# Debt Solutions Scenarios Pack

*TO HELP EXPLAIN SOME OF THE CONCEPTS CONTAINED IN THE PERSONAL INSOLVENCY LEGISLATION, THE INSOLVENCY SERVICE OF IRELAND HAS CREATED SOME POSSIBLE SCENARIOS TO ILLUSTRATE HOW EACH OF THE THREE SCHEMES MAY OPERATE IN RESPECT OF A DEBTOR, PERSONAL INSOLVENCY PRACTITIONER OR APPROVED INTERMEDIARY, CREDITORS, AND THE COURT.*

*THESE SCENARIOS MAY BE AMENDED OR DEVELOPED IN THE FUTURE WHEN ACTUAL CASES ARE PROCESSED TO A SUCCESSFUL CONCLUSION IN ORDER TO MORE ACCURATELY REFLECT SUCCESSFUL OUTCOMES APPROVED BY THE COURT.*

*IT IS IMPORTANT TO EMPHASISE THAT THESE POSSIBLE SCENARIOS ARE FOR ILLUSTRATIVE PURPOSES ONLY AS TO HOW A PARTICULAR ARRANGEMENT MIGHT WORK IN PRACTICE, AND ASSUMES A PRAGMATIC AND REALISTIC RESPONSE BY CREDITORS.*

*THE ISI DOES NOT PROVIDE FINANCIAL ADVICE.*

*APPROVED INTERMEDIARIES IN THE CASE OF DRNS, AND PERSONAL INSOLVENCY PRACTITIONERS, IN THE CASE OF DSAS AND PIAS, ARE AVAILABLE TO ASSIST DEBTORS.*

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# CONTENTS

# SECTION 1

# DRN

# SCENARIO 1

# DRN – APPLICANT ELIGIBLE

**This sample scenario is designed to illustrate the basic features of a Debt Relief Notice (DRN).**

## 1 BRIAN'S STORY

Brian is a 28 year old, single, office worker earning a net monthly income of €1,700. He lives in rented accommodation and rent is €620 per month. Over the years, Brian built up debts on his credit card totalling €9,000. He also has a credit union loan of €3,200 and has fallen into arrears with his electricity provider amounting to €800.

Brian's only assets are a car worth €1,800, €200 cash and some household furniture and appliances worth about €3,500. Brian's monthly debt obligations amount to €350. He recognises that he cannot pay his debts as they fall due and realises he is insolvent. He believes he might be eligible to seek a DRN and selects an Approved Intermediary (AI), which he contacts in order to discuss his current financial situation.

## 2 BRIAN'S CURRENT INSOLVENT POSITION

| Assets | |
|---|---|
| Household items | € 3,500 |
| Car | € 1,800 |
| Cash | € 200 |
| **Total** | **€ 5,500** |
| Debts | |
| Credit card | € 9,000 |
| Credit union loan | € 3,200 |
| Electricity | € 800 |
| **Total** | **€ 13,000** |

| Monthly Income | |
|---|---|
| Monthly Net Income | € 1,700 |
| **Total** | **€ 1,700** |
| Monthly Expenses | |
| Total Set Costs[1] | € 1,029.83 |
| Rent[2] | € 620 |
| Reasonable Living Expenses | € 1,649.83 |
| **Net disposable income prior to servicing debt** (€ 1,700-€ 1,649.83) | **€ 50.17** |

[1] The Approved Intermediary (AI) references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie) to calculate Brian's Total Set Costs. Brian's circumstances meet those covered by Table 2. "One adult household, vehicle" of the Guide (One adult total set costs are €1,029.83).

[2] The AI will assess the reasonableness of rent in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 3 ELIGIBILITY

Brian is eligible for a DRN because

- ✓ Brian's debts are less than €20,000.
- ✓ He has less than €60 net disposable income per month prior to servicing his debt left after Reasonable Living Expenses have been deducted.
- ✓ 25% or more of Brian's debts have not been incurred in the 6-month period ending on the application date for a DRN.
- ✓ His car is worth less than €2,000.
- ✓ The value of his necessary household items does not exceed the €6,000 limit.
- ✓ His other assets are less than €400 in value.

Assuming Brian meets all of the other eligibility criteria as set out in page 5 of the Guide to a Debt Relief Notice; he can apply for a DRN covering his debts.

## 4 NEXT STEPS

a) Brian applies for a DRN through an Approved Intermediary (who will not charge a fee) who sends his application, along with the required supporting documentation, to the ISI for processing.

b) Assuming the ISI is satisfied that the application is in order, it will issue a certificate to that effect and forward the application to the Circuit Court.

c) Assuming the Circuit Court is satisfied with the application, it will issue a DRN to Brian and record Brian's DRN on a Public Register for DRNs. This will include his name, address, year of birth and the date of issue of the DRN.

d) A 3-year supervision period will apply to Brian's DRN. During that time, Brian is not required to make any payments to his specified creditors and none of his specified creditors can pursue him for the money he owes.

e) Brian must advise the ISI of any change to his circumstances during that period.

## 5 BRIAN'S POSITION AFTER MEETING HIS OBLIGATIONS UNDER THE DRN

Assuming Brian's situation remains the same and he adheres to the statutory requirements of the Debt Relief process, at the end of the 3 years:

- Brian will be free from the debts contained in the DRN.
- Brian's details (name, address, year of birth, and the date of issue of the DRN) will be removed from the Public Register of Debt Relief Notices.
- Brian will be solvent.

## DRN- CHANGE OF CIRCUMSTANCES

**This sample scenario is an extension of Scenario 1 (Brian's story) and is designed to illustrate how an improvement in the financial position of a debtor during the lifetime of a DRN is dealt with.**

### 1 BRIAN'S STORY

Three months into the three-year supervision period, Brian gets a promotion and his net income increases by €500 per month.

As set out in the Personal Insolvency Act 2012, a debtor engaged in a DRN whose net monthly income increases by €400 or more per month is obliged to surrender half of the increase to the ISI for onward distribution to his/her creditors. Where the debtor has paid 50% of the total debt contained in the DRN before the three-year period comes to an end, the DRN will be terminated.

Due to Brian's change in circumstances two things will happen:

1. Brian's net monthly income has increased by €500; therefore, the payments made to the ISI will increase from €0 to €250 per month.
2. After 26 months, when Brian has paid instalments amounting to €6,500 (50% of the total amount owed) his DRN will be terminated.  His name will be removed from the Register of Debt Relief Notices and the remainder of his debts (named in the DRN) will be discharged.

**Payments Made During Supervision Period**

| PAYMENTS | YEAR 1 | YEAR 2 | YEAR 3 |
|---|---|---|---|
| Month 1 | | € 250 | € 250 |
| Month 2 | | € 250 | € 250 |
| Month 3 | | € 250 | € 250 |
| Month 4 | € 250 | € 250 | € 250 |
| Month 5 | € 250 | € 250 | € 250 |
| Month 6 | € 250 | € 250 | **50% of total debt, representing € 6,500 now repaid therefore DRN is terminated.** |
| Month 7 | € 250 | € 250 | |
| Month 8 | € 250 | € 250 | |
| Month 9 | € 250 | € 250 | |
| Month 10 | € 250 | € 250 | |
| Month 11 | € 250 | € 250 | |
| Month 12 | € 250 | € 250 | |
| **Total** | **€ 2,250** | **€ 3,000** | **€ 1,250** |

# SCENARIO 2

# DRN– APPLICANT NOT ELIGIBLE

**This sample scenario is designed to illustrate why an insolvent debtor may not be eligible to apply for a DRN.**

## 1. SUSAN'S STORY

Susan is a 40-year-old shop assistant living in shared, rented accommodation. Her rent is €400 per month. Eight months ago, Susan's employment pattern changed and her hours were reduced. She now earns €1,330 per month.

In the past months, Susan has accumulated further debts on her credit card of €6,000 as she relied on it to bridge the gap between her current wage and the wages she previously earned in the hope that she would eventually get more hours and be in a position to repay her credit card debt. However, Susan's debts are now €18,000 and there is no prospect of her getting more hours in the shop. Her only assets are a laptop and a few pieces of furniture worth a combined €1,500. Susan also owns a gold ring worth €2,000.

Susan is unable to repay her debts as they fall due. She is insolvent. Susan believes she might be eligible to seek a DRN and selects an Approved Intermediary (AI), which she contacts in order to discuss her current insolvent situation.

## 2. SUSAN'S CURRENT INSOLVENT POSITION

| **Assets** | |
|---|---|
| Household items | € 1,500 |
| Gold ring | € 2,000 |
| **Total** | **€ 3,500** |
| **Debts** | |
| Credit card (Of which €6,000 incurred in the past 6 months) | € 18,000 |
| **Total** | **€ 18,000** |

| **Monthly Income** | |
|---|---|
| Monthly Net Income | € 1,330 |
| **Total** | **€ 1,330** |
| **Monthly expenses** | |
| Total Set Costs[1] | € 900.08 |
| Rent[2] | € 400 |
| Reasonable Living Expenses | € 1,300.08 |
| **Net disposable income prior to servicing debt** (€1,330.00 - €1,300.08) | **€ 29.92** |

[1] The AI references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie) to calculate Susan's Total Set Costs. Susan's circumstances meet those covered by Table 1. "One adult household, no vehicle" of the Guide (One adult total set costs are €900.08).

[2] The AI will assess the reasonableness of rent in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 3. ELIGIBILITY

Although Susan meets some eligibility criteria for a DRN because

- ✓ Her debts are less than €20,000.
- ✓ She has less than €60 net disposable income per month prior to servicing his debt left after Reasonable Living Expenses have been deducted.
- ✓ The value of her laptop and necessary household items is less than €6,000.

She fails to meet other criteria to qualify for a DRN because

- ✗ She has an item of jewellery worth €2,000, which is more than the €750 value limit allowed for one piece of jewellery.
- ✗ Susan has incurred 25% or more of her debt (€6,000 out of €18,000) in the 6-month period ending on the application date for a DRN.
- ✗ Her assets are not less than €400 in value as she has a piece of jewellery worth €2,000.

On the basis that Susan has not met all the eligibility criteria, she is not eligible for a DRN arrangement.

## 4. OUTCOME

As Susan is not eligible to apply for a DRN, there is no change to her current insolvent position. She decides to seek advice from a Money Advisor who will assist her in assessing her options.

Links to Money Advice and Budgeting Service (MABS) will be on the ISI website www.isi.gov.ie

# SCENARIO 3

# DRN – APPLICANT NOT ELIGIBLE DUE TO CAR LOAN

**This sample scenario is designed to illustrate the impact of an outstanding loan on a DRN application under the Personal Insolvency Act, where this loan was used to finance the purchase of a car.**

## 1. DEIRDRE'S STORY

Deirdre is a single part-time office worker earning €1,600 net monthly income. Deirdre lives in rented accommodation with her sister, which costs her €550 per month. She has a credit card debt totalling €14,000. She bought a second-hand car that she needs for work a few years ago. Deirdre financed the purchase of her car with a personal loan and the car is now worth €1,600. She still owes €2,000 to the personal loan creditor for that loan. Her current monthly repayment to this creditor is €100.

Deirdre is unable to repay her debts as they fall due. She is insolvent. She believes she might be eligible to seek a DRN and selects an Approved Intermediary (AI), which she contacts in order to discuss her current insolvent situation.

## 2. DEIRDRE'S CURRENT INSOLVENT POSITION

| Assets | |
|---|---|
| Car | € 1,600 |
| Total | € 1,600 |
| **Debts** | |
| Credit card | € 14,000 |
| Personal loan (helped purchase the car) | € 2,000 |
| Total | € 16,000 |

| Monthly Income | |
|---|---|
| Monthly Net Income | € 1,600 |
| Total | € 1,600 |
| **Monthly Expenses** | |
| Total Set Costs[1] | € 1,029.83 |
| Rent[2] | € 550 |
| Reasonable Living Expenses[3] | € 1,579.83 |
| Net disposable income prior to servicing the debt (€ 1,600-€ 1,579) | € 20.17 |

[1] The AI references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie) to calculate Deirdre's Total Set Costs. Deirdre's circumstances meet those covered by Table 2. "One adult household, vehicle" of the Guide (One adult with vehicle total set costs are €1,029.83).

[2] The AI will assess the reasonableness of rent in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

[3] According to section 26(5)(c) of the Personal Insolvency Act, Deirdre's monthly repayment of €100 to the personal loan creditor is not an allowable expense in relation to calculating her net disposable income; therefore it is not included in the table above.

## 3. ELIGIBILITY

Although Deirdre meets some eligibility criteria for a DRN because

- ✓ Deirdre's debts are less than €20,000.
- ✓ She has less than €60 net disposable income prior to servicing the qualifying debt left after Reasonable Living Expenses.
- ✓ Deirdre has not incurred 25% or more of her debt in the 6 month period ending on her application date for a DRN.
- ✓ Her car is worth less than €2,000

She fails to meet other criteria to qualify for a DRN

- ✗ Due to the fact that Deirdre has a loan outstanding in respect of her car, Deirdre is ineligible for a DRN, in accordance with Section 26 (6) (c) (iii) (I) of the Personal Insolvency Act.

Deirdre decides to seek advice from a Money Advisor who will assist her in assessing her options.

Links to Money Advice and Budgeting Service (MABS) will be on the ISI website www.isi.gov.ie

# SECTION 2

# DSA

# SCENARIO 4

## DSA– APPLICANT ELIGIBLE

**This sample scenario is designed to illustrate the basic features of a DSA; including the use of non essential assets and disposable income as part of a DSA.**

### 1. DAVID'S STORY

David is a 45-year-old single parent with one child in Primary School (aged 5). He is a self-employed electrician (sole trader) earning €3,000 net income per month. His income has significantly reduced in the last few years. He is renting a 2-bedroom apartment for €700 per month and also pays €500 per month for childcare.

At present, he has an unsecured personal loan of €50,000, credit card debts of €20,000 and as a sole trader owes his suppliers €10,000. David's current monthly debt repayment obligations amount to €1,500. He is unable to pay his bills and meet his debts as they fall due. He is insolvent.

David's only assets consist of a car valued at €5,000, tools valued at €2,500 (both needed for his employment) and an antique recently valued at €2,500.

David has only unsecured debts; therefore, he believes the most suitable arrangement is a DSA. David meets with a Personal Insolvency Practitioner (PIP) and provides full details of his financial circumstances so the PIP can understand his financial position.

## 2. DAVID'S CURRENT INSOLVENT POSITION

| Assets | | Monthly Income | |
|---|---|---|---|
| Car | € 5,000 | Monthly Net Income | € 3,000 |
| Tools | € 2,500 | | |
| Antique | € 2,500 | | |
| **Total** | **€ 10,000** | **Total** | **€ 3,000** |
| Debts | | Monthly Expenses | |
| Personal Loan | € 50,000 | Total Set Costs[1] | € 1,272 |
| Credit card | € 20,000 | Rent/Mortgage[2] | € 700 |
| Suppliers | € 10,000 | Childcare Costs[2] | € 500 |
| | | Reasonable Living Expenses | € 2,472 |
| | | Available for remaining debt service (€ 3,000-€ 2,472) | € 528 |
| | | Current obligations for remaining debt | (€ 1,500) |
| **Total** | **€ 80,000** | **Deficit in meeting remaining debt obligations** (€ 528-€ 1,500) | **€ (972)** |

## 3. ELIGIBILITY

David qualifies for a DSA because

- ✔ David is insolvent – he is unable to pay his debts as they fall due.
- ✔ David has not incurred 25% or more of his debt in the 6 month period ending on the application date for the Protective Certificate.
- ✔ David meets all of the other eligibility criteria for a DSA

(Please see page 7 of the DSA guidebook for further details of eligibility criteria).

[1] The Personal Insolvency Practitioner references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie) to calculate David's Total Set Costs. David's circumstances meet those covered by Table 4. "One adult household, one or more children, vehicle" of the Guide (One adult €1,066.75 + One child (age 5) in Primary school €204.88 = €1,271.63). For illustrative purposes and ease for the reader, the RLE figure is rounded up to €1,272.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 4. NEXT STEPS

a) The PIP assesses David’s situation and is satisfied that David meets all the eligibility criteria for a DSA and submits an application to the Insolvency Service of Ireland (ISI), including a Prescribed Financial Statement (PFS) for a Protective Certificate (PC) on his behalf.
b) The ISI processes David’s application and is satisfied with it. The ISI issues a certificate to that effect and sends it along with David’s application to the appropriate Court.
c) The Court is satisfied with David’s application and issues a PC. David’s name, address, year of birth and date of issue of the PC will be added to the Public Register of PCs on the ISI website. The PC offers David and his assets protection from legal proceedings by his creditors while he is applying for a DSA.
d) David’s PIP has now 70 days to develop a DSA proposal and get it voted on by the creditors and submitted to the Court for assessment.
e) David agrees to the DSA proposal developed by the PIP. (Details of potential DSA solution in point 5 below).
f) Creditors representing 65% (i.e. Threshold needed for creditors’ approval) of David’s total debt and participating at the creditors meeting agree to the proposal.
g) The PIP records the creditors’ meeting results and sends them to the ISI and each of David’s creditors. No creditor appeals at any point of the process
h) The ISI and the Court carry out final reviews of David’s case and approve the DSA.
i) David’s details are placed on a Public Register of Debt Settlement Arrangements. (This includes his name, address, year of birth, and the date of coming into effect of the DSA).

## 5. POTENTIAL DSA SOLUTION FOR DAVID PROPOSED BY THE PIP

a) David sells his antique for €2,500, which he transfers to the PIP for onward distribution to his creditors.
b) David’s monthly disposable income available to make payments to his unsecured creditors, after meeting reasonable living expenses is €528.
c) This equates to €31,680 over 5 years and along with the proceeds from the sale of the antique, David will contribute €34,180 over the lifetime of the DSA.
d) For the purpose of this scenario, it is estimated that the PIP fees are €4,000. Therefore, David’s unsecured creditors will receive €30,180 on a proportionate basis over the lifetime of the DSA.

As part of developing the DSA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing a fee, the PIP may suggest a staggered draw down of this fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the DSA.

Payments made during the DSA

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total | **Return for creditors** |
|---|---|---|---|---|---|---|---|
| Monthly amount available for contribution to the arrangement | € 528 | € 528 | € 528 | € 528 | € 528 | | |
| Annual amount available for contribution to the arrangement (€ 528x12) | € 6,336 | € 6,336 | € 6,336 | € 6,336 | € 6,336 | €31,680 | |
| Sale proceeds of antique | € 2,500 | | | | | € 2,500 | |
| Total contribution for the arrangement | € 8,836 | € 6,336 | € 6,336 | € 6,336 | € 6,336 | €34,180 | |
| Less PIP's Fee[1] | €(1,500) | € (625) | € (625) | € (625) | € (625) | €(4,000) | |
| Total payments to unsecured creditors net of PIP's fees (100%) | € 7,336 | € 5,711 | € 5,711 | € 5,711 | € 5,711 | €30,180 | |
| Repayment breakdown between creditors | | | | | | | |
| Personal Loan (62.5%) | € 4,585 | € 3,569 | € 3,569 | € 3,569 | € 3,569 | €18,861 | **38%** |
| Credit card (25%) | € 1,834 | € 1,428 | € 1,428 | € 1,428 | € 1,428 | € 7,546 | **38%** |
| Suppliers (12.5%) | € 917 | € 714 | € 714 | € 714 | € 714 | € 3,773 | **38%** |
| **Total payments to unsecured creditors net of PIP's fees (100%)** | **€ 7,336** | **€ 5,711** | **€ 5,711** | **€ 5,711** | **€ 5,711** | **€30,180** | |

## 6. DAVID'S POSITION AFTER MEETING HIS DUTIES AND OBLIGATIONS UNDER THE DSA

- Should David successfully complete the DSA, he will have repaid €30,180 of his debts at the end of the DSA, and the remaining €49,820 is discharged.
- The amount repaid represents a 38% return on the unsecured debts as at the date of the Protective Certificate.
- David is now solvent.

[1] In this scenario, the PIP's fees are made up of an initial fee of €1,500 to reflect the 'up-front' work undertaken by the PIP and is followed by yearly amounts staggered over the remaining 5 years. The overall PIP's fees represent 11.7% of realisations in the five years of the DSA.

## DSA- CHANGE IN CIRCUMSTANCES

**This sample scenario, which is an extension of Scenario 5 (David's story), is designed to illustrate how a DSA may be adjusted during its lifetime to reflect a change in the debtor's circumstances.**

### 1. DAVID'S STORY

David has been paying his DSA for two years now and he fills in his annual Prescribed Financial Statement (PFS) for his PIP as part of the mandatory annual review. David's workload has reduced and his net income has fallen by 15% to €2,550 monthly. He is finding it difficult to maintain his repayments as agreed under the Debt Settlement Arrangement.

David meets his PIP to discuss his change in circumstances and decides that he would like to apply for a variation to his current DSA. His new PFS discloses the following.

### 2. DAVID'S INSOLVENT POSITION AT THE END OF YEAR 2

| Assets | |
|---|---|
| Car<br>(€5,000 less depreciation €2,000) | € 3,000 |
| Tools<br>(€2,500 less depreciation €1,000) | € 1,500 |
| Antique (sold to the benefit of the creditors) | |
| **Total** | **€ 4,500** |
| Debts<br>(remaining at the end of year 2) | |
| Loan (€50,000-€4,585-€3,569) | € 41,846 |
| Credit card (€20,000-€1,834-€1,428) | € 16,738 |
| Suppliers (€10,000-€917-€714) | € 8,369 |
| **Total** | **€ 66,953** |

| Monthly Income | |
|---|---|
| Monthly Net Income<br>(15% fall from €3,000 representing €450) | € 2,550 |
| **Total** | **€ 2,550** |
| Monthly Expenses | |
| Total Set Costs[1] | € 1,272 |
| Rent/Mortgage[2] | € 700 |
| Childcare Costs[2] | € 500 |
| Reasonable Living Expenses | € 2,472 |
| Available for remaining debt service (€2,550-€2,472) | € 78 |
| Current obligations for remaining debt under the existing DSA | € (528) |
| **Deficit in meeting remaining debt obligations (€ 78-€ 528)** | **€ (450)** |

[1] The PIP references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie) to calculate David's Total Set Costs. David's circumstances meet those covered by Table 4. "One adult household, one or more children, vehicle" of the Guide (One adult €1,066.75 + One child (age 7) in Primary school €204.88 = €1,271.65). For illustrative purposes and ease for the reader, the RLE figure is rounded up to €1,272.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 3. ELIGIBILITY

✔ Assuming David still meets all of the eligibility criteria, he applies for a variation to his Debt Settlement Arrangement.

## 4. NEXT STEPS

a) David meets his PIP and identifies that he is in a position to make payments of €78 per month.
b) David agrees to a variation proposal (details of potential DSA variation solution in point 5 below).
c) The PIP draws up a variation proposal.
d) Creditors representing 65% (i.e. Threshold needed for creditors' approval) of David's debt and participating at the creditors' meeting agree to the proposal.
e) The PIP records the creditors' meeting results and sends them to the ISI and each of David's creditors. No creditor appeals at any point of the process.
f) David's monthly contribution is reduced to a sustainable level, which allows him to continue with his DSA arrangement.

## 5. POTENTIAL DSA VARIATION PROPOSAL BY THE PIP

- David's DSA increases from 5 years to 6 years.
- David pays his reduced payment of €78 per month for the next 4 years of this agreement.
- This amounts to €3744 (€78 x 12mths x 4yrs) paid over the next 4 years of his DSA.
- This reduces the amount David pays back and allows him to continue with his DSA.

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Total | **Return for creditors** |
|---|---|---|---|---|---|---|---|---|
| Monthly amount available for contribution to the arrangement | € 528 | € 528 | € 78 | € 78 | € 78 | € 78 | | |
| Annual amount available for contribution to the arrangement (€528x12 for years 1 and 2 and €78x12 from year 3 to 6) | € 6,336 | € 6,336 | € 936 | € 936 | € 936 | € 936 | € 16,416 | |
| Sale proceeds of antique | € 2,500 | | | | | | € 2,500 | |
| **Total contribution for the arrangement** | **€ 8,836** | **€ 6,336** | **€ 936** | **€ 936** | **€ 936** | **€ 936** | **€ 18,916** | |
| Less PIP's fees[1] | € (1,500) | € (625) | € (500) | € (500) | € (500) | € (500) | € 4,125 | |
| **Total repayments to unsecured creditors net of PIP's fees (100%)** | **€ 7,336** | **€ 5,711** | **€ 436** | **€ 436** | **€ 436** | **€ 436** | **€ 14,791** | |
| Repayment breakdown between creditors | | | | | | | | |
| Personal Loan (62.5%) | € 4,585 | € 3,569 | € 273 | € 273 | € 273 | € 273 | € 9,244 | **18%** |
| Credit card (25%) | € 1,834 | € 1,428 | € 109 | € 109 | € 109 | € 109 | € 3,698 | **18%** |
| Suppliers (12.5%) | € 917 | € 714 | € 55 | € 55 | € 55 | € 55 | € 1,849 | **18%** |
| **Total repayments to creditors net of PIP's fees (100%)** | **€ 7,336** | **€ 5,711** | **€ 436** | **€ 436** | **€ 436** | **€ 436** | **€ 14,791** | |

## 6. DAVID'S POSITION AFTER MEETING HIS OBLIGATIONS UNDER THE DSA VARIATION

- David is now solvent after 6 years under a DSA.
- David has paid a total €14,791 to his creditors (€18,916 minus €4,125 total PIP's fees) and this represents 18% return for those unsecured creditors as at the date of the Protective Certificate.
- The remaining balance of unsecured debt is €65,209. This balance is discharged at the end of the 6th year, which marks the end of the DSA.
- For the purpose of this scenario it is estimated that the PIP's fees are €1,500 upfront in year one, €625 in year two, and €500 per year in years three, four, five and six after variation occurs in year three. This bring the total PIP's fees to €4,125 overall.

As part of developing the DSA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing a fee, the PIP may suggest a staggered draw down of this fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the DSA.

[1] In line with the variation, the PIP agrees to the reduction of fees from €625 to €500 per annum for years 3 to 6. The PIP's overall fees increase in absolute terms from €4,000 to €4,125 as he/she administers David's DSA for an extra year.

## SCENARIO 5

## DSA– JOINT DSA, APPLICANTS ELIGIBLE

**This sample scenario is designed to illustrate how a DSA may be facilitated by a temporary concession of a secured lender.**

### 1. PATRICK AND LISA'S STORY

Patrick and Lisa are married with three children in Primary School (aged 4, 5, and 6). They have a combined monthly net income of €4,700.

They have joint unsecured debts of €100,000, which consist of a credit union loan of €50,000, credit card debts totalling €30,000 and an overdraft of €20,000 on their joint account. Their current monthly obligations towards their unsecured creditors are €990. They have no sole debts.

Patrick and Lisa have an outstanding balance on their Principal Private Residence (PPR) mortgage of €250,000 on a property they bought 11 years ago. It has a present value of €200,000. They also have a car worth €4,000.

Patrick and Lisa are finding it difficult to repay their mortgage because of the extent of their other unsecured loans. They have been unable to pay their debts in full as they fall due and realise they are insolvent. They have concluded that if they were in a position to settle their unsecured debts, they would be able to pay their mortgage. Patrick and Lisa meet with a Personal Insolvency Practitioner (PIP), and provide full details of their financial circumstances so the PIP can understand their financial position.

They have agreed with their PIP to apply for an interest only facility on their mortgage to try to address their unsecured debts.

Patrick and Lisa's PIP approaches the Mortgage bank to ask for an interest only facility to their mortgage. The bank agrees to facilitate interest only for the duration of the DSA, which amounts to monthly repayments of €938, should the DSA be approved.

## 2. PATRICK AND LISA'S INSOLVENT POSITION

| Assets | Value | Loan |
|---|---|---|
| Principal Private Residence | € 200,000 | € 250,000 |
| Car | € 4,000 | |
| **Total** | **€ 204,000** | **€ 250,000** |
| Debts | | |
| **Secured debts** | | |
| PPR Mortgage | | € 250,000 |
| **Unsecured debts** | | |
| Credit union loan | | € 50,000 |
| Credit card debts | | € 30,000 |
| Overdraft | | € 20,000 |
| **Total** | | **€ 350,000** |

| Monthly Income | |
|---|---|
| Patrick's Net Income | € 3,300 |
| Lisa's Net Income | € 1,400 |
| **Total** | **€ 4,700** |
| Monthly expenses | |
| Total Set Costs[1] | € 1,864 |
| Rent/Mortgage[2] | € 1,474 |
| Childcare Costs[2] | € 1,000 |
| **Reasonable Living Expenses** | **€ 4,338** |
| Available for remaining debt service (€ 4,700-€ 4,338) | € 362 |
| Current obligations for remaining debt | € (990) |
| **Deficit in meeting remaining debt obligations (€ 362-€ 990)** | **€ (628)** |

## 3. ELIGIBILITY

Patrick and Lisa are eligible to qualify for a joint DSA because

- Patrick and Lisa are insolvent, which means that they are unable to pay their debts as they fall due.
- They have not incurred 25% or more of their debt in the 6 months ending on the application date for the Protective Certificate.
- Patrick and Lisa meet all of the other eligibility criteria for a DSA (Please see page 7 of the DSA Guidebook for further details of eligibility criteria).

**It should be noted that the DSA does not deal with secured debt within the arrangement.**

[1] The PIP references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie). Patrick and Lisa's circumstances meet those covered by Table 6. "Two adult household, one or more children, vehicle" of the Guide (Two adults €1,359.67 + One child (age 4) €164.71+ One child (age 5) €164.71+ One child (age 6) €164.71 + third child adjustment € 9.83 = €1,863.63). For illustrative purposes and ease for the reader, the RLE figure is rounded up to €1,864.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 4. NEXT STEPS

a) The PIP assesses Patrick and Lisa's situation and is satisfied that they meet all the eligibility criteria for a DSA. He submits an application to the Insolvency Service of Ireland (ISI), including a Prescribed Financial Statement (PFS) for a Protective Certificate (PC) on the couple's behalf.

b) The ISI processes Patrick and Lisa's application and is satisfied with it. The ISI issues a certificate to that effect and sends it along with the couple's application to the appropriate Court.

c) The Court is satisfied with Patrick and Lisa's application and issues a PC. Patrick and Lisa's names, address, years of birth, and date of issue of the PC will be added to the Public Register of PCs on the ISI website. The PC offers Patrick and Lisa, and their assets protection from legal proceedings by their creditors while they are applying for a DSA.

d) Patrick and Lisa's PIP has 70 days to develop a DSA proposal and get it voted on by the creditors and submitted to the Court for assessment.

e) Patrick and Lisa agree to the DSA proposal devised by the PIP (details of the potential DSA solution in point 5 below).

f) Creditors representing 65% (i.e. the threshold needed for creditors' approval) of Patrick and Lisa's debt and participating at the creditors meeting agree to the proposal.

g) The PIP records the creditors' meeting results and sends them to the ISI and each of Patrick and Lisa's creditors. No creditor appeals at any point of the process.

h) The ISI and the Court carry out final reviews of Patrick and Lisa's case and approve the DSA.

i) Patrick and Lisa's details are placed on a Public Register of Debt Settlement Arrangements. This includes their names, address, years of birth, and the date of coming in into effect of the DSA.

## 5. POTENTIAL DSA SOLUTION FOR PATRICK AND LISA PROPOSED BY THE PIP

Patrick and Lisa’s monthly net disposable income before unsecured loan repayments is €362. Their interest only agreement with the bank has given them an extra €536 (€1,474-€938) per month to pay towards their unsecured loans. This amounts to €898 (€536+€362) available to make payments to their unsecured creditors.

Patrick and Lisa’s Monthly income and expenses during DSA

| | |
|---|---|
| Net monthly Income | € 4,700 |
| Less Monthly expenses | |
| Total Set Costs | € 1,864 |
| Childcare Costs | € 1,000 |
| Mortgage (interest only) | € 938 |
| Reasonable Living Expenses | € 3,802 |
| Monthly amount available for contribution to the arrangement (€ 4,700-€ 3,802) | € 898 |

Patrick and Lisa contribute €53,880 (€898 x 12mths x 5yrs) over the duration of the DSA.

As part of developing the DSA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing a fee, the PIP may suggest a staggered draw down of the fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the DSA.

For the purposes of this scenario it is estimated that the PIP fees are €4,000, made up of an initial €1,500 to reflect the ‘up front’ work undertaken by the PIP in year one. The remaining €2,500 is staggered across the following 4 years representing €625 (7% of realisations in year 2 and subsequent years). Patrick and Lisa’s unsecured creditors will therefore receive a total of €49,880 on a proportionate basis over the lifetime of the DSA.

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total | Return for creditors |
|---|---|---|---|---|---|---|---|
| Monthly amount available for contribution to the arrangement | € 898 | € 898 | € 898 | € 898 | € 898 | | |
| Annual amount available for contribution to the arrangement (€898x12) | € 10,776 | € 10,776 | € 10,776 | € 10,776 | € 10,776 | € 53,880 | |
| Less PIP's fees | € (1,500) | € (625) | € (625) | € (625) | € (625) | € (4,000) | |
| Total payments to unsecured creditors net of PIP's fees | € 9,276 | € 10,151 | € 10,151 | € 10,151 | € 10,151 | € 49,880 | |
| Repayment breakdown between creditors | | | | | | | |
| Credit union loan (50%) | € 4,638 | € 5,076 | € 5,076 | € 5,076 | € 5,076 | € 24,940 | **50%** |
| Credit card debts (30%) | € 2,783 | € 3,045 | € 3,045 | € 3,045 | € 3,045 | € 14,964 | **50%** |
| Overdraft (20%) | € 1,855 | € 2,030 | € 2,030 | € 2,030 | € 2,030 | € 9,976 | **50%** |
| **Total repayments to creditors net of PIP's fees (100%)** | **€ 9,276** | **€ 10,151** | **€ 10,151** | **€ 10,151** | **€ 10,151** | **€ 49,880** | |

## 6. PATRICK AND LISA'S POSITION AFTER MEETING THEIR DUTIES AND OBLIGATIONS UNDER THE DSA

- Patrick and Lisa's PPR mortgage is sustainable; notwithstanding the fact that the monthly repayments of the mortgage rise to €1,600 after the DSA to reflect that no capital repayment was made during the DSA.
- Patrick and Lisa will have paid €49,880 towards creditors of their unsecured debt of €100,000. The remaining €50,120 is discharged. This represents a 50% return on those unsecured debts as at the date of the Protective Certificate.
- Patrick and Lisa are now solvent.

# SECTION 3

# PIA

## SCENARIO 6

## PIA – APPLICANT ELIGIBLE

**This sample scenario is designed to illustrate the basic features of a PIA and includes the restructuring of secured debt.**

### 1. JOHN'S STORY

John is an IT consultant who earns a monthly net income of €3,510. He is married to Mary who does not work outside of the home in order to take care of their children. They have two children at Primary School (aged 7 and 8). They have a family car, which is required for John's work, and is valued at €5,000. John bought his Principal Private Residence (PPR) ten years ago. It is worth €250,000, but the outstanding mortgage is €300,000. John owns 3 acres of agricultural land, which is valued at €10,000 and has no loans against it. John also has a total of €100,000 in unsecured debt consisting of a Personal loan (€75,000) and credit card debts (€25,000). His monthly debt commitments are as follows:

- Mortgage repayment on his PPR of €2,222
- Unsecured debt repayments of €1,500

John has co-operated with his bank under the Central Bank Code of Conduct on Mortgage Arrears in relation to his PPR for the last six months, but has been unable to agree a sustainable repayment solution. John is unable to pay his debts in full as they fall due and acknowledges he is insolvent.

John meets with a Personal Insolvency Practitioner (PIP) and provides full details of his financial circumstances so the PIP can understand his financial position.

## 2. JOHN'S CURRENT INSOLVENT POSITION

| Assets | Value | Loan |
|---|---|---|
| PPR | € 250,000 | € 300,000 |
| Land | € 10,000 | |
| Car | € 5,000 | |
| **Total** | **€ 265,000** | **€ 300,000** |
| Debts | | |
| **Secured debts** | | |
| PPR mortgage | | € 300,000 |
| **Unsecured debts** | | |
| Personal loan | | € 75,000 |
| Credit card debts | | € 25,000 |
| **Total** | | **€ 400,000** |

| Monthly Income | |
|---|---|
| Net Income | € 3,510 |
| **Total** | **€ 3,510** |
| Monthly expenses | |
| Total Set Costs[1] | € 1,689 |
| Rent/Mortgage[2] | € 2,222 |
| Childcare Costs[2] | |
| **Reasonable Living Expenses** | **€ 3,911** |
| Available for unsecured debt service (3,510-3,911) | € (401) |
| Unsecured debt repayments | € (1,500) |
| **Deficit in meeting unsecured debt obligations** (-€ 401-€ 1,500) | **€ (1,901)** |

## 3. ELIGIBILITY

John qualifies for a PIA because

- ✓ John has secured debts.
- ✓ John has not incurred 25% or more of his debts in the 6-month period ending on the application date for the Protective Certificate.
- ✓ John has participated in the Mortgage Arrears Resolution Process (process approved by Central Bank) with his PPR Mortgage Provider for a minimum period of six months in relation to his PPR but has been unable to agree a sustainable repayment solution.
- ✓ John's total secured debts do not exceed €3 million.
- ✓ John meets all the other eligibility criteria for a PIA (Please see page 7 of the PIA guidebook for further details of eligibility criteria).

[1] The Personal Insolvency Practitioner references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie). John's circumstances meet those covered by Table 6. "Two adult household, one or more children, vehicle" of the Guide (Two adults € 1,359.67 + One child (age 7) €164.71 + One child (age 8) €164.71 = €1,689.09). For illustrative purposes and ease for the reader, the RLE figure is rounded to €1,689.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 4. NEXT STEPS

a) The PIP is satisfied that John meets all the eligibility criteria for a PIA, and submits an application for a Protective Certificate (PC) to the Insolvency Service of Ireland (ISI) on John's behalf, including a Prescribed Financial Statement (PFS).
b) ISI and Court are satisfied with John's application and issue a PC. John's name, address, year of birth, and date of issue of the PC will be added to the Public Register of PCs on the ISI website. The PC offers John and his assets protection from legal proceedings by his creditors while he is applying for a PIA.
c) The PIP has 70 days to develop a proposal, get it voted by the creditors and submitted to the Court for assessment.
d) John agrees to the PIA proposal developed by the PIP (Details of potential PIA solution set out below in point 5).
e) Creditors representing 65% or more of John's total debt participating at the creditors' meeting agree to the proposal (i.e. first threshold needed for creditors' approval). This includes creditors representing 50% or more of John's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of John's unsecured debt (i.e. third threshold needed for creditors' approval) (see appendix A-voting rights table for more information).
f) The PIP records the creditors' meeting results and sends them to the ISI and each of John's creditors. No creditor appeals at any point of the process.
g) The ISI and the Court carry out final reviews of John's case and approve the PIA.
h) John's details are placed on a Public Register of Personal Insolvency Arrangements. (This includes his name, address, year of birth and the date of coming into effect of the PIA).

## 5. POTENTIAL PIA SOLUTION FOR JOHN PROPOSED BY PIP

The PIP identifies €1,821 as the long-term sustainable monthly repayment on John's PPR mortgage. To achieve this, the PIP proposes a term extension of five years. The term of the John's mortgage cannot be extended further due to John's age. The PIP also proposes that the land be sold immediately and the proceeds used to repay a final settlement of the amounts due to the unsecured creditors.

John's monthly income and expenses after PIA restructuring

| | |
|---|---|
| Net monthly income | € 3,510 |
| Less | |
| Total Set Costs | € 1,689 |
| Rent/Mortgage | € 1,821 |
| **Reasonable Living Expenses** | **€ 3,510** |
| **Available to unsecured creditors (€ 3,510-3,510)** | **€ 0** |

John has now enough income for Reasonable Living Expenses (including mortgage). There is €10,000 available to unsecured creditors from the proceeds of the sale of the land.

For the purposes of this scenario, it is estimated that the PIP's fee is split between John's secured and unsecured creditors. Therefore, John's unsecured creditors will receive €9,000 on a proportionate basis as part of the PIA.

Given that the unsecured creditors will avail of the €9,000 as a lump-sum settlement for John's unsecured debts, and considering John has no repayment capacity for the remaining unsecured debt, this PIA is a short-term arrangement, which will last four months[1] . The PIA will be terminated once the land is sold and all parties have been paid.

John's position before and after PIA

| Assets | Before PIA | Repayments | Debt write down | After PIA | Repayment % |
|---|---|---|---|---|---|
| PPR | € 250,000 | | | € 250,000 | |
| Land | € 10,000 | **€ (10,000)** | | | |
| Car | € 5,000 | | | € 5,000 | |
| **Total** | **€ 265,000** | **€ (10,000)** | | **€ 255,000** | |
| Debts | | | | | |
| **Secured debts** | | | | | |
| PPR Mortgage | € 300,000 | | | € 300,000 | |
| **Unsecured debts** | | | | | |
| Personal loan | € 75,000 | € (6,750) | € (68,250) | | **9%** |
| Credit card debts | € 25,000 | € (2,250) | € (22,750) | | **9%** |
| PIP's Fees | | € (1,000) | | | |
| **Total (100%)** | **€ 400,000** | **€ (10,000)** | **€ (91,000)** | **€ 300,000** | |
| Deficiency | € (135,000) | | | € (45,000)[2] | |

The PIP agrees to invoice John directly for the remaining fee to which he or she is entitled. This is an unusual arrangement in that PIP's fees are generally expected to be deducted from the periodic payments made by the debtor. However, since John's PIA is a lump sum, short-term PIA terminating after four months and where no periodic payments will be made, an alternative approach is proposed in this case. Such an alternative approach must expressly be provided under the terms of the PIA proposal.

As part of developing the PIA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing a fee, the PIP may suggest a staggered draw down of the fee to

[1] While six years is the maximum duration for a PIA arrangement, it is possible under section 99 (2)(b) of the Personal Insolvency Act to have a shorter PIA when the PIP deems it the most appropriate duration. There is no minimum duration for a PIA.

[2] The remaining negative equity is retained within the mortgage after the end of the PIA.

reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the PIA.

## 6. JOHN'S POSITION AFTER MEETING HIS DUTIES AND OBLIGATIONS UNDER THE PIA

a) PPR Mortgage is sustainable.
b) Unsecured creditors get €9,000, a return of 9% based on amounts outstanding at the date of the Protective Certificate.
c) John's remaining unsecured debts of €91,000 will be discharged at the end of the term of the PIA.
d) John is solvent.

## 7. APPENDICES

Appendix A: John's Creditors Meeting Voting Rights[1]

| Threshold 1 - 65% vote required | Total Debt Vote | Voting Rights |
|---|---|---|
| PPR | € 300,000 | 75% |
| Personal loan | € 75,000 | 19% |
| Credit Card | € 25,000 | 6% |
| **Total** | **€ 400,000** | **100%** |
| Threshold 2 - 50% vote required | Secured debt vote | Voting Rights |
| PPR | € 250,000 | 100% |
| **Total** | **€ 250,000** | **100%** |
| Threshold 3 - 50% vote required | Unsecured Debt Vote | Voting Rights |
| Personal loan | € 75,000 | 75% |
| Credit Card | € 25,000 | 25% |
| **Total** | **€ 100,000** | **100%** |

[1] The voting rights for threshold 2 are based on Section 110 (2) of the Personal Insolvency Act 2012.

"(2) For the purposes of subsection (1) (b) the value of a secured debt shall be
(a) The market value of the security concerned determined in accordance with section 105, or
(b) The amount of the debt secured by the security on the day the protective certificate is issued,
Whichever is the lesser."

In this scenario the Market Value of the PPR is €250,000. This figure is less than the outstanding mortgage on the PPR of €300,000.

# SCENARIO 7

## PIA: APPLICANT ELIGIBLE, SECURED DEBT PRINCIPAL REDUCTION

**This sample scenario is designed to illustrate the basic features of a PIA and includes principal reduction in secured debt.**

### 1. ANTHONY'S STORY

Anthony is single, with one child (age 4) in Primary School and does not require a motor vehicle. He worked full-time as a Sales Assistant until he had a car accident 18 months ago. Because of his accident, he can only work part-time and his net income has decreased to €2,000 per month.

Doctors have informed Anthony he will not be able to work full-time again. They have also informed him he will have to get regular physiotherapy sessions. There is no prospect of Anthony's income generating capacity improving. Anthony's Principal Private Residence (PPR) is currently valued at €60,000, but the outstanding mortgage is €120,000. His monthly mortgage repayment on his PPR is €636. He also has a credit union loan of €18,000, which requires monthly repayments of €400.

Anthony's current expenditures including his mortgage and credit union loan repayments are €2,632 (€2,232 + €400) monthly. He has co-operated with his bank under the Central Bank Code of Conduct on Mortgage Arrears in relation to his PPR for the past eight months, but has been unable to agree a sustainable repayment solution. Anthony is unable to pay his debts in full as they fall due and acknowledges he is insolvent.

Anthony meets with a Personal Insolvency Practitioner (PIP), and provides full details of his financial circumstances so the PIP can understand his financial position.

## 2. ANTHONY'S CURRENT INSOLVENT POSITION

| Assets | Value | Loan |
|---|---|---|
| PPR | € 60,000 | € 120,000 |
| Total | € 60,000 | € 120,000 |
| **Debts** | | |
| **Secured debts** | | |
| PPR Mortgage | | € 120,000 |
| **Unsecured debts** | | |
| Credit union loan | | € 18,000 |
| **Total** | | **€ 138,000** |

| Monthly Income | |
|---|---|
| Net Income | € 2,000 |
| Total | € 2,000 |
| **Monthly Expenses** | |
| Total Set Costs[1] | € 1,116 |
| Childcare[2] | € 380 |
| Rent/Mortgage[2] | € 636 |
| Special Circumstances (Physiotherapy)[2] | € 100 |
| **Reasonable Living Expenses** | **€ 2,232** |
| Available for unsecured debt service (€ 2,000-€ 2,232) | € (232) |
| Unsecured debt repayments | € (400) |
| **Deficiency in meeting unsecured debt obligations** | **€ (632)** |

## 3. ELIGIBILITY

Anthony qualifies for a PIA because

- ✓ Anthony has secured debts.
- ✓ Anthony has not incurred 25% or more of his debts in the 6 months ending on the application date for the Protective Certificate.
- ✓ Anthony has participated in the Mortgage Arrears Resolution Process (process approved by Central Bank) with his PPR Mortgage Provider for a minimum period of six months in relation to his PPR, but has been unable to agree a sustainable repayment solution.
- ✓ Anthony's total secured debts do not exceed €3 million.
- ✓ Anthony meets all the other eligibility criteria for a PIA (Please see page 7 of the PIA guidebook for further details of eligibility criteria.

[1] The Personal Insolvency Practitioner (PIP) references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie). Anthony's Total Set Costs of €898.96 meet those prescribed by Table 3 "One adult household, one or more children, no vehicle" of the Guide (One adults €898.96 + One Primary school child €217.30 = €1,116.26). For illustrative purposes and ease for the reader, the RLE figure is rounded to €1,116.

[2] The PIP will assess the reasonableness of mortgage, rent and/or childcare payments and any special circumstances when applicable in accordance with "Guidelines on a reasonable standard of living and reasonable living expenses".

## 4. NEXT STEPS

a) The PIP assesses Anthony's situation and is satisfied that Anthony meets all the eligibility criteria for a PIA.
b) The PIP submits an application for a Protective Certificate (PC) to the Insolvency Service of Ireland (ISI) on Anthony's behalf, including a Prescribed Financial Statement (PFS).
c) The ISI and Court are satisfied with Anthony's application and issue a PC. Anthony's name, address, year of birth, and date of issue of the PC will be added to the Public Register of PCs on the ISI website. The PC offers Anthony and his assets protection from legal proceedings by his creditors while he is applying for a PIA.
d) Anthony agrees to the PIA proposal developed by the PIP (Details of potential PIA solution set out below in point 5).
e) Creditors representing 65% or more of Anthony's total debt participating at the creditors' meeting agree to the proposal (i.e. first threshold needed for creditors' approval). This includes creditors representing 50% or more of Anthony's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of Anthony's unsecured debt (i.e. third threshold needed for creditors' approval). (See appendix A-voting rights table for more information).
f) The PIP records the creditors' meeting results and sends them to the ISI and each of Anthony's Creditors.
g) No Creditor appeals at any point of the process.
h) The ISI and the Court carry out final reviews of Anthony's case and approve the PIA.
i) Anthony's details are placed on a public Register of Personal Insolvency Arrangements. (This includes his name, address, year of birth and the date of coming into effect of the PIA).

## 5. POTENTIAL PIA SOLUTION FOR ANTHONY PROPOSED BY PIP

Anthony's current mortgage repayments are €636 per month, which is not sustainable. The PIP assesses whether extending the mortgage term or reducing the interest rate would make the mortgage sustainable. Due to Anthony's age, it is only possible to extend the mortgage by five years, which would reduce mortgage payments from €636 to €538. However, this repayment is still unsustainable.

The mortgage interest rate already runs on a very low "tracker" rate and leaves no room for downward adjustment.

In order for the mortgage to be sustainable, the PIP concludes that it will be necessary to extend the mortgage by 5 years and reduce the principal by €50,000. This would reduce Anthony's monthly mortgage payments to €314 per month, and leave a small amount available for Anthony's unsecured creditors.

The shortfall of €50,000 is treated similarly to the unsecured debt in accordance with section 102 (11)[1] of the Personal Insolvency Act.

Amounts forming Anthony's unsecured debts after PIA restructuring

| | |
|---|---|
| PPR Mortgage (Principal reduction) | € 50,000 |
| Credit Union Loan | € 18,000 |
| **Total Unsecured Debt** | **€ 68,000** |

Anthony's monthly income and expenses after PIA restructuring

| | |
|---|---|
| Monthly Income | € 2,000 |
| **Less:** | |
| Total Set Costs | € 1,116 |
| Principal Private Residence Mortgage | € 314 |
| Childcare | € 380 |
| Special Circumstance (Physiotherapy) | € 100 |
| **Available to unsecured creditors** | **€ 90** |

Anthony's monthly disposable income after deducting total set costs and mortgage repayments is €90 per month. This amount is now available to make payments to his now unsecured creditors. This equates to €6,480 over the 6 years of the PIA.

As part of developing the PIA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing the fee amount, the PIP may suggest a staggered draw down of the fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the PIA.

For the purposes of this scenario, it is estimated that the PIP fees are €5,000. The PIP fees of €5,000 include a €1,000 upfront payment in year one followed by an annual payment of €800 in years two to year six.

[1] where a Personal Insolvency Arrangement includes terms providing for a reduction of the amount of debt (including principal, interest and arrears) secured by the security as of the date of the issue of the protective certificate to a specified amount, the terms of the arrangement shall, unless the relevant secured creditor agrees otherwise, also include a term providing that the amount of such reduction shall:(*a*) rank equally with, and abate in equal proportion to, the unsecured debts covered by the Arrangement; and (*b*) be discharged with those unsecured debts on completion of the obligations specified in the Arrangement.

## 6. REPAYMENTS TABLE

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Total | Return for creditors |
|---|---|---|---|---|---|---|---|---|
| Net Monthly Income | € 2,000 | € 2,000 | € 2000 | € 2,000 | € 2,000 | € 2,000 | N/A | |
| Less: | | | | | | | | |
| Total set costs | € 1,116 | € 1,116 | € 1,116 | € 1116 | € 1,116 | € 1,116 | N/A | |
| Rent/Mortgage | € 314 | € 314 | € 314 | € 314 | € 314 | € 314 | N/A | |
| Childcare | € 380 | € 380 | € 380 | € 380 | € 380 | € 380 | N/A | |
| Special Circumstance (Physiotherapy) | € 100 | € 100 | € 100 | € 100 | € 100 | € 100 | N/A | |
| Reasonable Living Expenses | € 1,910 | € 1,910 | € 1,910 | € 1,910 | € 1,910 | € 1,910 | N/A | |
| Monthly amount available for contribution to the arrangement | € 90 | € 90 | € 90 | € 90 | € 90 | € 90 | N/A | |
| Annual amount available for contribution to the arrangement | € 1,080 | € 1,080 | € 1,080 | € 1,080 | € 1,080 | € 1,080 | € 6,480 | |
| Less PIP's fees | € (1,000) | € (800) | € (800) | € (800) | € (800) | € (800) | € (5,000) | |
| **Total repayments to unsecured creditors net of PIP's fees** | **€ 80** | **€ 280** | **€ 280** | **€ 280** | **€ 280** | **€ 280** | **€ 1,480** | |
| **Repayment breakdown between unsecured creditors** | | | | | | | | |
| PPR Principal Reduction amount (74%) | € 59 | € 207 | € 207 | € 207 | € 207 | € 207 | € 1,095 | **2%** |
| Credit Union (26%) | € 21 | € 73 | € 73 | € 73 | € 73 | € 73 | € 385 | **2%** |
| **Total repayments to unsecured creditors net of PIP's fees (100%)** | **€ 80** | **€ 280** | **€ 280** | **€ 280** | **€ 280** | **€ 280** | **€ 1,480** | |

## 7. ANTHONY'S POSITION AFTER MEETING HIS DUTIES AND OBLIGATIONS UNDER THE PIA

a) Principal Private Residence Mortgage is now sustainable because:

- Unsecured debts are discharged;
- A portion of the PPR mortgage principal (€50,000) was reduced during the PIA.

b) The extension of mortgage term from 20 to 25 years.

c) Anthony will have repaid €1,480 of his unsecured debts at the end of the term of the PIA and the remaining €66,520 is discharged. This represents a 2% return for the unsecured creditors based on amounts outstanding at the date of the Protective Certificate.

d) Claw-back provisions may apply to the extent of the principal reduction of €50,000, should Anthony sell his PPR within the next 20 years.

e) Anthony is solvent.

## 8. APPENDICES

Appendix A: Anthony's Meeting Voting Rights

| Threshold 1 - 65% vote required | Total Debt Vote | Voting Rights |
|---|---|---|
| PPR | € 120,000 | 87% |
| Credit Union | € 18,000 | 13% |
| **Total** | **€ 138,000** | **100%** |
| Threshold 2 - 50% vote required | Secured Debt Vote | Voting Rights |
| PPR | € 60,000[1] | 100% |
| **Total** | **€ 60,000** | **100%** |
| Threshold 3 - 50% vote required | Unsecured Debt Vote | Voting Rights |
| Credit Union | € 18,000 | 26% |
| PPR principal reduction | € 50,000 | 74% |
| **Total** | **€ 68,000** | **100%** |

In this scenario, the Market Value of the PPR is €60,000. This figure is less than the outstanding mortgage on the PPR of €120,000.

Appendix B: Anthony's position before and after PIA

| | Before PIA | PPR Restructure | Mortgage Repayments | Other repayments | Debt write down | After PIA | Repayment % |
|---|---|---|---|---|---|---|---|
| **Assets** | | | | | | | |
| PPR | € 60,000 | | | | | € 60,000 | |
| **Total** | **€ 60,000** | | | | | **€ 60,000** | |
| **Debts** | | | | | | | |
| **Secured debts** | | | | | | | |
| PPR Loan | € 120,000 | € (50,000) | € (12,900)[2] | | | € 57,100 | |
| **Unsecured debts** | | | | | | | |
| PPR principal reduction | | € 50,000 | | € (1,095) | € (48,905) | | 2% |
| Credit union loan | € 18,000 | | | € (385) | € (17,615) | | 2% |
| **Total** | **€ 138,000** | | **€ (12,900)** | **€ (1,480)** | **€ (66,520)** | **€ 57,100** | |
| **Deficiency** | **€ (78,000)** | | | | | **€ 2,900** | |

[1] The voting rights for threshold 2 are based on Section 110 (2) of the Personal Insolvency Act 2012.
"(2) For the purposes of subsection (1)(b) the value of a secured debt shall be—
(a) the market value of the security concerned determined in accordance with section 105, or
(b) the amount of the debt secured by the security on the day the protective certificate is issued, whichever is the lesser."

[2] This figure is net of interest. Total mortgage repayment on the PPR over the duration of the PIA is € 22,608 (314x12x6), where interest is €9,708 and capital €12,900.

# SCENARIO 8

# PIA - JOINT PIA, APPLICANTS ELIGIBLE

**This sample scenario is designed to illustrate the features of a joint PIA.**

## 1. NOEL AND CHRISTINA'S STORY

Noel and Christina are married with three children, twin boys aged 1 and a girl aged 3. Noel is an office worker and his net monthly income is €3,500. Christina works in retail and her net monthly income is €1,400. They own a car currently worth €4,000.

Noel and Christina bought their Principal Private Residence (PPR) together five years ago. The current mortgage outstanding is €400,000 and they are on a 25-year tracker. Their PPR is valued at €300,000. They have a total unsecured debt together of €60,000, which consists of a credit union loan of €30,000, credit cards totalling €25,000 and an overdraft of €5,000. All of their debts are jointly held and their current monthly commitments are as follows:

- Mortgage repayments - €2,002
- Unsecured debts repayments - €1,800

Their day-to-day outgoings amount to €2,500 per month. They have cooperated with their bank in relation to their PPR mortgage under the Central Bank Code of Conduct on Mortgage Arrears in relation to their home for a period of ten months, but have been unable to agree a sustainable repayment solution. Noel and Christina are unable to pay their debts in full as they fall due and acknowledge they are insolvent.

Noel and Christina meet with a Personal Insolvency Practitioner (PIP) and provide full details of their financial circumstances so the PIP can understand their financial position.

2. Noel and Christina's current insolvent position

| Assets | Value | Loan |
|---|---|---|
| Principal Private Residence | € 300,000 | € 400,000 |
| Car | € 4,000 | |
| **Total** | **€ 304,000** | **€ 400,000** |
| Debts | | |
| Secured debts | | |
| PPR Mortgage | | € 400,000 |
| Unsecured debts | | |
| Credit union loan | | € 30,000 |
| Credit card debts | | € 25,000 |
| Overdraft | | € 5,000 |
| **Total** | | **€ 460,000** |

| Monthly Income | |
|---|---|
| Noel's Net Income | € 3,500 |
| Christina's Net Income | € 1,400 |
| **Total** | **€ 4,900** |
| Monthly expenses | |
| Total Set costs[1] | € 1,888 |
| Rent/Mortgage[2] | € 2,002 |
| Childcare Costs[2] | € 1,100 |
| Reasonable Living Expenses | € 4,990 |
| Available for unsecured debt service (€ 4,900-€ 4,990) | € (90) |
| Unsecured debt repayments | € (1800) |
| **Deficit in meeting unsecured debt obligations (-€ 90-€ 1,800)** | **€ (1,890)** |

## 3. ELIGIBILITY

Noel and Christina are eligible for a joint PIA because

- ✓ Their debts are all jointly owed.
- ✓ Noel and Christina have not incurred 25% or more of their debts in the 6-month period ending on the application date for their Protective Certificate.
- ✓ Noel and Christina have participated in the Mortgage Arrears Resolution Process (process approved by Central Bank) with their PPR Mortgage provider for a minimum period of six months in relation to their Principal Private Residence, but have been unable to agree a sustainable repayment solution.
- ✓ Noel and Christina's total joint secured debts do not exceed €3 million.
- ✓ Noel and Christina meet all the other eligibility criteria for a PIA (Please see page 7 of the PIA guidebook for further details of eligibility criteria).

[1] The PIP references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie). Noel and Christina's Total Set Costs of €2,500 do not meet those prescribed by Table 6 "Two adult household, one or more children, vehicle" of the Guide as their amount exceeds the prescribed €1,882 (Two adults €1,359.67 + Two children (aged 1) €484.98 + One child (aged 3) €33.67 + third child adjustment €9.83 = €1,888.15). The PIP will ask them to make efforts to reduce the total set costs for their household and reach the €1,888.15 level. For illustrative purposes and ease for the reader, the RLE figure is rounded to €1,888.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 4. NEXT STEPS

a) The PIP is satisfied that Noel and Christina meet all the eligibility criteria for a joint PIA and submits an application to the Insolvency Service of Ireland (ISI) for a Protective Certificate (PC) on their behalf, including a Prescribed Financial Statement (PFS).

b) The ISI and Court are satisfied with Noel and Christina's application and issue a PC. Noel and Christina's names, address, years of birth, and date of issue of the PC will be added to the Public Register of PCs on the ISI website. The PC offers Noel and Christina, and their assets protection from legal proceedings by their creditors while they are applying for a PIA.

c) The PIP has 70 days to develop a PIA proposal, get it voted by the creditors and submitted to the Court for assessment.

d) Noel and Christina agree to the PIA proposal developed by the PIP (Details of potential PIA solution are set out below in point 5). This includes reducing their day-to-day expenditures to €1,888 per month, which is in line with the Reasonable Living Expenses guidelines for their household.

e) Creditors representing 65% or more of Noel and Christina's total debt participating at the creditors' meeting agree to the proposal (i.e. first threshold needed for creditors' approval). This includes creditors representing 50% or more of Noel and Christina's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of Noel and Christina's unsecured debt (i.e. third threshold needed for creditors' approval). (See appendix A-voting rights table for more information).

f) The PIP records the creditors' meeting results and sends them to the ISI, Noel and Christina and each of their creditors. No creditor appeals at any point of the process.

g) The ISI and the Court carry out final reviews of Noel and Christina's case and approve the PIA.

h) Noel and Christina's details are placed on a Public Register of Personal Insolvency Arrangements. (This includes their names, address, years of birth, and the date of coming into effect of their PIA).

## 5. POTENTIAL PIA SOLUTION FOR NOEL AND CHRISTINA PROPOSED BY PIP

Noel and Christina have revised their monthly expenditure and reduced their living expenses from €2,500 to the prescribed amount of €1,888 in accordance with the ISI Guidelines on a reasonable standard of living and reasonable living expenses.

The PIP assesses whether a change in mortgage terms or interest rate will make the mortgage sustainable. The PIP recommends a term extension on the PPR Mortgage for an additional 10 years, bringing the mortgage to 35 years. This reduces the monthly mortgage repayments from €2,002 to €1,653 a month.

The reduction in mortgage payments and living expenses frees up €259 per month for the first year of the PIA, which is available to make payments to unsecured creditors. As the children get older, the total set costs will vary. Variation can also be expected with regards to childcare costs, hence reasonable living expenses will vary during the lifetime of the PIA (breakdown of the Annual Total Set Costs is contained in Appendix C).

The repayments table in Appendix B gives a detailed breakdown year on year of Noel and Christina's expenses and the amounts available to unsecured creditors.

Noel and Christina's monthly income and expenses after PIA restructuring for Year 1

| **Monthly Net Income** | **€ 4,900** |
|---|---|
| **Less:** | |
| Principal Private Residence Mortgage | € 1,653 |
| Childcare Costs | € 1,100 |
| Total set costs | € 1,888 |
| **Reasonable Living Expenses** | **€ 4,641** |
| **Available to Unsecured Creditors (€ 4,900-€ 4,641)** | **€ 259** |

Noel and Christina's monthly disposable income, after deducting total set costs and mortgage repayments, is €259 per month for the first year of the PIA. This amount is now available to make payments to their unsecured creditors. This equates to €3,108 for the first year.

## 6. REPAYMENTS TABLE

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Total | Return for creditors |
|---|---|---|---|---|---|---|---|---|
| Net Monthly Income | € 4,900 | € 4,900 | € 4,900 | € 4,900 | € 4,900 | € 4,900 | | |
| Monthly Total Set Costs | € 1,888 | € 2,019 | € 1,602 | € 1,864 | € 1,864 | € 1,864 | | |
| Monthly Rent/Mortgage | € 1,653 | € 1,653 | € 1,653 | € 1,653 | € 1,653 | € 1,653 | | |
| Childcare Costs | € 1,100 | € 1,100 | € 900 | € 900 | € 900 | € 500 | | |
| Reasonable Living Expenses | € 4,641 | € 4,772 | € 4,155 | € 4,417 | € 4,417 | € 4,017 | | |
| Monthly amount available for contribution to the arrangement | € 259 | € 128 | € 745 | € 483 | € 483 | € 883 | | |
| Annual amount available for contribution to the arrangement | € 3,108 | € 1,536 | € 8,940 | € 5,796 | € 5,796 | € 10,596 | € 35,772 | |
| Less PIP's fees | € (835) | € (835) | € (835) | € (835) | € (835) | € (835) | € (5,010) | |
| **Total repayments to unsecured creditors net of PIP's fees** | **€ 2,273** | **€ 701** | **€ 8,105** | **€ 4,961** | **€ 4,961** | **€ 9,761** | **€ 30,762** | |
| Repayment breakdown between unsecured creditors | | | | | | | | |
| Credit union (50%) | € 1,137 | € 351 | € 4,053 | € 2,481 | € 2,481 | € 4,881 | € 15,381 | **51%** |
| Credit card (41.67%) | € 947 | € 292 | € 3,377 | € 2,067 | € 2,067 | € 4,067 | € 12,817 | **51%** |
| Overdraft (8.33%) | € 189 | € 58 | € 675 | € 413 | € 413 | € 813 | € 2,564 | **51%** |
| **Total repayments to unsecured creditors net of PIP's fees** | **€ 2,273** | **€ 701** | **€ 8,105** | **€ 4,961** | **€ 4,961** | **€ 9,761** | **€ 30,762** | |

For the purposes of this scenario, it is estimated that the PIP fees are €5,010. Therefore, Noel and Christina's unsecured creditors will receive €30,762 on a proportionate basis over the lifetime of the PIA.

As part of developing the PIA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing the fee amount, the PIP may suggest a staggered draw down of the fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the PIA.

## 7. NOEL AND CHRISTINA'S POSITION AFTER MEETING THEIR DUTIES AND OBLIGATIONS UNDER THE PIA

a) Principal Private Residence is now sustainable because:
   I. Unsecured debts are discharged;
   II. The mortgage term has been extended to 35 years.

   Noel and Christina will have repaid €30,762 of their unsecured debts at the end of the term of the PIA and the remaining €29,238 is discharged. This represents over 51% return for the unsecured creditors based on amounts outstanding at the date of issue of the Protective Certificate.

b) Noel and Christina are solvent.

## 8. APPENDICES

Appendix A: Noel and Christina's Creditors Meeting Voting Rights[1]

| Threshold 1 - 65% vote required | Total Debt Vote | Voting Rights |
|---|---|---|
| PPR | € 400,000 | 87% |
| Credit Union | € 30,000 | 7% |
| Credit Card | € 25,000 | 5% |
| Bank Overdraft | € 5,000 | 1% |
| **Total** | **€ 460,000** | **100%** |
| Threshold 2 - 50% vote required | Total Debt Vote | Voting Rights |
| PPR | € 300,000 | 100% |
| **Total** | **€ 300,000** | **100%** |
| Threshold 3 - 50% vote required | Total Debt Vote | Voting Rights |
| Credit Union | € 30,000 | 50% |
| Credit Card | € 25,000 | 42% |
| Bank Overdraft | € 5,000 | 8% |
| **Total** | **€ 60,000** | **100%** |

[1] The voting rights for threshold 2 are based on Section 110 (2) of the Personal Insolvency Act 2012.
"(2) For the purposes of subsection (1)(b) the value of a secured debt shall be
(a) the market value of the security concerned determined in accordance with section 105, or
(b) the amount of the debt secured by the security on the day the protective certificate is issued, whichever is the lesser."

In this scenario the Market Value of the Principal Private Residence is €300,000. This figure is less than the outstanding mortgage on the Principal Private Residence of €400,000.

Appendix B: Noel and Christina's position before and after PIA

| Assets | Before PIA | Mortgage repayment (net) | Other Repayments | Debt write down | After PIA |
|---|---|---|---|---|---|
| PPR | € 300,000 | | | | € 300,000 |
| Car | € 4,000 | | | | € 1,000 |
| Total | € 304,000 | | | | € 301,000 |
| Debts | | | | | |
| **Secured debts** | | | | | |
| PPR Mortgage | € 400,000 | € (38,915) | | | € 361,085 |
| **Unsecured debts** | | | | | |
| Credit union loan | € 30,000 | | € (15,381) | € (14,619) | |
| Credit card debts | € 25,000 | | € (12,817) | € (12,183) | |
| Overdraft | € 5,000 | | € (2,564) | € (2,436) | |
| **Total** | **€ 460,000** | **€ (38,915)**[1] | **€ (30,762)** | **€ (29,238)** | **€ 361,085** |
| **Deficiency** | **€ (156,000)** | | | | **€ (60,085)**[2] |

Appendix C: Noel and Christina's Family Total Set Costs Breakdown

| | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 |
|---|---|---|---|---|---|---|
| Couple | € 1,359.67 | € 1,359.67 | € 1,359.67 | € 1,359.67 | € 1,359.67 | € 1,359.67 |
| Infant | € 484.98 | € 484.98 | | | | |
| Preschool | € 33.67 | | € 67.34 | | | |
| Primary | | € 164.71 | € 164.71 | € 494.13 | € 494.13 | € 494.13 |
| Secondary | | | | | | |
| Adjustment for 3rd Child | € 9.83 | € 9.83 | € 9.83 | € 9.83 | € 9.83 | € 9.83 |
| **Total for Family** | **€ 1,888.15** | **€ 2,019.19** | **€ 1,601.55** | **€ 1,863.63** | **€ 1,863.63** | **€ 1,863.63** |

**The above table illustrates the change in Total Set Costs depending on the ages of children. Similar changes can be expected with regards to childcare costs.**

[1] This figure is net of interest. Total mortgage repayment over the duration of the PIA is € 119,016 (1,653x12x6), where interest is €80,101 and capital €38,915.

[2] The remaining negative equity is retained within the mortgage after the end of the PIA.

## SCENARIO 9

## INTERLOCKING PIAS, APPLICANTS ELIGIBLE

**This sample scenario is designed to illustrate the features of an interlocking PIA, which is where two individuals have joint and independent debts on their own.**

### 1. ANNE AND BARRY'S STORY

Anne and Barry are married with a child in Primary School (age 6).

Anne is a Recruitment Consultant and her net monthly income is €2,200. Anne had purchased a two-bedroom apartment prior to marrying Barry. Her apartment is now valued at €180,000 and has an outstanding mortgage of €200,000 with monthly loan repayments of €1,000. Anne also has a credit card debt of €30,000.

Barry is an office worker and his net monthly income is €2,100. Barry had also bought an apartment prior to marrying Anne. Barry's apartment is valued at €120,000 and has an outstanding mortgage of €140,000 with monthly loan repayments of €780. Barry also has a credit union loan of €20,000.

Neither Anne nor Barry's apartments are currently rented, despite efforts in recent months to secure tenants.

In 2005 following their marriage, Anne and Barry jointly purchased a 3-bedroom Principal Private Residence (PPR) on a 100% mortgage for €500,000 running until they are 70. Their PPR is currently valued at €300,000. The outstanding balance on the PPR mortgage is €400,000 and repayment is €2,000 per month.

Anne and Barry have co-operated with their Bank under the Central Bank Code of Conduct on Mortgage Arrears in relation to their PPR for the past eleven months, but they have been unable to agree a sustainable repayment solution. Anne and Barry are unable to pay their debts in full as they fall due and acknowledge they are insolvent.

Anne and Barry speak to a Personal Insolvency Practitioner. The PIP advises Anne and Barry that they both meet the eligibility criteria for two PIAs and they should each seek to interlock them.

## 2A. ANNE'S CURRENT INSOLVENT POSITION

| Assets | Value | Loan |
|---|---|---|
| PPR | € 300,000 | € 400,000 |
| Apartment | € 180,000 | € 200,000 |
| **Total** | **€ 480,000** | **€ 600,000** |
| Debts | | |
| **Secured debt** | | |
| PPR Mortgage | | € 400,000 |
| Apartment | | € 200,000 |
| **Unsecured debts** | | |
| Credit card | | € 30,000 |
| **Total** | | **€ 630,000** |

| Monthly Income | |
|---|---|
| Net Income | € 2,200 |
| **Total** | **€ 2,200** |
| Monthly Expenses | |
| Total Set Costs[1] | € 762 |
| Childcare Costs[2] | € 250 |
| Rent/Mortgage[2] | € 1,000 |
| **Reasonable Living Expenses** | **€ 2,012** |
| Apartment mortgage repayments | € 1,000 |
| **Total expenses before unsecured debts repayment (€ 2,012+€ 1,000)** | **€ 3,012** |
| **Deficiency prior to meeting unsecured debt obligations (€ 2,200-€ 3,012)** | **€ (812)** |

## 2B. BARRY'S CURRENT INSOLVENT POSITION

| Assets | Value | Loan |
|---|---|---|
| PPR | € 300,000 | € 400,000 |
| Apartment | € 120,000 | € 140,000 |
| **Total** | **€ 420,000** | **€ 540,000** |
| Debts | | |
| **Secured debts** | | |
| PPR Mortgage | | € 400,000 |
| Apartment | | € 140,000 |
| **Unsecured debts** | | |
| Credit Union | | € 20,000 |
| **Total** | | **€ 560,000** |

| Monthly Income | |
|---|---|
| Net Income | € 2,100 |
| **Total** | **€ 2,100** |
| Monthly expenses | |
| Total Set Costs[1] | € 762 |
| Childcare Costs[2] | € 250 |
| Rent/Mortgage[2] | € 1,000 |
| **Reasonable Living Expenses** | **€ 2,012** |
| Apartment mortgage repayments | € 780 |
| **Total expenses before unsecured debts repayment (€2,012+€780)** | **€ 2,792** |
| **Deficiency prior to meeting unsecured debt obligations (€2,100-€2,792)** | **€ (692)** |

[1] The PIP references the tables in the ISI "Guidelines on a reasonable standard of living and reasonable living expenses", available on the website (www.isi.gov.ie). Anne and Barry's Total Set Costs of €1,524.38 meet those prescribed by Table 6 "Two adult household, one or more children, vehicle" of the Guide (Two adults € 1,359.67 + One Primary School child €164.71= €1,524.38). For illustrative purposes and ease for the reader, the RLE figure is rounded to €1,524. As Anne and Barry's PIAs will interlock, their Total Set Costs are halved to €762 for each to bear.

[2] The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with the "Guidelines on a reasonable standard of living and reasonable living expenses".

## 3. ELIGIBILITY

Anne and Barry are eligible for Interlocking PIAs because

- ✔ Anne and Barry debts are <u>not all</u> jointly owned.
- ✔ A PIA, which is proposed for Anne, can reasonably be administered in common with a PIA proposed for Barry because of the financial relationship of Anne and Barry.
- ✔ Neither Anne nor Barry has incurred 25% or more of their debts in the past 6 months.
- ✔ Anne and Barry have both participated in the Mortgage Arrears Resolution Process (process approved by Central Bank) with their PPR Mortgage Provider for a minimum period of six months in relation to their Principal Private Residence, but have been unable to agree a sustainable repayment solution.
- ✔ Anne and Barry meet all the other eligibility criteria for two interlocking PIAs (see page 7 of the PIA guidebook for further details of eligibility criteria).

## 4. NEXT STEPS

a) The PIP assesses Anne's situation and Barry's situation, and decides to apply for Protective Certificates (PC) on behalf of both Anne and Barry.

b) The ISI and Court are satisfied with Anne and Barry's applications and the Court issues a PC for each. Anne and Barry's names, address, years of birth, and date of issue of their respective PCs, will be added to the Public Register of PCs on the ISI website. The PCs offer Anne and Barry, and their assets protection from legal proceedings by their common and individual creditors while they are applying for a PIA.

c) The PIP has 70 days to develop a PIA proposal for Anne and a PIA proposal for Barry that both interlock, get them both voted by the creditors and submitted to the Court for assessment.

d) Anne agrees to the PIA proposal developed by the PIP (Details of potential PIA solution set out below in point 5A).

e) Barry agrees to PIA proposal developed by the PIP (Details of potential PIA solution set out below in point 5B).

f) Creditors representing 65% or more of Anne's total debt participating at the creditors' meeting agree to the proposal (i.e. first threshold needed for creditors' approval). This includes creditors representing 50% or more of Anne's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of Anne's unsecured debt (i.e. third threshold needed for creditors' approval). (See appendix A-voting rights table for more information).

g) Creditors representing 65% or more of Barry's total debt participating at the creditors' meeting agree to the proposal (i.e. first threshold needed for creditors' approval). This includes creditors representing 50% or more of Barry's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of Barry's unsecured debt (i.e. third threshold needed for creditors' approval). (See appendix B-voting rights table for more information).

h) The PIP records the creditors' meetings results and sends them to the ISI and each of Anne and Barry's creditors. No creditor appeals at any point of the process.
i) The ISI and the Court carry out final reviews of Anne and Barry's cases and approve both PIAs.
j) Anne and Barry's details are placed on a public Register of Personal Insolvency Arrangements for their respective PIAs. (This includes their names, address, years of birth and the dates of coming into effect of both their PIAs).

## 5A. POTENTIAL PIA SOLUTION FOR ANNE PROPOSED BY PIP

Anne and Barry's mortgage repayments are not sustainable on their current incomes.

Anne and Barry's joint PPR Mortgage: The PIP notices that the term of the mortgage cannot be extended since it already runs until Anne and Barry reach 70. Therefore, the PIP proposes that the mortgage interest rate is reduced for the duration of the PIA. Anne and Barry's monthly mortgage repayment reduces from €2,000 to €1,856 for the duration of the PIA.

Anne's Apartment: The PIP reviews evidence supplied by Anne of her unsuccessful attempts to secure a tenant for the apartment, and propose to sell the apartment for €180,000 and repay mortgage in part from proceeds. The shortfall of €20,000 is treated similarly to the unsecured debt in accordance with section 102 (5)[1] of the Personal Insolvency Act.

Amounts now forming Anne's unsecured debts after PIA Restructuring

| | |
|---|---|
| Unsecured Debt (Credit Card) | € 30,000 |
| Apartment (balance due to secured creditor after sale) | € 20,000 |
| Total | € 50,000 |

Anne's monthly income and expenses after PIA restructuring

| **Monthly Net Income** | | **€ 2,200** |
|---|---|---|
| **Less**[2] | Total Set Costs | € 762 |
| | Childcare Costs | € 250 |
| | Principal Private Residence mortgage | € 928 |
| | **Reasonable Living Expenses** | **€ 1,940** |
| **Available to Unsecured Creditors (€ 2,200-€ 1,940)** | | **€ 260** |

[1] Where a PIA provides for the sale or disposal of the property which is the subject of the security for a secured debt, and the realised value of that property is less than the amount due in respect of the secured debt, the balance due to the secured creditor shall abate in equal proportion to the unsecured debts covered by the Personal Insolvency Arrangement. It shall also be discharged with them on completion of the obligations specified in the Personal Insolvency Arrangement.

[2] This scenario has been developed on the basis that the household expenditure, PPR mortgage repayments and childcare costs have been split evenly between both Anne and Barry. An equally valid approach would be to split the household expenditure, PPR mortgage repayments and childcare costs in accordance with the income levels of the borrowers. The PIP, in consultation with the creditors where appropriate, should decide the appropriate approach to take in each case.

Anne's monthly disposable income available to make payments to her now unsecured creditors is €260 per month after deducting total set costs and mortgage repayments. This equates to €18,720 over 6 years.

For the purposes of this scenario, it is estimated that the PIP fees are €6,000 for Anne's PIA (Barry's PIP fees for his PIA are also €6,000). Therefore, Anne's unsecured creditors will receive €12,720 on a proportionate basis over the lifetime of the PIA.

As part of developing the PIA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing the fee amount, the PIP may suggest a staggered draw down of the fee to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the PIA.

## 5B. POTENTIAL PIA SOLUTION FOR BARRY PROPOSED BY PIP

Anne and Barry's mortgage is not sustainable on their current incomes.

Anne and Barry's joint PPR Mortgage: The PIP notices that the term of the mortgage cannot be extended since it already runs until Anne and Barry reach 70. Therefore, the PIP proposes that the mortgage interest rate is reduced for the duration of the PIA. Anne and Barry's monthly mortgage repayment reduces from €2,000 to €1,856 for the duration of the PIA.

Barry's Apartment: The PIP reviews evidence supplied by Barry of his unsuccessful attempts to secure a tenant for the apartment, and propose to sell the apartment for €120,000 and repay mortgage in part from proceeds. The shortfall of €20,000 is treated similarly to the unsecured debt in accordance with section 102 (5)[1] of the Personal Insolvency Act.

Amounts now forming Barry's unsecured debts after PIA Restructuring

| | |
|---|---|
| Unsecured Debt (Credit Union) | € 20,000 |
| Apartment (balance due to secured creditor after sale) | € 20,000 |
| **Total** | **€ 40,000** |

[1] Where a Personal Insolvency Arrangement provides for the sale or other disposal of the property which is the subject of the security for a secured debt, and the realised value of that property is less than the amount due in respect of the secured debt, the balance due to the secured creditor shall abate in equal proportion to the unsecured debts covered by the Personal Insolvency Arrangement and shall be discharged with them on completion of the obligations specified in the Personal Insolvency Arrangement.

Barry's monthly income and expenses after PIA restructuring

| **Monthly Net Income** | | **€ 2,100** |
|---|---|---|
| **Less**[1] | Total Set Costs | € 762 |
| | Childcare Costs | € 250 |
| | Principal Private Residence mortgage | € 928 |
| | **Reasonable Living Expenses** | **€ 1,940** |
| **Available to Unsecured Creditors (€ 2,100-€ 1,940)** | | **€ 160** |

Barry's monthly disposable income after deducting total set costs and mortgage repayments which is available to make payments to his now unsecured creditors is €160 a month. This equates to €11,520 over 6 years.

For the purposes of this scenario, it is estimated that the PIP fees are €6,000 for Barry's PIA (Anne's PIP fees for her PIA are €6,000). Therefore Barry's unsecured creditors will receive €5,520 on a proportionate basis over the lifetime of the PIA.

As part of developing the PIA proposal, the PIP will seek to agree fees with the creditors. Fees will vary in accordance with the complexity of a case and what is acceptable to the creditors. In proposing the fee amount, the PIP may suggest a staggered draw down of the fees to reflect the upfront work associated with making an application and a proposal, as well as his/her other statutory duties during the lifetime of the PIA.

## 6. ANNE AND BARRY'S POSITION AFTER MEETING THEIR OBLIGATIONS UNDER THEIR RESPECTIVE INTERLOCKING PIAS

a) After 6 years the interest rate on the PPR Mortgage reverts back to the original rate (from €1,856 to €2,000 per month) and the mortgage is now sustainable because :
    - Anne and Barry will no longer have to service their respective apartments' mortgages.
    - Unsecured debts are discharged.

b) Anne will have repaid €12,720 of her unsecured debts at the end of the term of the PIA and the remaining unsecured €37,280 amount is discharged. This represents a 25% return on her unsecured debts, based on amounts outstanding at the date of issue of Anne's Protective Certificate.

c) Barry will have repaid €5,520 of his unsecured debts at the end of the term of the PIA and the remaining €34,480 is discharged. This represents a 14% return on his unsecured debts, based on amounts outstanding at the date of issue of Barry's Protective Certificate.

[1] This scenario has been developed on the basis that the household expenditure, PPR mortgage repayments and childcare costs have been split evenly between both Anne and Barry. An equally valid approach would be to split the household expenditure, PPR mortgage repayments and childcare costs in accordance with the income levels of the borrowers. The PIP, in consultation with the creditors where appropriate, should decide the appropriate approach to take in each case.

d) Anne and Barry are now solvent.

## 7. APPENDICES

Appendix A: Anne's Creditors Meeting Voting Rights

| Threshold 1 - 65% vote required | Total Debt Vote | Voting Rights |
|---|---|---|
| PPR | € 400,000 | 63% |
| Apartment | € 200,000 | 32% |
| Credit Card | € 30,000 | 5% |
| **Total** | **€ 630,000** | **100%** |
| Threshold 2 - 50% vote required | Secured Debt Vote | Voting Rights |
| PPR | € 300,0001 | 63% |
| Apartment | € 180,000[1] | 37% |
| **Total** | **€ 480,000** | **100%** |
| Threshold 3 - 50% vote required | Unsecured Debt Vote | Voting Rights |
| Apartment | € 20,000 | 40% |
| Credit Card | € 30,000 | 60% |
| **Total** | **€ 50,000** | **100%** |

In this scenario, the Market Value of the Principal Private Residence is €300,000. This figure is less than the outstanding mortgage on the Principal Private Residence of €400,000.

The Market Value of the apartment is €180,000. This figure is less than the outstanding mortgage on the apartment of €200,000.

[1] The voting rights for threshold 2 are based on Section 110 (2) of the Personal Insolvency Act 2012.
"(2) For the purposes of subsection (1) (b) the value of a secured debt shall be—
(a) the market value of the security concerned determined in 15 accordance with section 105, or
(b) the amount of the debt secured by the security on the day the protective certificate is issued, whichever is the lesser."

Appendix B: Barry's Creditors Meeting Voting Rights

| Threshold 1 - 65% vote required | Total Debt Vote | Voting Rights |
|---|---|---|
| PPR | € 400,000 | 71% |
| Apartment | € 140,000 | 25% |
| Credit Union | € 20,000 | 4% |
| **Total** | **€ 560,000** | **100%** |
| Threshold 2 - 50% vote required | Secured Debt Vote | Voting Rights |
| PPR | € 300,000[1] | 71% |
| Apartment | € 120,000[1] | 29% |
| **Total** | **€ 420,000** | **100%** |
| Threshold 3 - 50% vote required | Unsecured Debt Vote | Voting Rights |
| Apartment | € 20,000 | 50% |
| Credit Union | € 20,000 | 50% |
| **Total** | **€ 40,000** | **100%** |

In this scenario, the Market Value of the Principal Private Residence is €300,000. This figure is less than the outstanding mortgage on the Principal Private Residence of €400,000.

The Market Value of the apartment is €120,000. This figure is less than the outstanding mortgage on the apartment of €140,000.

[1] [1] The voting rights for threshold 2 are based on Section 110 (2) of the Personal Insolvency Act 2012.

"(2) For the purposes of subsection (1) (b) the value of a secured debt shall be—

(a) the market value of the security concerned determined in 15 accordance with section 105, or

(b) the amount of the debt secured by the security on the day the protective certificate is issued, whichever is the lesser."

## Appendix C: Anne's situation before and after PIA

| Anne | Before PIA | Restructure secured debt | Sale | PPR Repayments (net) | Other Repayments | Debt write-down | After PIA | Repayments % |
|---|---|---|---|---|---|---|---|---|
| Assets | | | | | | | | |
| PPR | € 300,000 | | | | | | € 300,000 | |
| Apartment | € 180,000 | | € (180,000) | | | | 0 | |
| Total | € 480,000 | | € (180,000) | | | | € 300,000 | |
| Debts | | | | | | | | |
| **Secured debt** | | | | | | | | |
| PPR | € 400,000 | | | € (61,000) | | | € 339,000 | |
| Apartment | € 200,000 | € (20,000) | € (180,000) | | | | | |
| **Unsecured debt** | | | | | | | | |
| Apartment mortgage | | € 20,000 | | | € (5,088) | € (14,912) | | 25% |
| Credit card | € 30,000 | | | | € (7,632) | € (22,368) | | 25% |
| **Total** | **€ 630,000** | | **(€ 180,000)** | **(€ 61,000)** [1] | **€ (12,720)** | **€ (37,280)** | **€ 339,000** | |
| **Deficiency** | **(€ 150,000)** | | | | | | **(€ 39,000)** [2] | |

## Appendix D: Barry's situation before and after PIA

| Barry | Before PIA | Restructure secured debt | Sale | PPR Repayments (net) | Other Repayments | Debt write down | After PIA | Repayments % |
|---|---|---|---|---|---|---|---|---|
| Assets | | | | | | | | |
| PPR | € 300,000 | | | | | | 300,000 | |
| Apartment | € 120,000 | | (€ 120,000) | | | | | |
| Total | € 420,000 | | (€ 120,000) | | | | 300,000 | |
| Debts | | | | | | | | |
| **Secured debt** | | | | | | | | |
| PPR | € 400,000 | | | (€ 61,000) | | | € 339,000 | |
| Apartment | € 140,000 | (€ 20,000) | (€ 120,000) | | | | | |
| **Unsecured debt** | | | | | | | | |
| Apartment mortgage | | € 20,000 | | | (€ 2,760) | (€ 17,240) | | 14% |
| Credit union | € 20,000 | | | | (€ 2,760) | (€ 17,240) | | 14% |
| **Total** | **€ 560,000** | | **(€ 120,000)** | **(€ 61,000)** [1] | **(€ 5,520)** | **(€ 34,480)** | **€ 339,000** | |
| **Deficiency** | **(€ 140,000)** | | | | | | **(€ 39,000)** [2] | |

[1] This figure is net of interest.

[2] The remaining negative equity is retained within the mortgage after the end of the PIA.

## Appendix E: Anne and Barry's combined situation before and after PIA

| Anne and Barry Combined | Before PIA | Restructure secured debt | Sale | PPR Repayments (net) | Other Repayments | Debt write down | After PIA | Repayments % |
|---|---|---|---|---|---|---|---|---|
| Assets | | | | | | | | |
| PPR | €300,000 | | | | | | €300,000 | |
| Apartments | €300,000 | | € (300,000) | | | | | |
| **Total** | **€600,000** | | **€ (300,000)** | | | | **€300,000** | |
| Debts | | | | | | | | |
| **Secured debt** | | | | | | | | |
| PPR | €400,000 | | | € (61,000)[1] | | | €339,000 | |
| Apartments | €340,000 | € (40,000) | € (300,000) | | | | | |
| **Unsecured debt** | | | | | | | | |
| Apartment - Anne | | €20,000 | | | € (5,088) | € (14,912) | | 25% |
| Apartment - Barry | | €20,000 | | | € (2,760) | € (17,240) | | 14% |
| Credit card - Anne | €30,000 | | | | € (7,632) | € (22,368) | | 25% |
| Credit union - Barry | €20,000 | | | | € (2,760) | € (17,240) | | 14% |
| **Total** | **€790,000** | | **€ (300,000)** | **€ (61,000)** | **€ (18,240)** | **€ (71,760)** | **€339,000** | |
| **Deficiency** | **€ (190,000)** | | | | | | **€ (39,000)[2]** | |

[1] This figure is net of interest. The combined mortgage repayments over the duration of Anne and Barry's respective PIAS is €133,632 (€66,816x2), where total interest is €72,632 (€5,816x2) and capital €61,000.

[2] The remaining negative equity is retained within the mortgage after the end of the PIA.