

# **MABS Submission to Central Bank's Review of the Consumer Protection Code**

**MABS PUBLIC DOCUMENT**

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## Document Information

<b>Short description</b>	This document was prepared in response to a call for submissions issued by the Central Bank of Ireland on its review of the Consumer Protection Code (CPC).
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## Introduction

The Money Advice and Budgeting Service (MABS) very much welcomes the Central Bank of Ireland (CBI)'s review of the Consumer Protection Code (CPC). This review is necessary and quite timely, in particular due to the current financial climate and the rapidly evolving nature of how persons are engaging with financial services. The Central Bank has a statutory mandate for consumer protection, and all of the domestic and EU rules falling within its remit must be interpreted against the objective of ensuring that the 'best interests' of the consumers are protected. As a frontline service that provides direct money and debt advice to consumers facing financial hardship, we unreservedly support this objective.

Established in 1992, the Money Advice and Budgeting Service (MABS) helps persons to cope with personal debt and take control of their own financial wellbeing. It is a free, confidential and independent service that operates from over 60 offices nationwide. MABS is funded and supported by the Citizens Information Board. There are currently 10 Companies in the MABS network – 8 Regional Companies (North Dublin MABS, Dublin South MABS, North Connacht & Ulster MABS, North Leinster MABS, North Munster MABS, South Connacht MABS, South Leinster MABS and South Munster MABS), National Traveller MABS and MABS Support CLG.

MABS Support CLG is dedicated to the provision of supports to the regional staff in the MABS network and providing specialist expertise on a range of areas including: learning and professional development, training, case management and technical support, social policy and research, community education and financial inclusion.

MABS approaches this submission, as it does its casework, from a holistic perspective that aims to reflect on the full picture and the full range of factors that impact on the clients we support. MABS target group has traditionally been low-income households; however a significant shift had occurred over the last 12 years with MABS supporting more households in employment, with multiple debts and larger debts. Over the past 12 months, our major concerns have been with the impact of the rising cost of living on MABS clients, regardless of their income level, and the consequence this has had on their spending, decision-making and ability to repay current debt obligations.

In our submission, we endeavour to shed light on how the work of MABS intersects with the nuanced relationship between consumer and financial service, and how certain products,

such as hire purchase agreements, PCPs, online-only loan verification processes, and ‘Buy Now Pay Later’, while allowing ‘easy’ access to credit, can have complications, for instance in terms of ‘suitability’. It is also imperative that new types of loan products and the activities of non-banking entities, including credit servicers and credit purchasers, are subject to further regulation as required. Recent developments in the Irish banking sector, such as the withdrawal of Ulster Bank and KBC and resulting consolidation of the retail banking market, have also had an immense impact on Irish consumers. MABS and all frontline service providers who work with clients at local level offer a unique perspective into this impact, in particular for those who are traditionally categorised as ‘vulnerable’ and financially excluded.

We base our submission to the Central Bank’s Review of the consumer protection code on the experiences and expertise of MABS frontline staff, including Money Advisers and Dedicated Mortgage Advisers (DMAs). Our objective and perspective is always to support those outcomes that best serve the needs and circumstances of MABS clients.

We also further endorse having a robust financial services sector with entities that recognise the crucial role of MABS, as the state-funded Money Advice and Budgeting Service, in supporting households in Ireland, and engage with MABS staff in an appropriate and timely manner as we seek to support households facing situations of income inadequacy and over-indebtedness.

In this submission, we address the following key questions as outlined in the Central Bank’s Discussion Paper on the Consumer Protection Code Review:

- Theme A: Availability and Choice
- Theme B: Firms Acting in Consumers’ Best Interest
- Theme 2: Digitalisation
- Theme 3: Unregulated Activities
- Theme 4: Pricing Matters
- Theme 5: Informing Effectively
- Theme 6: Vulnerability
- Theme 7: Financial Literacy

Please note, that we have not provided responses for questions posed under ‘Theme 1: Innovation and Disruption’ and ‘Theme 8: Climate Matters’, as these questions are outside our remit and area of expertise at MABS.

It is important to note that this submission is a follow-on to the meeting between MABS representatives and Michael Hennigan (Head of Function, Consumer Policy & Research) and the Consumer Protection Code review team at the Central Bank on the 16 March 2023. We thank you for taking the time to consider our submission, and we welcome any opportunity to engage further with the Central Bank on the issues highlighted.

## **Broad Theme A: Availability & Choice – Effective Market Functioning**

### **Q. What are your views on the availability and choice of financial services and products for consumers?**

The financial services sector for consumers plays a pivotal role in providing services that are fundamental to supporting the financial wellbeing of persons and families across Irish society. It is therefore essential that all persons living in Ireland have access to suitable and affordable financial services as required. This should be the case regardless of where they live, their ethnic background, their income level, their household type, their employment status, their age, their health, whether or not they are in receipt of social welfare supports, whether or not they have a disability, their education level and/or their skills using digital technologies.

In our response to this question, we explore specifically the availability and choice of financial services and products for consumers in terms of four main areas that are of particular relevance to us at MABS: (1) Retail Banking, (2) Savings, (3) Small loans and affordable credit, and (4) Protecting cash.

#### **1. Retail Banking**

MABS has a number of concerns in terms of retail banking options and the limited choice for these services in the Irish context. For full details, including information on loans sales to non-banking entities, please see our Submission to last year’s [Retail Banking Review](#).

In recent years, the retail banking sector has been driving their offerings through digitalisation, and the closure of main street branches during the Covid-19 pandemic serves as a testament to this policy. The sector is consolidating its services into main centres accordingly, with a number of smaller towns around the country now without a branch of any bank. This is of concern to us at MABS as the rapid development of digital-only services further exacerbates the 'digital divide' and creates additional vulnerabilities for consumers. In addition, MABS has concerns about certain consumers, particularly those who live in rural areas, who face an increased risk of financial exclusion with the lack of banking branches in some small towns. The inexorable shift from physical banking to technology presents further dangers in this regard. Issues such as accessing public transport services in their localities further exacerbate the challenges these consumers encounter.

Over the next 10 years, we expect to see further closure of in-person services and local branches of all three remaining "pillar banks" (PTSB, Bank of Ireland and AIB). As such, any new entrants to banking will have a very limited, if any, branch network and local banking options. Consumers, particularly those under 30 years of age, will increasingly look to use new digital providers for day-to-day banking, personal loans and ultimately mortgage lending (subject to licensing by Regulators). In addition, consumers in age categories of over 30 years may continue with traditional providers or move towards digital banking options, in particular those that have switched or are switching from Ulster Bank and KBC. Other consumers, in all likelihood, will also increasingly move their personal banking business to Credit Unions and An Post banking options.

In light of this landscape, MABS supports the continued rollout and promotion of the 'Basic Bank Account' by mainstream banks, as well as Credit Unions and An Post. Credit Unions and An Post also need to be regulated in order to allow them to compete on a level playing field with retail banks across all areas of the financial sector, from current accounts to mortgages. In addition, not all local post offices offer the same banking facilities for AIB and BOI customers. For example, some do not allow cheque lodgements. In the absence of bank branches in many towns and villages, there needs to be a standardisation of banking facilities in post offices. Digital banking providers also need to be further regulated so that the onus is on them to be fully aware of the capacity and vulnerability of consumers when assessing loan applications.

In terms of retail banks, MABS has direct experience of long waiting times when contacting banks. Clients have reported frustrations of not being able to reach someone in banks over the phone and MABS advisers have direct experience of this. [A January 2023 BPFi survey](#) revealed that 13% of customers have yet to switch from KBC and Ulster Bank. MABS front line staff report that some clients still grapple with the emotional and physiological toll of having to move bank accounts after so many years. The legacy of the difficult and challenging experience persons had (and still have) as they struggled to switch bank accounts is yet to be fully realised. MABS welcomes the Central Bank's monitoring of this area of poor customer service.

We are concerned that bank complaints are often not dealt with within the times set out in the Consumer Protection Code and we would welcome a review of retail bank and credit servicing firm's complaints and arrears handling procedures.

Furthermore, the Financial Services & Pensions Ombudsman (FSPO) process can see delays of up to two years and in our view, this is not an efficient or sufficiently resourced system for the aggrieved customer attempting to resolve a complaint.

## 2. Savings

We recognise that there are a number of savings vehicles in Ireland – from Banks, An Post, credit unions, Community Savings clubs, Savings stamps in prominent retailers and new digital providers. However, a government-backed scheme for low-income persons would be favourable to counteract the high number of households with little to no savings.

[Surveys](#) have consistently shown that a substantial section of the population have low levels of savings (in particular long-term savings and retirement) and low financial resilience to weather negative financial shocks. At MABS, we see the impact having little savings has on households. We would support the introduction of a savings incentive scheme, similar to the ['Help to Save'](#) initiative in the UK, targeted at those who are low-income and reliant on social welfare. The Government could be the lead partner in this with the banks, credit unions and An Post. Also the CCPC 'nudge and boost' strategy should be encouraged by the government and used as part of this initiative.

In addition, financial resilience or the lack thereof has been highlighted by the current cost of living crisis. Not only is a savings incentive scheme required, but we would also advocate for



a community/Government subsidised insurance scheme, primarily for contents only insurance (specifically targeting tenants, both social and private/HAP recipients). We find that many clients approach MABS who face insurance exclusion, and this is particularly relevant for members of the Irish Travelling community.

### 3. Small loans and affordable credit

At MABS, we regularly make recommendations towards the expansion of low-cost and affordable credit options for our clients. MABS supports clients in a range of circumstances and with a variety of needs. For example, for clients with mortgage arrears, their options for credit are extremely limited. While this is understandable in one sense, access to credit is still at times necessary, and therefore there should be more 'suitable' options available. Overall, we would support increased offerings of regulated, low-cost credit options with a limit in the current market. We would propose, for example, that all mainstream financial institutions should be required by the Central Bank to provide micro-finance to personal customers under their Corporate Social Responsibility and as a response to the dangers presented by illegal moneylenders.

MABS has concerns in relation to the vacuum created from Provident Personal Credit [leaving the Irish market](#) and restricted access to credit and small loans for those who are financially excluded. In particular, credit worthiness and suitability for loans when using 'Buy Now Pay Later' (BNPL) or catalogue credit agreements when purchasing clothes, furniture or white goods poses a risk of over indebtedness and the possible inability to meet existing debt repayments to other lenders. Often these purchases are completed online without the realisation that one is entering into a credit agreement and there is currently no duty on the lender, under the Credit Reporting Act, to access information on the Central Credit Register if the amount of the loan applied for is below €2,000.

We are seeing a sharp increase in the use of these products in local MABS services, in particular in Q1 2023. We are concerned with how very little is needed to be spent to avail of a BNPL product, and that certain lenders are not subject to register credit arrangements of €500 and over on the Central Credit Registrar (CCR) under the Credit Reporting Act (2013) due to the nature of their fee charging structure.

In addition, in the event of default on BNPL loans and catalogue credit, these debts are oftentimes outsourced to debt collection agencies on behalf of the lender. These creditors are some of the hardest for MABS Advisers to liaise with on behalf of clients in order to seek arrangements, as they are slow to respond and may not acknowledge calls or emails from MABS Advisers. This is further complicated with a collection agency that is not based in the Republic of Ireland. For example, a MABS client presented at a local service with an online catalogue debt for goods purchased in the Republic of Ireland that was being serviced by a debt collection agency based in the United Kingdom. The MABS Adviser sent five letters to the agency on behalf of the client with no response. The agency then contacted the client directly, thus circumventing the MABS process. The MABS Adviser then issued another email, stressing the importance of working with MABS to put a repayment arrangement in place. To date, there is still no resolution for the client.

With inflationary and cost of living pressures, many persons are using these services to purchase essential household items and clothes on credit. We expand upon this issue throughout our submission, but recognise that the 'Buy Now Pay Later' option of spreading out payments and/or the high cost of catalogue shopping will be very tempting for those who are struggling financially. It is essential that these services are advertised properly and clearly as 'loans' and 'credit products'.

#### 4. Protection of cash

The final area we would like to address in our response to this question is in terms of access to cash. In our view, access to cash should continue to be protected in Ireland, [as cash is essential for the inclusion](#) of socially vulnerable citizens. In addition, there needs to be protections and regulations when it comes to accessing cash at ATMs – more often than not, the minimum amount available to withdraw is €50, other countries offer €10 notes in their ATM machines. This is a particular concern for families on low incomes who may not have €50 in the account to withdraw but need access to cash.

It is important to note that when consumers pay with cash (in particular for utilities and other related costs) they oftentimes end up paying more for the same services and products – for instance, those reliant on cash would not be able to access cheaper online deals or discounts for direct debit/online payments. Basic bank accounts with free contactless payment debit

cards (up to a limit) would be attractive to many consumers and would facilitate financial inclusion. The Government and all financial institutions should collaborate to enable access to Basic Bank accounts and subsequently embark on a public educational campaign to encourage cashless payments. At the same time, access to cash should be protected.

**Q. How important are new providers and new delivery channels to serving consumers' financial needs?**

In response to this question, we acknowledge that the 'new providers and new delivery channels' being referenced are those predominately of a digital/ online-only nature. In respect to this product range and features, there is not, in our view, an acceptable level of choice for consumers. We want to stress that not all consumers are proficient in digital technologies and the use of in-person financial services should be protected and appropriately resourced.

We would posit that existing products, such as [the Basic Bank account](#), has great potential to be used as a gateway product for persons who struggle with online technologies and to support unbanked persons to become banked. As stated above, recognition of this potential by the Central Bank followed by sustained promotion/marketing in conjunction with the retail banks would be welcome.

At MABS, one major concern we have with new providers is that we find that many of these firms actively look for ways to 'entice' people into credit agreements – and may not at times advertise these agreements as such. Apps and digital services are issuing a number of unsolicited notifications onto people's phones and this can further tempt persons into entering arrangements that may/may not be the most suitable for them. This is an issue across the retail sector, for instance [research from the CCPC](#) published in December 2022 found that almost 50% of commercial content on social media was not labelled as 'advertising' in any way.

It is important to note that MABS has noticed an appreciable and accelerating change in the financial landscape, with the service now regularly supporting borrowers with credit types that originate outside of the main financial institutions. MABS has years of experience working with non-banking entities, in particular in the area of hire purchase. This has occurred in four main ways:

- (1) 'by default as by design' with a cohort of MABS clients having always been reliant on hire purchase as a core source of credit;
- (2) another cohort who are 'distanced/disjointed' from bank-borrowing arising out of loan sales;
- (3) a cohort who have been driven towards non-bank borrowing due to the effect of bank closures and exits;
- (4) a final group who have always looked to access other lines of affordable credit as a lifestyle choice.

According to MABS frontline staff, rarely do the groups highlighted above consider the regulatory status of the credit provider when making a decision to access credit. It is usually when there is a problem that most consumers interrogate the related 'fine-print' and the associated implications for them. These are the circumstances that lead these consumers to approach the MABS service.

**Q. In implementing its consumer protection mandate, how should the Central Bank reflect the importance of competition in its regulatory approach?**

At MABS, we support competition, in particular where it broadens access to necessary and affordable financial services, including credit. However, it must be accompanied by appropriate regulation to ensure that all consumers are informed in [Plain English](#) about all aspects of the finance [from the outset](#). Creditors should also readily communicate with borrowers that they have rights and can exercise their rights if necessary.

Enforcement of regulations, based on consumer experiences, is also important and necessary. Firms should be held to account if they are not meeting the needs of consumers. At MABS we are oftentimes in a unique position to see when firms are acting in a manner that causes additional hardship to clients. Clients approach our service with many debts, attributable often to loss of employment, bereavement, illness, or relationship breakdown. Even with MABS assistance, it is often immensely emotionally and administratively difficult for such borrowers to start to navigate a system that imposes different rules under different legislation, regulations and Codes. The goal should be to ensure as much clarity/transparency, simplicity and accessibility as possible in reviewing/updating the Consumer Protection Code.

We would also support firms' allocation of resources for appropriate staffing and staff training to ensure that employees of financial services understand the MABS process and how we support clients facing difficulties. We are very open to engagement with all creditors on this.

## Broad Theme B: Firms Acting in Consumers' Best Interests

**Q4. Do you agree that the Central Bank should develop guidance on what it means for a firm to act in the best interests of its customers?**

- **Agree**
- Disagree
- Not sure

MABS Response: Agree

**Q. Does the suggested outline of "customer best interest" guidance capture the essence of the obligation to act in customers' best interests?**

- **Yes**
- No
- Not sure

MABS Response: Agree

## Theme 2: Digitalisation

**Q. Do you agree with our analysis of the benefits, challenges and risks around digitalisation in the area of financial services? What are the key issues for you?**

Yes, the consultation paper clearly identifies the benefits, challenges and risks around digitalisation. Our biggest concern at MABS is the how digital exclusion intersects with financial exclusion, as we would have a number of clients accessing our services who have unmet digital literacy skills.

With fewer high street banks present in towns and cities, and the increased digitalisation of banking, many in society are facing increased financial exclusion. For example, access to hardware and appropriate devices can be an issue. Some MABS clients would not have access to personal computers or laptops at home, and mobile banking apps do not always offer the full suite of digital banking services (for instances, many do not issue bank statements).

In addition, we have seen a number of issues concerning ‘Strong Factor Authentication’ when clients make online payments. While this feature in online and mobile banking helps customers combat security and fraud, it can be a barrier for a sector of the population who struggle with technology and especially changes in technology. Whereas before a person may have mastered the task of making an online payment, now they have to fulfil an extra layer of security with Strong Factor Authentication.

This is just an example of how changes in digital banking can affect a customer. We see a strong role for the central bank in regulation, education and monitoring of digital banking, and bridging the gap between those who can afford, and have the skills to properly use, FinTech products, versus those who do not.

Recently, MABS Money Advisers have flagged how their clients have faced difficulties navigating public websites (such as MyGov.ie, Central Credit Register). Accessible public information is essential for the realisation of full literacy, as highlighted by the Department of Education’s Literacy for Life Strategy (published in July 2021). In terms of digital exclusion, reports highlight that an estimated 11% of adults were not using the internet in 2020 – of this cohort 25% are aged 60-74, and more than half (56%) are aged 75 plus. It is important that this group (and in particular older persons) is not left behind in the movement to increase online service delivery, and that everyone has access to the resources and support they need.

For example, those with low digital literacy (or who do not want to use online banking services) should be able to access paper statements free of charge, and not face a barrier to accessing them in a bank, and they arrive in a timely and efficient matter. MABS staff regularly see issues with this when clients are applying for benefits, grants and/or when seeking an alternative payment arrangement for their mortgage.

**Q. How do you think the personalisation and individual-targeting of ads can be made compatible with the requirement for firms to act in the best interests of customers?**

We would witness first-hand how particular practices can serve to feed the impulsive nature of spending – in particular through targeted advertising and phone app notifications at all hours of the day and night. Individual consumers are continually ‘bombarded’ with advertisements through email, text, app notifications, which can contribute to late night and impulsive online shopping (for more, see [research from the UK](#)).

In addition, increased digital access to loan approval make it immensely challenging for firms to know whether or not client information is the most up to date and accurate in the lenders system. While, some might see the advantages to having a financial system where one can access credit 24 hours a day, 7 days a week, there are definite risks and dangers to the ease and accessibility of these services as well.

### **Theme 3: Unregulated Activities**

**Q. The Code requires regulated firms to provide a statement indicating that they are "regulated by the Central Bank". Do you think this is useful for consumers?**

MABS Response: Yes

**Q. How can the difference between regulated and unregulated activities be made clearer for consumers?**

We would support targeted public awareness campaigns for unregulated activities, such as crypto currencies, and further public education initiatives in the area of financial education.

However, in response to activities such as illegal moneylending, the policy interventions need to be nuanced and widespread. In previous submissions to the Central Bank and other public bodies, MABS has been strong in our assertion that low-income households do not 'naturally' migrate from legal to illegal lending. Our clients are capable, astute and resourceful. They understand and are fearful of the dangers of illegal lending. Occasionally, clients come to MABS at the point of borrowing/ having borrowed from an illegal lender. However, they will do this usually out of desperation and when all other potential avenues to source credit have been refused or exhausted.

When we in MABS look at the issue of illegal moneylending we see that there are ancillary actions needed in four domains: Policy, legislation, regulation and operations. MABS can actively work on operations, providing on the ground support to persons and families. At the same time, we respectfully submit that a holistic policy-focus is needed, that scrutinises credit access and financial inclusion of households living on low incomes or contending with a sudden 'income shock'. This is necessary in order to ensure these households do not fall into a poverty trap attributable to high-cost lending. If we can work proactively together with

policy makers, regulators, financial services providers and creditors to build financial resilience through innovation and a shared commitment to address this challenge; we can, potentially, bring many borrowers along a pathway from high-cost, to near-prime, and ultimately mainstream, lending.

**Q. Should there be additional obligations on regulated firms when they undertake unregulated activities?**

- Yes
- No
- Unsure

If **Yes** or **Not Sure**, please provide further information.

MABS Response: Yes

Yes, clear and direct signposting that this is an unregulated product, even with a regulated service provider. In the case of lending, the creditor should be able to provide documentation that proves that the borrower entered into the arrangement with full knowledge that it is an unregulated activity.

## **Theme 4: Pricing Matters**

**Q. What can firms do to improve transparency of pricing for consumers?**

We would support the inclusion of a full glossary of terms, in particular for lending agreements including hire purchase, mortgages, PCPs, personal loans and so on. We find oftentimes at MABS that clients enter into credit agreements without full knowledge or understanding of the terms of the agreement, and the overall cost of the loan. These agreements can be quite complicated.

For example, we would have a number of clients with PCPs on vehicles who did not understand that the ‘minimum guaranteed minimum future value (GMFV)’ is calculated by combining the deposit and monthly repayments (with interest) in order to cover the car’s depreciation in value over the length of the agreement. Furthermore, there is generally a requirement to have recorded regular servicing of the vehicle by the dealer and also a maximum mileage limit set on the use of the vehicle over the course of the PCP agreement. If the limit is exceeded, there is a financial penalty and this can be up to 15 cent per kilometre.



This, along with damage to the vehicle beyond reasonable wear and tear, can conceivably lead to a situation where the client may be hit with an additional cost that s/he would have neither expected nor budgeted for in a case where s/he was handing back the vehicle. Also, in a case where the client wishes to keep a vehicle on the road and expects to have 'equity' in the car that could be put towards a future deposit for another PCP agreement, that perspective deposit could be eroded and the vehicle's value at expiry of the PCP contract may even come in below the level of GMFV.

**Q. In relation to pricing, are there examples of firms using unfair practices to take advantage of customer vulnerabilities?**

The below is a sample of some of the issues that have been identified by MABS staff / MABS Support's Casework Technical Support team. They are indicative rather than representative, however such issues only become apparent through MABS casework and we therefore wonder what issues are faced by borrowers who do not seek assistance from MABS. These examples particularly highlight the difficult practices taking place in the area of car finance through hire purchase and PCPs.

- Possible miss-selling of hire purchase finance for instance to people already over-indebted and in one recent case a vulnerable young person with issues around capacity to sign a contract.
- We would also see extremely high cost credit for hire purchase (up to 23% interest rates) plus fees with retail credit firms. A recent client presented to MABS after purchasing a car through hire purchase at €10,950.00 – with additional charges of €11,163.83. The total amount repayable/ hire purchase price was therefore: €22,113.83. This is an extremely expensive loan.
- Credit agreements that do not conform to content requirements under section 58 of the Consumer Credit Act (CCA). For example, not stating it is a Hire Purchase agreement in a prominent position, or not complying with the fifth schedule notice requirements regarding the right to terminate.
- MABS Advisers have come across some unusual pricing agreements, for instance no instalments for a year, followed by one lump sum payment.

- A common practice with car finance: lenders regularly actively discouraging customers from availing of their statutory right to terminate the HP/PCP agreement under section 63 of the CCA.
  - A common practice is to persuade clients to voluntary surrender instead. Even when clients know they can terminate under section 63 they are often given a voluntary surrender form to sign at the point of handing back the car.
  - Another common practice is to tell customers who attempt to terminate under section 63 that they must pay up to half the total hire purchase price before being allowed to do so. For more on this issue, see details of [the Gabriel case here](#).
- Where clients terminate, under section 63 calculation of liability by some lenders is inaccurate.
- There is often disagreement regarding additional liability for wear and tear after statutory termination.
- Where clients terminate under section 63, credit register entries can also be incorrect.
- Calculation of liability following voluntary surrender is rarely set out in the credit agreement.
- Where vehicles are voluntarily surrendered calculation of the balance due is often hard to verify given the lack of information from lenders about the subsequent sale proceeds. Additionally, early settlement calculations are not transparent.
- Account statements are often unclear and difficult to assess liability.
- There can be issues with transparency with restructures and repeat finance, making calculation of  $\frac{1}{3}$  and  $\frac{1}{2}$  the Hire Purchase Price challenging.
- Several clients have been pursued for HP agreements of deceased partners for which they were not liable.
- In relation to PCPs specifically, MABS has had clients who have experienced problems with the following:
  - raising the balloon payments.
  - knowing their options when unable to pay mid agreement.

## Theme 5: Informing Effectively

**Q. How can regulation improve effectiveness of information disclosure to consumers?**

Information disclosure on financial products must be written in Plain English (with translation to other languages accessible if needed) and deploy understandable terms from the onset. A template for agreements, with an appropriate ‘glossary of terms’ as we mentioned in our response to Theme 4 is also appropriate. We recognise that this is immensely challenging, especially as financial services do in the majority of cases present all the necessary information to clients when they sign up to a financial products. However, the truth is that many clients do not read the fine print when they sign up to a product, and may not understand the total cost of the loan and how the fee system operates if they fall behind on payments.

For example, many BNPL (Buy Now Pay Later) services present their products as ‘shopping apps’ versus ‘lending agreements’. Despite the fee-paying regime of these products, we maintain that all BNPL services should be regulated under consumer protection, and should be required to register loan amounts of over €500 on the Central Credit Register (CCR).

**Q. How can firms better support consumers' understanding – can technology play a role?**

It would be our view that firms can do a lot more to support clients and their understanding of specific financial products. In terms of lending, there are a number of cases where clients present to MABS who are not aware they have signed up to lending arrangements in the first instance. For example, for insurance, some insurance companies allow consumers to spread the cost of payments throughout the year, versus paying in a lump sum. Many insurance firms use third party retail credit firms in the case of signing up for this staggered repayment option – and consumer can be subject to significant fines/ penalties if the payments are not made on time.

Technology and information campaigns, for example, the recent CCPC campaigns on ‘[Buy Now Pay Later](#)’ and [cryptocurrencies](#), have a role to play within spectrum of public financial education.

**Q. Does the way in which firms approach disclosure in respect of mortgage products need enhancing? If so, how? - taking account of the wide variety of features of mortgage products, and borrowers' different circumstances and needs.**

Mortgages are the most complicated long-term lending vehicle that many individual consumers will even engage with in their lifetime. At MABS, we regularly see clients who approach us with a very limited understanding of their mortgage product. Some of these clients, for example, are not aware of the mortgage interest rate or understand the total cost of the loan – and MABS has also seen cases of this in circumstances when borrowers used a broker.

We would posit that a template ‘driver’s test for mortgages’ be introduced, on a voluntary basis, that would outline and ‘assess’ borrowers on their understanding of important, necessary issues implicit in the mortgage lending agreement. For example, does the borrower understand and are they in a position to reiterate the full details of the mortgage, such as:

- Mortgage length (for example, 25 year mortgage? 30 years?);
- The amount and nature of the interest rate (is the rate fixed? Is it variable? If so, is it fixed/variable for a certain period?);
- The rights and entitlements of the lender (for instance, the lender has a right to sell the loan, regardless if it is performing or non-performing);
- The rights and entitlements of the borrower (for example, the option to potentially refinance at certain stage, supports and services that are available if difficulties arise and a client is struggling to make repayments);
- The total cost of the loan once it is repaid (for example, the mortgagor borrows 150,000 to cover the cost of the property, but will pay back over 250,000 over the lifetime of the mortgage).

## **Theme 6: Vulnerability**

**Q. Given that vulnerability should be considered more as a spectrum of risk than a binary distinction, how should firms’ duty to act in their customers’ best interests reflect this?**

We would support the overall understanding of vulnerability as a spectrum of risk versus a binary distinction. At MABS, the term ‘vulnerability’ has many facets and is not static. We

would recommend the Central Bank look to other public policy domains for support in applying this term. For example, the Irish Government has also committed in 2023 to legislating for the expansion of the CRU (Commission on the Regulation of Utilities) definition of 'vulnerable customers' to include those not just medically vulnerable, but at risk of financial vulnerability. This is a particular recommendation from ourselves at MABS. It is also interesting that [the Assisted Decision-Making \(Capacity\) \(Amendment\) Act 2022](#) looks at the statutory functional assessment of 'capacity' as both time specific and issue specific. This also intersects with the 'spectrum' outlined in the Discussion Paper.

At MABS, we would find that consumers move through periods of being more or less vulnerable, and would posit that all our clients who are struggling to make debt repayments consistently when they fall due, are in a vulnerable situation. In recent months, MABS Advisers have reported rising cases of clients with mental health difficulties, and that this can have direct impact on their decision-making.

We would call on the Central Bank to support our efforts to ensure that financial firms in Ireland recognise the work and expertise of MABS and not require 'proof' in circumstances when a frontline MABS staff member identifies a client as 'vulnerable'. We are aware that defining 'vulnerability' as actionable under the CPC is a challenge for the Central Bank, but supporting the work of MABS in this space is a possible solution.

**Q. What other specific measures could be adopted to protect consumers in vulnerable circumstances while respecting their privacy and autonomy?**

Here, we would like to reiterate the importance of signposting MABS and MABS services.

At MABS, we act on our clients behalf to help address the fundamental power imbalance between creditors and borrowers. As such, we have an important role to play in consumer protection and protecting particularly vulnerable clients. We greatly value the signposting throughout the existing Consumer Protection Code to MABS as a means of ensuring that at key points in the customer journey e.g. 'Arrears Handling' the consumer is made aware of the free services MABS provides. We see this signposting as being particularly important for those consumers of hire purchase/PCP finance who may be at risk of arrears, or in arrears, as they consider their options for amelioration or exit from an agreement. Our experience with hire

purchase agreements suggests that the unassisted borrower risks considerable financial harm and mental anguish when things go wrong.

While that signposting is welcomed and necessary, MABS experience with assisting clients to resolve certain types of debt and with particular creditors (debt collectors based outside of Ireland, for example, particularly those deployed for hire purchase or catalogue debts) is often characterised as disproportionately involved and prolonged. It remains important for MABS and its clients that providers (howsoever regulated) of this type of finance, and all types, give due weight to the involvement of MABS, as the State's Money Advice and Budgeting Service, when it is advocating on a client's behalf to achieve a sustainable resolution and uphold their rights.

## **Theme 7: Financial Literacy**

### **Q. What can the responsible authorities do to improve financial education?**

MABS posits that strong financial education is an imperative component of personal development. We would support the expansion of Irish primary and secondary education to feature compulsory subjects in financial education.

While individual organisations, such as ourselves at MABS as well as the Competition and Consumer Protection Commission (CCPC), have a public mandate in money management education and support the development of learning materials for persons of all ages, these resources are limited and not extended to all. Financial education is not a compulsory subject across all of Irish education, as it is in many other countries, including England, Denmark and Norway. We would recommend that there should be one dedicated Government department, such as the Department of Finance, responsible for coordinating and overseeing financial education and adequately resourcing the CCPC and MABS to deliver financial education initiatives.

We would argue that the public resourcing of financial literacy and digital literacy from early childhood into adulthood is necessary in order to ensure that everyone, in particular members of marginalised and economically disadvantaged groups, across all of Irish society learn the necessary financial skills, knowledge and behaviours to participate fully in society.

**Q. How can consumers be empowered to better protect their own interests when dealing with financial matters?**

In our view, empowerment and financial resilience involves a multi-layered, whole of society approach, including financial education, policy change and intervention, that ensures availability of affordable credit and suitable financial products. Research has shown that the earlier people learn about financial matters, the less likely they are to be struggling later in life. For instance, a 2018 study on financial capability in Ireland published by the CCPC found that, of those populations who are financially 'secure', 75% report speaking to their parents about money issues when growing up and 60% learned about money matters in school and college. In contrast, those living in Ireland who are 'struggling' financially, only 38% grew up in families that discussed money and 10% received financial education in school.

Resourcing the learning of skills in financial literacy and digital literacy from early childhood into adulthood is an important step towards ultimately combatting broader social and economic inequalities. A holistic and multi-step approach to tackling financial exclusion, involving more than just financial education, but also further regulation and public resource allocation, is required.



The MABS Helpline **0818 07  
2000**

Monday to Friday from 9 a.m. to  
8 p.m.

