



ISI

Seirbhís Dócmhainneachta
na hÉireann
Insolvency Service
of Ireland

Notice to Personal Insolvency Practitioners

Scheme of Aid and Advice for Borrowers in Home Mortgage Arrears (the “Abhaile Scheme”)

PERSONAL INSOLVENCY PRACTITIONERS’ PANEL

TERMS AND CONDITIONS

Version	Effective date	Comment
1.0	01 July 2016	Original Terms and Conditions for the Abhaile PIP panel
2.0	02 March 2020	Terms and Conditions revised on foot of Scheme extension
2.1	10 December 2021	Terms and Conditions amended on foot of enactment of the Personal Insolvency Amendment Act 2021 / Revoking of High Court Direction HC66
3.0	30 January 2023	Terms and Conditions revised on foot of Scheme extension
4.0	04 June 2024	Terms and Conditions revised on foot of launch of 2 nd voucher enhancement

1. INTRODUCTION

- 1.1 On 22nd January 2016 the Government announced a scheme to help people who are insolvent, and in mortgage arrears on their home, to access independent expert financial and/or legal advice and assistance. This would help them to find the best available solutions, with priority being given to people remaining in their homes where possible.
- 1.2 The Scheme is being co-ordinated by the Department of Justice (“DOJ”) and the Department of Social Protection (“DSP”), in co-operation with the relevant agencies including the Money Advice and Budgeting Service (“MABS”), the Insolvency Service of Ireland (“ISI”), Legal Aid Board (“LAB”), and Citizens Information Board (“CIB”).
- 1.3 This Scheme has been extended to December 2027. Each Personal Insolvency Practitioner (“PIP”) will need to review this revised set of Terms and Conditions. A panel of Abhaile PIPs based on the Terms and Conditions contained herein will be in place from 04 June 2024. The current panel will run until this date.
- 1.4 Under the Scheme, eligible borrowers can be referred for independent financial advice and assistance to this panel of PIPs. The panel will be composed of PIPs who have agreed to provide specified fixed services, free of charge for the borrower, at fixed fees payable by the Scheme, in accordance with these Terms and Conditions.
- 1.5 The fixed services which will be provided by PIPs under the Scheme (see further details at parts 2.3 and 8) are:
 - the provision of financial advice and assistance under component (a) of the Scheme (*Financial advice and assistance*), and
 - the provision of financial advice and assistance under component (c) of the Scheme (*Court review of rejected Personal Insolvency Arrangement (“PIA”)*).

The ISI is responsible for establishing and maintaining the PIP panel under the Scheme. Further details are given at part 7. **For PIPs not currently on the Abhaile PIP panel, expressions of interest to join said panel can be made to abhaile@isi.gov.ie. Please note that expressions of interest received will be considered by the ISI and participation in a conference call or attendance at a meeting at ISI offices will be required as part of this consideration.**

Please note that mandatory participation in a training event will be required for PIPs accepted to the Abhaile PIP panel by the ISI. Please further note that compliance with the Terms and Conditions of the Abhaile PIP panel also includes prompt provision of information requested by the ISI on solutions achieved by the PIP for borrowers. This

information is generally sought on an annual basis to facilitate the ISI in making the required submissions to relevant governance fora.

2. OVERVIEW OF THE SCHEME

- 2.1 Where a borrower is seeking help under the Scheme from MABS, they will act as the gateway to the Scheme. MABS will direct an eligible borrower for appropriate advice and assistance under the Scheme, using the operational protocol agreed under the Scheme. (Details on borrower eligibility are set out in part 3.)
- 2.2 In addition to the expert help and advice which can be provided by MABS and particularly by MABS Dedicated Mortgage Arrears (“DMA”) advisers, MABS will be able to refer an eligible borrower for specialised advice and assistance, to be provided by an expert from one of the three professional panels, described in 2.4 below, operating under the Scheme.
- 2.3 The advice and assistance which can be provided under the Scheme has 3 components, and a borrower may be eligible for any or all of these:

(a) *Financial advice and assistance – home mortgage arrears*

Following the operational protocol process, MABS may refer an eligible borrower for financial advice and assistance to the PIP panel, or to the accountant panel, as appropriate. In such cases, and on receipt of a completed application form, MABS will issue the borrower with a Scheme voucher for financial advice and assistance (see part 5) and will direct the borrower to a list of panel practitioners and their contact details. The borrower selects a panel practitioner and presents the financial advice voucher to the practitioner. The payment under the financial advice voucher will be made directly to the practitioner concerned, upon proof of provision of the specified services (see part 8 & part 9 for further details) – by the ISI in the case of a panel PIP and by MABS in the case of a panel accountant.

Alternatively, a borrower can make contact directly with a PIP from the Scheme’s panel of PIPs. The PIP will then undertake a high-level assessment of a borrower’s financial situation in order to determine if the borrower is eligible for the Scheme. Where a PIP makes such a determination, the PIP will make an application to MABS under the Scheme on the borrower’s behalf. In such cases, and following receipt of a completed application and borrower consent, MABS will issue a voucher to the PIP, for the borrower for advice to be provided under the Scheme and the payment will be made as described above.

(b) *Legal advice and assistance – home mortgage arrears*

Borrowers will normally be provided in the first instance with financial advice and assistance, either by a MABS adviser or by a panel PIP or panel accountant. Where a legal issue is identified, or where the borrower is facing repossession proceedings, MABS will also be able, under the Scheme, to refer the borrower to a panel solicitor for legal advice and assistance. In such cases, and following completion of an application and borrower consent form, MABS will issue the borrower with a Scheme voucher for legal advice and assistance (see part 5) and will direct the borrower to a list of panel solicitors and their contact details. The borrower selects a panel solicitor and presents him/her with the legal advice and assistance voucher, together with a copy of the written financial analysis and advice already provided under the Scheme. In return for the voucher, the solicitor will provide the borrower with a face-to-face consultation and legal advice on the issue identified, which will also be confirmed in writing (the ‘consultation solicitor’ service). Payment under the legal advice and assistance voucher will be made directly by LAB to the consultation solicitor, upon proof of the provision of the specified services.

Panel solicitors will also provide a ‘duty solicitor’ service at Circuit Court repossession lists, under a roster system organised by LAB. If an eligible borrower is subject to repossession proceedings against their home, the duty solicitor will be present at Court and may be able to speak for them.

The duty solicitor service is a limited service to assist borrowers, and does not include defending repossession proceedings on their behalf: see the Terms and Conditions for the Solicitors panel at www.legalaidboard.ie.

(c) *Legal Aid – new Court review of rejected PIA*

A panel solicitor may also provide legal services under this component of the Scheme, which provides for legal aid for insolvent borrowers seeking a Court review under section 115A of the Personal Insolvency Act 2012 as amended (the “**PI Act**”), where a borrower’s proposal for a PIA which includes mortgage arrears on his/her home is refused by the creditor(s). This component includes provision for the services of a barrister (junior counsel) and for the services required of a PIP under section 115A. Fixed fees apply to all services provided (applicable PIP fees are set out in Revised Appendix D). See details below at part 6.

2.4 The Scheme provides for the establishment of three panels:

- a panel of personal insolvency practitioners (“panel PIPs”), established and maintained by the ISI,
- a panel of solicitors (‘panel solicitors’), established and maintained by LAB, and
- a panel of accountants (‘panel accountants’), established and maintained by CIB on behalf of DSP.

2.5 Panel participants will have appropriate expert knowledge of mortgages, insolvency, bankruptcy and/or repossession. An expert will participate in the panel based on his or her agreement to provide specified advice and services to an insolvent borrower, at fixed fees which will be paid by the Scheme, and without charge to the borrower, in accordance with the Scheme and the Terms and Conditions of respective practitioner panels.

3. BORROWER ELIGIBILITY FOR THE SCHEME

3.1 Subject to part 3.3, a borrower will be eligible for advice and assistance under components 2.3 (a) and 2.3 (b) of the Scheme (*Financial advice and assistance - home mortgage arrears*) and (*Legal advice and assistance - home mortgage arrears*) if he or she is:

- insolvent (as defined in the PI Act) ;
- in mortgage arrears on his or her principal private residence (as defined in the PI Act), and
- at risk of losing their principal private residence: for example, if s/he has received from the mortgage lender repossession proceedings, a letter indicating that such proceedings will issue, a letter indicating that s/he is deemed non-cooperating, or an invitation to consider sale, surrender or other loss of all or part of the home.

3.2 Subject to part 3.3, an insolvent borrower will be eligible for legal aid under component 2.3 (c) of the Scheme (*Court review of rejected PIA*) if:

- The PIP on behalf of the borrower has made a proposal for a PIA,
- that proposal includes a mortgage loan on his/her principal private residence in respect of which the borrower is in arrears (or, having been in arrears the borrower entered into an alternative repayment arrangement with the secured creditor concerned),
- that proposal has been rejected by the creditor(s); and

- the PIP concerned certifies that there are reasonable grounds for making an application on behalf of the borrower to the appropriate Court for an order under section 115A(9) of the PI Act.
- 3.3 Notwithstanding that a borrower might otherwise be eligible, a borrower will not be eligible for any component of the Scheme if, taking account of the matters referred to in section 104(2) of the PI Act, the costs of continuing to reside in the borrower's principal private residence are disproportionately large.
- 3.4 A borrower will be eligible for a 2nd voucher under components 2.3 (a) & 2.3 (b) of the Scheme should the following criteria be met in addition to the criteria set out in section 3.1:
- A period of 3 years having passed since the 1st voucher was redeemed. Please note that for the purpose of this criteria a 1st voucher is defined as all vouchers redeemed for a borrower prior to 04 June 2024, inclusive of actual 1st vouchers, and any further vouchers issued on foot of a complaint etc. The most recently redeemed voucher for a borrower is when the 3 year period will be calculated from.

Where a borrower has not met the 3 year minimum timeframe since their last voucher was redeemed 5 categories of exceptional circumstances have been identified under which a PIP may request a 2nd voucher on their behalf. These categories are:

- Job loss or significant reduction in income,
- In receipt of severe illness or disability benefit by the borrower or their dependent,
- Loss of an immediate family member¹,
- Victim of financial fraud, or
- Family law² issues resulting in a change in family status, such as divorce or long-term separation.

Please note that these exceptional circumstances will only apply to situations that have occurred after the 1st voucher consultation/redemption.

4. DATA PROTECTION AND SHARING

In addition to meeting the eligibility criteria above, a borrower who wishes to access the Scheme must first sign the Scheme's data protection and sharing consent ('borrower consent') form. This borrower consent will permit the borrower's information (including 'personal data' and any relevant 'sensitive

¹ An immediate family member typically includes your married or co-habiting partner, parents, children and siblings.

² If co-owners or co-borrowers previously received joint advice using an Abhaile voucher and family law issues arise after the consultation, each co-borrower may receive a separate 2nd voucher.

personal data' under data protection law) to be collected and processed for the purposes of the Scheme by MABS, LAB, CIB and/or the ISI.

The borrower consent will also permit that information, together with financial and legal analysis or advice provided to the borrower by MABS or a panel practitioner, to be shared for the purposes of the Scheme with any other such adviser assisting the borrower under the Scheme.

All personal data collected for the above stated purposes will be treated in accordance with the law, including (but not restricted to) EU and Irish data protection law, the Data Sharing and Governance Act, GDPR, the Personal Insolvency Acts, the Bankruptcy Acts and the Civil Legal Aid Acts.

5. BORROWER APPLICATION FOR THE SCHEME

In order to access any advice or assistance under the Scheme, the borrower must first be assessed as eligible for the Scheme, and obtain a Scheme reference number from MABS.

5.1 Application for PIP financial advice and assistance

In order to access financial advice or assistance from a PIP under component 2.3 (a) of the Scheme, the borrower must first be assessed as eligible for the Scheme, and must obtain a Scheme reference number, and a corresponding voucher, from MABS.

This may be done in different ways:

- i. A borrower can **contact the MABS helpline** (0818 07 2000) which will follow the operational protocol agreed under the Scheme to assess eligibility.
- ii. A borrower can **contact a MABS office**, where a MABS adviser will follow the operational protocol agreed under the Scheme to assess eligibility (see Appendix I - PIP MABS Operational Protocol); or
- iii. A borrower can **contact a PIP directly**.

In the instances of i. and ii. above, MABS will conduct a referral process, under arrangements agreed with the ISI, to determine what form of financial advice and assistance is most likely to resolve the borrower's difficulties. Where it appears that the borrower would benefit from the services of a PIP, the MABS/Helpline adviser will arrange for the borrower to be issued (on completion of an application and borrower consent form) with a voucher for financial advice and assistance in the borrower's name, and will refer them to the a list of PIPs on the Abhaile PIP panel.

Where a borrower **contacts a PIP directly**, the PIP carries out the high level Scheme eligibility assessment.

If that assessment indicates that the borrower is eligible for the Scheme and would benefit from the services of a PIP, the PIP will confirm this in writing to MABS and will submit a Voucher Application Form to the MABS voucher desk at the following email address: voucherdesk@mabs.ie. (A template of the financial advice Voucher Application Form is attached at Appendix A to this Notice.)

Where the voucher being requested is a 2nd voucher and less than 3 years have elapsed since the 1st voucher was redeemed the Extenuating Circumstances Application Form must be completed (see Appendix J) instead of the Voucher Application Form (Appendix A) and the borrower must complete a declaration regarding their application (see Appendix K). The borrower declaration should be retained on the borrowers' file and not included in the application to MABS voucher desk.

On receipt of any completed application and borrower consent form, MABS will then issue the Scheme reference number, in the case of a 1st voucher, and the number of the financial advice voucher, in the borrower's name, directly to the PIP, within 1 working day. This timeframe is extended to 5 working days where a 2nd voucher is being requested to allow for compliance checks to be completed.

The PIP must notify the referring MABS office or helpline adviser forthwith, in writing and with a copy to voucherdesk@mabs.ie, should any information or matter come to the PIP's attention which directly or indirectly concerns the borrower and which throws doubt on the person's eligibility for the Scheme under part 3 of these Terms and Conditions.

In such case, MABS will need to review the borrower's eligibility before he or she can receive any further benefit, or be issued with any further voucher, under the Scheme and will inform the PIP of the outcome.

5.2 Application for legal aid for PIA Court review

The procedure when applying for a PIA Court review is slightly different. The borrower must have a Scheme number from MABS, but instead of applying to MABS for the voucher, the panel PIP will apply, on behalf of the borrower, to LAB for a legal aid certificate.

If the borrower has already received financial advice and assistance under the Scheme, s/he will already have a Scheme number, and the panel PIP can apply directly to LAB on the borrower's behalf for the legal aid certificate.

If the borrower does not already have a Scheme number, the panel PIP should apply to MABS at the email address voucherdesk@mabs.ie for one on the

borrower's behalf, using the form at Appendix F. MABS will then issue the Scheme number directly to the PIP within 1 working day. The PIP will then apply to LAB on the borrower's behalf.

The detailed procedure is set out below, at part 6.

6. APPLICATION FOR LEGAL AID: COURT REVIEW OF REJECTED PIA PROPOSAL

6.1 A borrower wishing to avail of component (c) must complete, together with their panel PIP, the Application for Legal Services Form (contained in Appendix C or otherwise prescribed by the Legal Aid Board for the time being), and return it to Private Practitioner Services, Legal Aid Board, Quay Street, Cahirciveen Co. Kerry V23 RD36, or by email to solicitorspanels@legalaidboard.ie.

6.2 The application form must be fully completed and include all relevant backing documentation including but not limited to:

- the borrower's Scheme number
- a statement signed by the PIP certifying:
 - the applicant's eligibility for the Scheme
 - that there are reasonable grounds for the making of an application for the review by the relevant Court of the proposed Personal Insolvency Arrangement under section 115A of the Personal Insolvency Acts
- a copy of the proposed PIA

The application form must contain a statement of the grounds for the making of this particular application for legal services. It is not enough to simply restate the grounds contained in section 115A; the statement must specify which particular grounds in section 115A apply to the borrower's particular circumstances and why they so apply in those circumstances.

6.3 Applications for legal services must be made in a timely manner. Preferably the application will be made prior to the commencement of proceedings. It is understood that this may not always be possible given the statutory deadline for the institution of section 115A proceedings. However it is expected that an application for legal aid will be made as soon as possible following the commencement of proceedings. Neither LAB nor ISI will be liable for any costs incurred by either the borrower or the PIP in respect of a section 115A application made in circumstances where LAB does not ultimately grant legal aid.

6.4 The Legal Aid Board cannot fund any action taken prior to the grant of a legal aid certificate (i.e. LAB cannot grant legal aid if the proceedings are already concluded

prior to a decision to grant legal aid being taken). While recognising that there may be exceptional circumstances where an application for legal aid may need to be made close to a hearing date it is expected that such circumstances will be truly exceptional. Furthermore in the event of such circumstances arising it is expected that an application will be fully and properly completed and include all necessary information for LAB to decide whether a legal aid certificate should be granted in accordance with the terms of the Civil Legal Aid Act 1995 and the Civil Legal Aid Regulations 1996 to 2017.

- 6.5 The Legal Aid Board will consider applications in accordance with the provisions of the Civil Legal Aid Act 1995 and the Civil Legal Aid Regulations 1996 to 2017 according to its own procedures. Provided that the application meets the criteria for exemption from the financial eligibility criteria as provided for in Regulation 13(10), the Legal Aid Board will not consider the applicant's financial resources. The application must meet all other applicable criteria under the 1995 Act and the Regulations, including the merits criteria provided for in sections 24 and 28(2) of the 1995 Act.
- 6.6 Given the time-limit applicable to a section 115A review under the Personal Insolvency Acts (see below at part 6.8) the LAB will notify the outcome of the application to the PIP as soon as possible, and within 1 working day of receipt of a duly completed application in accordance with part 6.2. If LAB refuses to grant a legal aid certificate, the borrower and their PIP will be notified in writing and offered an opportunity to have the decision reviewed and/or appealed according to LAB's normal procedures.
- 6.7 If LAB grants a legal aid certificate, LAB will refer the borrower and/or their PIP to select a solicitor from the solicitors' panel established under the Scheme, to act on their behalf. The borrower and/or their PIP shall advise LAB of their nominated panel solicitor and LAB shall furnish the solicitor with:
- two copies of the legal aid certificate, which will indicate the legally aided person's name and Scheme number, the nature of the proceedings authorised and the steps authorised on foot of those proceedings, in terms of the expenditure on witnesses that may be incurred; and
 - a Claim Form on which the Scheme number and legal aid certificate number should be entered.

No contribution is payable by any person whose application meets the criteria for exclusion from the financial eligibility criteria.

- 6.8 Section 115A(2) provides that the application papers for the Court review shall be lodged not later than 28 days after the creditors' meeting referred to in subsection (16)(a) or, as the case may be, receipt by the PIP of the notice of the

creditor concerned under section 111A(6) (inserted by section 17 of the Personal Insolvency (Amendment) Act 2015). There is no provision for extension of this time-limit. It is essential that PIPs be aware of this time limit when providing services.

- 6.9 A legal aid certificate granted for proceedings under section 115A only authorises the services of a solicitor and a PIP. It does not authorise the retention of a barrister. The circumstances where a barrister may be retained are set out in the Terms and Conditions of the Abhaile Solicitors' panel. The barrister retained must be a member of LAB's Barristers' panel.
- 6.10 A legal aid certificate granted for proceedings under section 115A does not extend to any appeal of a decision made by the Court to grant or refuse such an application. An application for legal aid in connection with an appeal may be made by the borrower through their PIP or solicitor. An application for legal aid for an appeal is treated as if it were a new application for legal services and the same criteria apply as for first instance proceedings.

7. THE PIP PANEL

The ISI is responsible for establishing and maintaining the panel of authorised PIPs willing to provide services to borrowers under components 2.3 (a) and 2.3 (c) of the Scheme as set out under these Terms and Conditions.

It is open to all PIPs authorised by the ISI to submit an expression of interest for inclusion on the Abhaile PIP panel.

The Abhaile PIP panel, including contact details, will be made publicly available, so that borrowers can check whether or not a PIP is on the panel. The PIP panel will be published on the ISI website and www.backontrack.ie.

The ISI may suspend or remove a PIP from the panel at any time, where the ISI considers it appropriate to do so. See details below at part 11. In addition, the ISI may seek the refund of an Abhaile voucher(s) from a PIP where they find the Terms and Conditions of the Abhaile PIP panel have not been adhered to.

8. PIP SERVICES TO BE PROVIDED UNDER THE SCHEME, AND FEES PAYABLE

Component 2.3 (a) of Scheme: Financial advice and assistance

- 8.1 Where a borrower requests a panel PIP to provide financial advice and assistance under a Scheme voucher, the PIP (or an individual requested by the PIP as per section 54A of the Act) should:
- check the eligibility of the borrower for the Abhaile PIP voucher;

- hold a 'meeting' with the borrower, in accordance with section 49 of the PI Act;
- examine the borrower's financial situation and assist the borrower to complete his/her Prescribed Financial Statement, in accordance with section 50 of the PI Act (a dated copy of which must be issued with the written confirmation of the advice given);
- advise the borrower on the different options available for addressing his/her financial difficulties, in accordance with section 52 of the PI Act;
- provide the borrower with written confirmation of the advice given in accordance with section 52 of the PI Act on those different options. PIPs on the Abhaile PIP panel must be cognisant of the Letter of Advice template updated on 01 January 2023 (see Appendix G) as the minimum level of detail and advice required for this letter. If a PIA or Bankruptcy is not recommended, the PIP must state why these solutions were not suitable in the comments field on the payment claim form submitted subsequently to the ISI (please note that templates may evolve over time and PIPs will be made aware of any changes); and
- if bankruptcy is assessed as the borrower's best option: provide the borrower with a written statement signed by the PIP, which can be relied upon by the borrower for the purposes of section 11(4) of the Bankruptcy Act 1988, confirming that, in the PIP's opinion, the borrower's circumstances would not permit the borrower to enter into a Debt Settlement Arrangement (DSA) or a PIA. Please note that this written statement must be in line with Practice Direction HC100 – Bankruptcy). PIPs must be cognisant of the template provided by the ISI for this purpose updated in December 2021 (see Appendix H) as the minimum level of detail and advice required for this letter (please note that templates may evolve over time and PIPs will be made aware of any changes).

Where the PIP advises the borrower that he/she cannot offer a viable solution, the PIP shall, unless the borrower instructs otherwise, direct the borrower to their local MABS and facilitate the transfer of the borrower's file to MABS for review. Referral back to MABS is included as a drop down option on the PIP payment claim form for the ISI. This will enable the ISI to track such referrals. Evidence that the borrower has been referred back to MABS in this instance is required to be maintained on file by the PIP.

Please note that files relating to Abhaile vouchers are required to be retained by the PIP who redeemed that voucher for a period of 6 years from the date of issuance of the letter of advice.

8.2 Under component 2.3 (a) of the Scheme, an eligible borrower will, subject to the terms of the Scheme, be entitled to a payment from the Scheme for these services in the fixed amount of €500 (five hundred euro) (plus VAT, where applicable) This payment will be paid directly to the adviser, on proof that the fixed services have been provided (see paragraph 9.2).

The intention of this payment is to ensure that where the borrower appears, based on the PIP advice, to be suitable for a PIA and wishes to proceed with that option, s/he is then able to access the further services of the PIP without incurring any cost. In the normal course, it is expected that PIP fees for any further work required to prepare a PIA proposal and to seek the creditor(s)' agreement will be charged as part of the terms of the PIA. Where a PIP feels that an additional fee to the borrower is justified (i.e. that the circumstances of the case mean that it is not 'in the normal course'), the PIP must submit details of the case including a justification to abhaile@isi.gov.ie for consideration by the ISI prior to claiming payment for the respective Abhaile voucher.

Component 2.3 (c) of Scheme: (Court review of rejected PIA)

8.3 The services which are to be provided by a PIP under this component are those required:

- to prepare and make an application to LAB under these Terms and Conditions,
- (b) to prepare and make the application to the appropriate Court under section 115A of the PI Act, and/or
- (c) to prepare and make the application to the appropriate Court in any related proceedings (including making/defending an appeal) in respect of which LAB has issued a legal aid certificate under the Scheme,

on behalf of an eligible borrower.

8.4 Where legal aid is granted by LAB to a borrower, a PIP will be paid for the services directly connected with the appeal as set out in paragraph 8.3 above, according to the schedule of fees set out at Revised Appendix D.

8.5 Where the services provided by the PIP under this component relate to two or more PIAs which are to be administered in common by the PIP pursuant to section 89(4) of the PI Act (known as interlocking PIAs) and at least two such PIAs are the subject of applications under section 115A, and legal aid has been granted, the PIP will be paid the fees set out in Revised Appendix D (plus VAT where applicable) in respect of those services. This is to reflect the economy of scale that, it is assumed, will exist in respect of each such application.

Nothing in this Scheme will prevent or limit a borrower's application to Court for an order for costs. However, no aid will be payable under this Scheme where an order for costs has been made in favour of a borrower in respect of PIP services under section 115A of the PI Act for an amount in excess of the fixed aid amount referred to in part 8.4 or, as applicable, part 8.5 above. Aid paid by LAB to the PIP in respect of such services, and which is subsequently covered by an order for costs, shall be refunded by the PIP. Where the order for costs in respect of PIP services under section 115A of the PI Act is less than the fixed aid amount referred to in part 8.4 or, as applicable, part 8.5 above, the borrower shall be entitled to apply for the balance under the Scheme up to the maximum fixed aid amount.

9. APPLICATION FOR PAYMENT

9.1 Application for payment under the Scheme in respect of services provided by a PIP must be made by the PIP on behalf of the borrower. Payment will be made directly to the PIP.

Payment for financial advice and assistance under component 2.3 (a)

9.2 A PIP may apply for payment in respect of component 2.3 (a) of the Scheme (*Financial advice and assistance*) by submitting to the ISI a completed Application for Payment (Appendix B) together with a copy of the relevant documentation to abhaile@isi.gov.ie by the 5th day of the month:

- In all cases, a copy of the Abhaile PIP voucher must be submitted to the ISI.
- All other documentation will be spot-checked at the discretion of the ISI (see section 10 for a full list of documents to be retained on file).

Please note that in general, for every 10 vouchers claimed, or once every 3 months whichever occurs sooner, the ISI will request 1 full set of documentation per PIP/PIP firm. 'Every' in this instances has the meaning of cumulative.

The ISI reserves the right to request relevant documentation for any case at its discretion.

A single set of documents in this case refers to the Letter of Advice, the dated Prescribed Financial Statement (PFS) and any applicable backup documents to show evidence of the income and liabilities contained in the PFS. In addition to the above, where applicable, the bankruptcy petition letter will also be required. **Please note the copy of the PFS will only be required if the Phoenix case is still in draft.**

Where the application is in order, payment will issue directly to the PIP by the end of that same month. Please note that where errors (within the PIP's control) are noted on the claim form by the Abhaile team, the application in full will be returned to the PIP for correction.

Payment for work on Court review of rejected PIA under component 2.3 (c)

- 9.3 A PIP must submit an application for payment in respect of component 2.3 (c) of the Scheme by submitting to LAB a completed Claim Form, set out in Appendix E to this Notice. The Claim Form must be submitted to LAB at solicitorspanels@legalaidboard.ie within 3 (three) months of the appropriate Court's decision under section 115(A)(9) of the PI Act.
- 9.3.1 The PIP's claim for fees must be certified in writing by the solicitor instructed in relation to the proceedings.
- 9.3.2 LAB may refuse to make payment in appropriate circumstances, including but not limited to:
- where no legal aid certificate has issued in respect of the named borrower
 - where the PIP who claims payment is not the same PIP who completed the Application for Legal Services form in respect of the named borrower
 - where the solicitor does not certify that the PIP concerned was the PIP who provided services in connection with the named borrower
 - if the PIP, borrower, or solicitor has not complied with these Terms and Conditions or with any other provision of the Scheme (or in the case of the solicitor, with the LAB's Terms and Conditions for the Solicitors' panel).
- 9.3.3 There shall be a standard scale of fees (set out in Revised Appendix D to this notice) payable per case to a PIP for the provision of services.
- 9.3.4 No payment will be made in respect of component 2.3 (c) of the Scheme in circumstances where LAB refuses to grant a legal aid certificate.
- 9.3.5 The fee in respect of component 2.3 (c) of the Scheme is an "all inclusive" fee for providing services (excluding VAT, where applicable). No outlay, expenses, or any other fee over and above the case fee shall be paid to PIPs.
- 9.3.6 Travel and subsistence expenses shall not be payable under any component of the Scheme. PIPs must have regard to this provision when indicating their willingness to provide services to any particular borrower.
- 9.3.7 Nothing in these Terms and Conditions shall give rise to, or be construed as giving rise to, a relationship of employer and employee between LAB and any PIP.

9.3.8 A PIP shall not apply for payment in respect of component 2.3 (c) of the Scheme (*Court review of 'rejected PIA'*) where the appropriate Court has refused to make an order under section 115A(9) of the PI Act and such refusal is wholly or partly attributable to the PIP having failed to provide his services to an adequate standard in connection with the application under section 115A. In that regard, the PIP should co-operate with any solicitor acting on behalf of the borrower for the purpose of the application to Court under section 115A.

9.4 The ISI or LAB may request additional documentation or information from a PIP in relation to an application for payment, and the PIP shall provide any documentation or information so requested. Payment may be postponed pending receipt and consideration of such additional documentation or information by the ISI or, as applicable, LAB.

10. RETENTION OF DOCUMENTS

For each voucher, the PIP must retain on the borrower file, the following documents (which must be available for inspection by ISI staff, or submitted to the ISI upon request):

- a dated copy of the Prescribed Financial Statement (as issued to the borrower with the written confirmation of advice) completed in accordance with section 50 of the PI Act;
- a scanned copy of the written confirmation of advice issued to the borrower and signed by the PIP pursuant to section 52 of the PI Act on those different options (please see template at Appendix G);
- back-up documentation required to complete the PFS which should be dated within 6-12 months of completion of the PFS, depending on the document (i.e. payslips within 6 months, mortgage statement within 12 months etc.);
- a copy of the Abhaile PIP voucher and application form (where applicable);
- **a copy of the borrower's declaration where a 2nd voucher has been applied for, if applicable;**
- a copy of meeting notes from the debtor's Abhaile consultation (a hand written or typed note of the meeting is required showing the date, who attended and the areas covered) and;
- if bankruptcy is assessed as the borrower's best option, a written statement by the PIP, which can be relied upon by the borrower for the purposes of section 11(4) of the Bankruptcy Act 1988, that, in his or her opinion, the circumstances of the borrower would not permit the borrower to enter into a Debt Settlement Arrangement or a Personal Insolvency Arrangement

(please note that this written statement must be in line with Practice Direction HC100 – Bankruptcy) (please see Appendix H);

- Where a borrower is referred back to MABS or where a PIP wishes to refer a borrower back to MABS but the latter instructs the PIP otherwise, the PIP must retain evidence on file.

11. REMOVAL FROM THE PANEL

The ISI may suspend or remove a PIP from the PIP panel established for the purpose of the Scheme, where the ISI considers it appropriate to do so, at its absolute discretion, including where:

- (a) the PIP's conduct when providing services within the scope of the Scheme, or his or her professional conduct generally, renders him or her unsuitable, in the opinion of the ISI, to provide such services;
- (b) the PIP has failed to comply with these Terms and Conditions or otherwise failed to comply with the Scheme (as indicated above, where these Terms and Conditions are violated, the ISI will also seek a refund of the relevant voucher(s)); or
- (c) the PIP has not participated in the Scheme to a satisfactory level to support the objectives of the Scheme, including (but not confined to) his/her refusal on a regular basis to accept a borrower's request for advice or appointment under section 49 of the PI Act or to make an application on behalf of a borrower under section 115A of the PI Act. Please note that where an Abhaile panel PIP recommends a PIA or DSA, it is expected that the PIP will facilitate such where instructed by the borrower.

Please note that as indicated above, there is an expectation that a PIP will be active in offering the services outlined. Where a PIP has not claimed an Abhaile voucher within a 6 month period, the ISI will remove the PIP from the Abhaile PIP panel and will inform the PIP of same. The ISI may restore a PIP to the PIP panel where satisfied that this is justified.

If the ISI decides to suspend or remove a PIP from the PIP panel on foot of a concern regarding compliance with the Terms and Conditions, the PIP will be notified in writing of the grounds for the decision. The PIP may, within a period of 1 month from the date of such notification, appeal in writing the decision to the ISI setting out the grounds of appeal in full. Such an appeal will be considered by an officer at a higher grade than the officer who made the decision to remove a PIP from the panel.

The ISI may restore a PIP to the PIP panel where satisfied that this is justified. Any appeal does not operate to delay or negate the suspension or removal of the PIP from the PIP panel, unless the ISI determines otherwise.

12. WITHDRAWAL FROM THE PANEL

A PIP who wishes to withdraw from the PIP panel established for the purposes of the Scheme must inform the ISI, in writing, of his/her intention to withdraw, **giving one month's notice**.

13. SCHEME CANCELLATION OR AMENDMENT

This Scheme may be cancelled or its terms amended at any time, provided that this shall be without prejudice to any Application for Payment which has been received prior to the date of cancellation or amendment.

Any queries in relation to these Terms and Conditions should be directed to: abhaile@isi.gov.ie. Editable, soft copies of all relevant appendices will be issued to all PIP panellists.

Insolvency Service of Ireland