suggested as far back as September 2020,[56] that the number of redundancies from June to August 2020 was up 240% when compared to the same quarter in 2019 and that this was *'likely to be a key indicator of things to come over the next few quarters'.* It went on to suggest that:

> *'As the Pandemic Unemployment Payment (PUP) levels are reduced and emergency provisions are lifted, there will be pressure on employers to either take staff back onto the payroll or make them redundant. At the end of August (2020), there were 225,000 employees out of work supported by the PUP scheme. While the initial take back rate by employers was in the order of 7,000 individuals per week, recent figures show that the number of people availing of the PUP has increased again following the reintroduction of restrictions in certain counties. As a result, going forward there is likely to be a significant cohort of these individuals who will ultimately be made redundant.'*

and

> *'The previous peak year for redundancy was in 2009, when 77,000 applications were processed through the Redundancy Payments Scheme. In that year the claim numbers averaged over 6,000 per month, or 10 times August 2020 levels. Based on the PUP continuing until April 2021, we are unlikely to see the full impact on redundancy claims until this temporary support ends.*
>
> *Nevertheless, recent trends suggest there could be over 2,000 claims per month from December this year onwards, with a massive spike then coming in May 2021 when the PUP support ends. Taking into account the numbers currently receiving the PUP payment, and the likely rate of people returning to work, a rough estimate would still see 100,000 redundancies taking place after April 2021.'*

This was of course speculation and is based on an assessment made over six months ago. It was also based on an assumption that the PUP payment would cease around the end of March, but at the time of writing, it is extended to the end of June 2021 and may be further extended. However, it is also notable that the number of claimants in receipt of the PUP payment is far greater now than it was when this assessment was made.

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[55] An employer used to be entitled to a rebate from the State of 60% of the statutory element of each lump sum payment, provided the requisite notice had been given to the employee. However from January 1st 2013, the employer statutory redundancy rebate was abolished.

[56] See www.crowe.com - COVID-19 redundancies could cost Irish Exchequer €500 million - 30/09/2020.

1.5 Vulnerable Sectors

In terms of vulnerable sectors, the Central Bank of Ireland Quarterly Bulletin for Q.1 2021 broadly summarised the economic picture as follows:[57]

> *'The evidence from the period since the outbreak of the pandemic indicates that the hardest hit sectors, and the ones which have been slowest to recover, have been those which are more contact-intensive, or involve crowds or travel. In many of these sectors, activity has remained weak, even during periods of re-opening, in contrast to sectors such as wholesale and retail, which have tended to experience strong rebounds on reopening. This suggests the potential for more persistent effects from the pandemic in some sectors. In addition to hesitancy by consumers to re-engage in some activities, the very sharp rise in the savings rate, which has occurred since the Spring, points to broader precautionary behaviour on the part of households. While the damage to household incomes from the pandemic has been mitigated by the provision of large-scale income supports, household deposits have soared, pointing to higher precautionary saving, in addition to the impact of reduced opportunities to spend. How these savings are used will be important in shaping the recovery from the current downturn'.*

Speaking virtually at a recent event to the Whitaker Institute, National University of Ireland, Galway on 30th March 2021, Deputy Governor of the Central Bank, Sharon Donnery observed:

> *'While sobering in their own right, the aggregate COVID-19 adjusted unemployment numbers only tell a partial story, and the pandemic has affected some workers more than others. The impact by region, skill, gender, age or incomes – reflects the concentration of those groups in the sectors that have been subject to varying levels of the necessary health restrictions. Speaking in NUIG, many of you will no doubt be aware of some of the regional effects associated with the challenges faced by consumer facing sectors such as tourism and accommodation…….'*[58]

It is by now quite obvious that the effects of the COVID induced economic downturn have been uneven and have impacted more profoundly on small business owners and employees on comparatively low incomes working in sectors subject to restrictions and peaks and troughs of consumer spending, while many (though by no means all) in more secure businesses or employment appear largely unaffected financially and may even have set aside significant savings during this time.

If this is correct and given that many people may have put off facing their financial difficulties, it raises the question why the relevant state agencies have not reached out to people, now rather than later, who may, through no fault of their own, be facing over-indebtedness and potential personal insolvency in the future. If we know the sectors that are the most vulnerable, the State - through MABS and other relevant agencies - should be encouraging people who work in them and who are in financial difficulty to seek help now. General advertising campaigns for services such as MABS, Abhaile and the ISI are useful, but need to be supplemented by more targeted, awareness raising initiatives relating not just to service availability but to consumer/debtor rights and options.

Recommendation 10:

We recommend that the responsible agencies of State — and the advice services funded through it — engage in a co-ordinated, targeted awareness campaign to advise those in vulnerable employment sectors of their rights and options as consumers/debtors and the services available to support them.

[57] https://www.centralbank.ie/publication/quarterly-bulletins/quarterly-bulletin-q1-2021, See page 6.

[58] 'Beyond the Aggregates: The Diverse Effects of COVID-19 on Employment, Income & Savings' Deputy Governor Sharon Donnery, Speech, 30th March 2021. https://www.centralbank.ie/news/article/speech-deputy-governor-sharon-donnery-NUI-30-Mar-2021

Vulnerable sectors and payment supports

The Department of Employment Affairs and Social Protection (DEASP) reported on January 11th 2021 that: [59]

- 398,206 people were in receipt of the Pandemic Unemployment Payment (PUP) at the end of the previous week.
- The sector with the highest number of claimants was Accommodation and Food Service activities (106,387), followed by Wholesale and Retail Trade (65,300) and Administrative and Support Service Activities (34,459).
- The sector that had seen the highest increase in claimants that week was Wholesale and Retail, followed by the Construction sector which had seen an increase from 23,080 to 32,151, following the imposition of restrictions that took effect the previous Friday evening.

By 26th January, 2021, two weeks later, the number of recipients had swelled to 475,364. Close to half this increase was attributable to the construction sector, as had been predicted, where the numbers almost doubled in a fortnight from 32,151 to 61,159, due to the closure of a number of further sites. However, other notable sectors climbed significantly as well:

- Accommodation and Food Service activities from 106,387 to 111,569;
- Wholesale and Retail Trade from 65,300 to 75,861;
- Administrative and Support Service Activities from 34,459 to 40,857.

Together these four sectors accounted for over two-thirds of the increase of over 77,000 applicants. **Notably, these sectors with the highest numbers of existing PUP claimants and new claimants correlate to an extent with data provided by the CBI in its research report on the profile of those who had sought payment breaks on their family home mortgages, in terms of the sectors where the borrower was working**.[60]

It is conceivable that a number of such borrowers who have availed of a payment break are still in receipt of the PUP payment and may therefore have encountered difficulties in returning to full payments. Others may have gone into arrears or may already have been in arrears and had an existing payment arrangement in place, short of the original contractual obligation.

In terms of the Employment Wage Subsidy Scheme (EWSS), it is also notable that the sectors where employers sought most assistance to help to pay wages closely mirrors the sectors which had the largest number of PUP claimants. This would also help to explain the movement from EWSS to PUP and vice versa in early 2021. The four largest EWSS claim categories as of February 2021 were as follows:

- Wholesale and Retail Trade – 19%
- Accommodation and Food – 16%
- Construction – 12%
- Manufacturing – 11%

The latest DEASP PUP figures at the time of writing are those of May 4th 2021 and are summarised as follows:

- 385,211 people were in receipt of the Pandemic Unemployment Payment.
- This figure is in addition to 183,096 people who were on the Live Register at the end of March.
- The sector with the highest number of recipients was still Accommodation and Food Service activities (99,140), followed by Wholesale and Retail Trade (63,361) and Construction (37,437).

[59] Department of Social Protection (2021). 'Update on Payments Awarded for Covid-19 Pandemic Unemployment Payment and Enhanced Illness Benefit', *Press Release*, 11th January 2021: https://www.gov.ie/en/press-release/38143-update-on-payments-awarded-for-covid-19-pandemic-unemployment-payment-and-enhanced-illness-benefit/

[60] Paper 3 in this series will examine the CBI data on payment breaks in detail.

- 12,692 people closed their PUP claims stating that they were doing so because they were returning to work.
- 177,753 of these claimants were in receipt of the full payment of €350.

Comparing the basic figures for January 26th with those of May 4th, an interval of approximately 14 weeks, it is apparent that the situation has improved, but remains of concern:

- The number of PUP recipients is down from 475,364 to 385,211 an overall decrease of 90,153 (19%) over the period.
- Accommodation and Food Service activities (99,140), followed by Wholesale and Retail Trade (63,361) and Construction (37,437) are still the three largest categories and account for 199,938 claimants. Note, however, that these three sectors account for only just over half (52%) of the total number, indicating that the pool of claimants is still widely spread across all affected sectors. It is also worth noting that these three sectors together account for of a fairly similar percentage of EWSS claims.
- Professional, Scientific and Technical Activities; Arts, Entertainment and Recreation; Transportation and Storage; Education; and Human Health and Social Work Activities all contain significant numbers of claimants in five figures.

1.6 Summary

At the time of writing, the rollout of Covid 19 vaccines is now moving with greater speed through the various age cohorts, having been through some initial teething problems both from a supply and an infrastructural perspective. As inoculation becomes more widespread, a timeline for the planned reopening of non-essential retail businesses, hotels, hospitality outlets and restaurants and bars serving outdoors has been published and has started to roll out, and the Government has said that once it reaches a critical mass of vaccinations, it will give consideration to resuming indoor hospitality in restaurants, bars, nightclubs and casinos. It is to be hoped that a further substantial number of employees in receipt of the PUP payment who have been on lay-off will therefore return to work relatively quickly.

On the positive side, widespread inoculation should lead in time to a substantial boost in economic activity and spending, particularly amongst those who have been lucky enough to maintain their income during Covid, and it is clear that many will have accumulated savings arising from this period. This may help to ensure a better survival rate for some struggling businesses and a reduction in levels of redundancy for staff employed by those businesses. On the negative side, some businesses may simply not re-open and others may re-open on a scaled down basis, leading to further difficult decisions being taken on the compulsory redundancy of employees,[61] in addition to cases where that decision will already have been made. There are also of course some concerns that the reopening may not go as smoothly as anticipated.

Closely aligned to the potential survival of these jobs and businesses is the critical question of

[61] To qualify for the PUP, a worker must have lost his/her job or been temporarily laid off because of COVID-19 or be self-employed and his/her trading income has ceased due to the COVID-19 public health emergency or his /her trading income has collapsed to the extent that s/he is available to take up other full-time employment. A person does not need to de-register as self-employed to get a payment. See: https://www.citizensinformation.ie/en/social_welfare/social_welfare_payments/unemployed_people/covid19_pandemic_unemployment_payment.html#

how long the employment wage subsidy scheme and other subsidies will last, once a critical mass of vaccinations has been reached. It seems unlikely that these subsidies will be tapered or removed until a critical inoculation point has been reached and it is conceivable that limited support for businesses and impacted employees may continue for some time thereafter. Its withdrawal when it comes may however also cause further redundancies.

The future of the PUP payment seems considerably less certain and the implications of the PUP coming to an end may be quite significant from a consumer debt perspective, given the reduction in income that it will cause for many recipients, pending a return to work in the future.

As time has passed over this extremely difficult period, the context has changed frequently and the assessment of future consequences has ebbed and flowed. In terms of forecasts of future over-indebtedness, a pattern of sorts can now be argued to have developed and settled. A significant number of people remain financially unaffected by the pandemic and these would appear to be people on comparatively higher incomes, working in sectors where demand is not significantly affected by Covid restrictions. Specific sectors where demand for products or services has been devastated by the pandemic are identifiable and large numbers of people employed in these sectors are still either in receipt of the PUP or their employer is in receipt of EWSS payment to help pay their wages, and there is also some significant overlap between these two categories.

Perhaps the clearest signal yet of the problems looming into view with the opening up of society came from the Governor of the Central Bank, Gabriel Makhlouf, recently addressing an online event organised by the University of Limerick who was reported by the *Irish Times*[62] as stating that:

> *"While [Government] policy choices have led to an avoidance of widespread insolvency up to now, it is an unfortunate reality that the effects of the pandemic on SME balance sheets, combined with structural changes that have either been created or exacerbated by it, mean that some SMEs will be unviable" .*

> *"It would be a mistake to continue with protection and forbearance in perpetuity, just as it would be wrong to allow all companies making losses currently to fail".*

The owners of the SME's that are, or may prove to be, unviable doubtless have loan obligations, both business related and personal. Those businesses will also have many employees who have an array of financial commitments that were sustained by their previous incomes. Other SME's in turn may significantly rely upon those businesses for their own survival. It is hard to escape the conclusion therefore that we face a new personal debt and insolvency challenge at a point where we have still to properly resolve the last one. How serious it may be is a matter of conjecture and the data to hand is far from conclusive.

Nonetheless, there are legitimate fears that some borrowers may fall victim for a second time to events beyond their control and will have financial obligations in train that they simply will not be able to meet. Others face a potential situation of financial insolvency for the first time. The implications for the money advice support infrastructure, for the personal insolvency regime and for the legal system are potentially considerable. Intervention by the State to prepare for and minimise such adverse effects is essential now, both in terms of the services to assist and support indebted people and the infrastructure to resolve insolvency.

[62] 'Central Bank says survival prospects of many Covid-hit firms "highly uncertain": Gabriel Makhlouf says the Government is facing difficult choices over whether to continue supports', *Irish Times*, 19th April 2021. See: https://www.irishtimes.com/business/economy/central-bank-says-survival-prospects-of-many-covid-hit-firms-highly-uncertain-1.4541430

The fact that we are still attempting to understand and resolve a decade old consumer/household debt crisis as another may be developing, tells us much about policy failures over that period, and warns us that we should not allow recent history to repeat itself.

Recommendation 11:

We recommend that an audit of the existing regulatory and statutory debt resolution frameworks, and an assessment of the state-funded services put in place to access them, is urgently required to ensure that both existing and new personal debt cases arising out of the pandemic are resolved in a manner that respects the dignity of the consumers involved; further, that mechanisms are put in place to evaluate the progress that is being made in this regard on an ongoing basis.

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