



Insolvency Service of Ireland
Annual Report
2017

Tackling problem debt together

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Foreword by the Director

The ISI's fourth full year of operation was 2017. Since opening, the ISI has returned over 6,000 debtors to solvency with over 2,000 of those cases being PIAs which deal with mortgage debt. In over 90% of these PIA cases, debtors have been able to stay in their home.

Through Abhaile, the free mortgage arrears support service, debtors can avail of free consultations with PIPs. Abhaile has been a contributory factor in boosting the number of applications for PIAs by over 50% when compared to 2016. A key achievement of the service is that Abhaile is reaching those in long term arrears (arrears exceeding 720 days).

It is clear from the scale of mortgage arrears that still exists in Ireland today that more people should be availing of the ISI's solutions than are presently doing so. I would like to see our activity levels increase. The ISI is of the view that this is an achievable goal and has made recommendations on a number of enhancements to the existing legislative framework in order to drive efficiencies, reduce barriers to entry and otherwise improve the overall process. These recommendations are outlined in our Section 141 Review submitted to the Department of Justice and Equality in June. It is also the ISI's view that creditor engagement could be improved by further proactive engagement in the insolvency process, supported by some minor legislative amendments. We will continue to liaise with the relevant stakeholders to make progress in this area.

The ISI continually undertakes initiatives to ensure debtors are aware of the solutions that are available to them, primarily through information campaigns and outreach work. We continue to evolve our messaging based on feedback from our users and other relevant information available to us.

2018 will be another busy year with the ISI focused on a number of key initiatives including:

- Progressing recommendations highlighted in our Section 141 Review submission
- Enhancing creditor engagement with the PIA and bankruptcy processes
- Building upon the early successes achieved in the operation of the Abhaile service
- Rollout of plans to ensure compliance with the EU Regulation covering the Interconnection of Insolvency Registers
- Ongoing contributions to the development of the draft EU Insolvency Directive

The achievements set out in this Annual Report are thanks to dedicated and hard-working staff within the ISI and to the assistance of key stakeholders.



Lorcan O'Connor, Director

April 2018

The ISI – What We Do

The ISI is an independent statutory body established in 2013 to deal with personal insolvency. We aim to return people to solvency and full participation in social and economic activity.

The principal functions of the ISI are set out in Section 9 of the Personal Insolvency Act 2012. These include:

- to operate the system to support the three alternatives to bankruptcy – the DRN, DSA and PIA
- to administer the estates of bankrupts
- to regulate authorised practitioners around the country who offer personal insolvency advice and assist debtors in seeking a DRN, DSA or PIA
- to promote public awareness and understanding of the personal insolvency solutions available to people
- to prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses for debtors
- to contribute to the development of policy in the area of personal insolvency



Business Area Management



Lorcon O'Connor

Director

Responsible for the overall management and control of the ISI's staff, administration and business.



Christopher Lehane

Official Assignee
Bankruptcy

Responsible for the administration of bankruptcy estates under the Bankruptcy Acts 1988-2015.



Randall Plunkett

Case Management

Responsible for managing and processing the three debt relief solutions under the Personal Insolvency Acts 2012-2015 and operating the Information Line.



John Farrell

Policy and Regulation

Responsible for contributing to research and the development of policy, to support the Director in relation to Ministerial and other advices and to operate an appropriate and effective authorisation and supervision framework for PIPs.



Liza Doyle

Legal Services

Responsible for the provision of legal services to all divisions of the ISI.



Sean Murphy

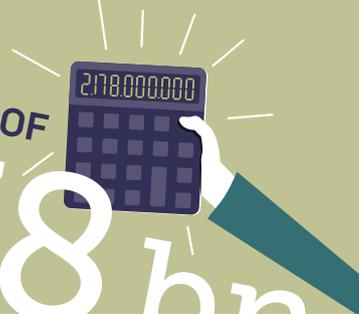
Corporate Affairs

Responsible for all governance matters and the provision of a range of support services to the ISI.

2017

Statistics at a Glance

Applications 
+39%

ISI dealing with DEBT OF
€2.178 bn 

2,198
PCS ISSUED
87% 
of which were for PIAs,
the solution that deals
with mortgage debt

90%
of people that
availed of a PIA
**RETAINED
THEIR HOME** 

5,083
Abhaile vouchers
issued for a free PIP
consultation

473
people
adjudicated
bankrupt 

521
people exiting
bankruptcy 


253
PIPS and AIs

263,947
visitors to ISI websites 
75%
of visitors to
Back on Track
were **new**
visitors

486 
court reviews
lodged in 2017

A Year in Review

Set out below is progress made and achievements during the year in each of the areas below.

1. Operations
2. Legislation
3. Communications
4. Abhaile
5. Stakeholders

1. Operations

The core operations of the ISI centre around the provision of solutions covering the DRNs, DSAs and PIAs (operated by Case Management Division) and bankruptcy. While the number of applications for Protective Certificates continued to rise in 2017, the number of approved Arrangements and bankruptcies fell marginally. The ISI published detailed operational statistics on a quarterly basis during the year.

Appendices 1 and 2 to this report give a breakdown of operational activity covering the full year, with comparisons to prior years.

The ISI has an operational requirement for 85.5 staff. As of 31st December, there were 80 full time equivalents (FTE) when work patterns are taken into account.

The table below shows the staff numbers broken down across divisions:

Divisional Breakdown	
Director	1
Bankruptcy	38
Case Management	25
Policy and Regulation	7.5
Legal Services	2
Corporate Affairs	6.5
TOTAL	80 FTE

2. Legislation

Statutory Instruments

Two new Statutory Instruments were made in 2017:

- Personal Insolvency Act 2012 (Worth of Motor Vehicle) Regulations 2017 (S.I. No. 594 of 2017)
- Personal Insolvency Act 2012 (Prescribed Fees)(Amendment) Regulations 2017 (S.I. No. 609 of 2017)

The Personal Insolvency Act 2012 (Worth of Motor Vehicle) Regulations 2017 (S.I. No. 594 of 2017) increase the worth of a motor vehicle to €5,000 for the purpose of section 26(6)(c)(iii)(l) of the Personal Insolvency Act 2012. This widens the eligibility criteria for a DRN.

The Personal Insolvency Act 2012 (Prescribed Fees)(Amendment) Regulations 2017 (S.I. No. 609 of 2017) amend the Personal Insolvency Act 2012 (Prescribed Fees) Regulations 2015 (S.I. No. 620 of 2015) to provide that any fee payable to the ISI in respect of a DRN, DSA or PIA application is waived where such application is made on or before the 31 December 2020.

EU Registers

The ISI participated on the Committee on Insolvency Proceedings established under Regulation (EU) No. 2015/848. This regulation provides for the establishment of an EU-wide interconnected insolvency register, accessible to all Member States via a common search portal. It is scheduled to operate from June 2019 and when operating it will allow searches to be made against the national insolvency registers of EU Member States covering corporate, personal and bankruptcy cases.

Review of the Operation of Part 3 of the Personal Insolvency Act

In 2017, the Department sought the views of interested parties on the operation of Part 3 of the Personal Insolvency Act 2012. Part 3 of the Personal Insolvency Act 2012 provides for the definition and operation in practice of the three debt resolution processes for insolvent individuals (DRNs, DSAs and PIAs).

This consultation took place in accordance with section 141 of the Personal Insolvency Act 2012, which requires the Minister for Justice and Equality (in consultation with the Minister for Finance) to review the operation of Part 3 and to report on its outcome to both Houses of the Oireachtas.

In June, the ISI made a comprehensive submission to the Department. The detailed submission outlined what had been achieved since the commencement of Part 3 of the Act, identified areas that provide challenges to the efficient operation of the insolvency process and made recommendations in relation to a number of areas that could deal with those challenges to the benefit of all stakeholders.

The ISI identified three key factors that influence activity levels:

- Efficiency of Process
- Debtor Engagement
- Creditor Engagement

The ISI addressed all of these factors in its submission.

The ISI's core recommendation is that DRNs, Protective Certificates ('PCs'), extensions to Protective Certificates, DSAs, PIAs, and variations to DSAs and PIAs should be approved by the ISI rather than requiring a court to make an order for their approval. Importantly, this core recommendation has the support of all members of the Consultative Forum – which is made up of the ISI, debtor advocates, creditors, PIPs and the Courts Service. The ISI is of the view that such a change would result in a number of benefits. These benefits include:

- an increase in accessibility to the personal insolvency system
- time savings by streamlining the process (reducing the overall process by up to a month)
- cost savings
- consistency of approach

Case Study

In addition, the ISI recommends a number of other enhancements to the existing legislative framework in order to drive efficiencies, reduce barriers to entry and otherwise improve the overall process.

For DRNs, the ISI recommends a number of enhancements including a reduction in the term of supervision, a change to how additional debtor contributions are calculated to protect a debtor's reasonable standard of living and changes that would widen eligibility criteria.

For DSAs and PIAs, the ISI recommends a number of enhancements including greater flexibility attaching to the Protective Certificate and the removal of a number of barriers to entry (removal of the MARP eligibility criterion; removal of the €3 million secured debts threshold; removal of a date restriction for debtors seeking a Court review of a creditor rejection of a PIA proposal). Other recommendations include the removal of the 'excludable creditor' category and several other suggested legislative amendments, which are designed to make the overall process more efficient for all parties.

Other Legislative Amendments

In addition to the changes sought within Part 3 of the Personal Insolvency Act 2012, the ISI has also identified necessary changes to the legislation governing bankruptcy. The ISI worked closely with the Department during 2017 to progress amendments in a number of areas including:

- to improve the standard of information contained in the Statement of Affairs completed by debtors prior to adjudication
- to introduce statutory recognition and enforcement of Income Payment Agreements
- to streamline the administration process on paying and notifying creditors of dividends and the winding up of estates
- to remove the requirement of the Official Assignee to obtain leave of the Court when disclaiming property

DRN

(A solution for debt not exceeding €35,000)

Jennifer and James are a couple, both aged 43, with two children under 11. Neither of them work outside of the home and James receives long-term unemployment benefit. They live in a home that is rented from a voluntary housing body to which a monthly rent contribution of €200 is made.

Jennifer had total debts of €20,282 for which she cannot meet repayments as they fall due. Jennifer was insolvent. Having met with an Approved Intermediary in her local MABS office to talk through her financial situation, Jennifer applied for a DRN.

Case Summary

Total debts:	€20,282
ISI Reasonable Living Expenses: 50% of a two-adult household with two children under 11 years of age	€907

Solution

Arrangement:	Under the DRN, all of the debts will be written off.
Term:	3-year supervision period.
Other key features:	Debtor will be solvent after the supervision period ends.

Once the DRN was issued, creditors were prevented from contacting Jennifer. The only obligation on Jennifer is to inform the ISI if her circumstances improve in the 3-year period from the date the DRN issued. In the absence of an improvement of circumstances, all of Jennifer's debt will be written off.

(Note: names have been changed to protect identities)

3. Communications

The ISI Communications Project Group is tasked with planning and coordinating communications activities to ensure that key messages are delivered through the appropriate channels to each stakeholder. During the year, the group organised and delivered presentations to organisations, liaised with the media, and made improvements to the ISI websites, publications and related information sources.

The ISI continued to promote its 'Back on Track' campaign (www.backontrack.ie) which is aimed at people with problem debt and seeks to highlight how overwhelming debt can be and the sense of relief a person gets once they ask for help. At various points during the year, campaign bursts were rolled out via TV, online, outdoor, radio, and press advertisements.

The ISI also had information stands at the World Congress on Women's Mental Health and the National Ploughing Championships in order to raise public awareness.

During the year, the ISI held five PIP/debtor debt advice events in Sligo, Athlone and Mallow and two in Dublin. The events gave debtors the opportunity to engage directly with a PIP, in a confidential setting, thereby making insolvency solutions more accessible to them. The primary purpose of these events was to bring the range of options available to the attention of those who find themselves struggling with their debts.

The ISI continues to promote and expand its 'Back on Track' campaign at every opportunity.

Case Study

DSA

(A solution for unsecured debt)

Ken is a divorced man, aged 49, with three children. He had a furniture business but is now a lorry driver, earning €2,165 per month. He has debts totalling €188,500 most of which arose from personal guarantees when he set up his own business, which closed during the recession.

Ken makes maintenance payments of €952 per month for his children. Since his divorce, Ken has been living with his parents.

Ken met with a PIP to discuss his financial situation. The PIP assessed his situation and advised him that a Debt Settlement Arrangement (DSA) was the best solution for his circumstances.

Case Summary	
Total debts:	€188,500
Monthly maintenance payment for children:	€952
ISI Reasonable Living Expenses: One-adult household with a vehicle	€2,003

Solution	
Term:	Proposed repayments of €162 per month for 60 months.
Dividend:	Dividend paid to creditors - 2.1%.
Other key features:	At the end of his arrangement term, the remainder of Ken's debts will be written off and he will return to solvency.

The PIP looked at Ken's take-home pay and after allowing for the ISI's reasonable living expenses allowance, identified an ability of Ken to contribute a monthly sum of €162 towards his debts. Ken's DSA commits him to this payment for 5 years, after which the balance of his debts will be written off. Allowing for PIP fees, this equates to a 2.1% dividend to Ken's creditors.

(Note: names have been changed to protect identities)

4. Abhaile

Abhaile, the service to help homeowners find a resolution to home mortgage arrears, was commenced by Government in July 2016. It provides a range of services to help people in mortgage arrears to deal with their situation and offers free access to financial, legal and insolvency advice.

The service is coordinated by the Department and the Department of Employment Affairs and Social Protection and is operated by the Money Advice and Budgeting Service (MABS) in conjunction with the ISI, the Legal Aid Board and the Citizens Information Board. Panels of qualified and regulated professionals have been set up to provide the necessary advice.

Abhaile has resulted in a significant level of engagement between debtors and advisors, and has increased the level of cross-referral between MABS and PIPs. Processing of the voucher claims by PIPs is handled by the ISI.

Abhaile has been a contributory factor in boosting the number of applications for PIAs by over 50% when compared to 2016. Abhaile has succeeded in delivering to the hard to reach category of people in arrears of over 720 days.

In 2017:

- 5,083 vouchers were issued to debtors for a free consultation with a PIP, and
- PIPs, who had completed debtor consultations, redeemed 4,030 vouchers.

At the end of 2017, there were 82 Personal Insolvency Practitioners on the Abhaile panel.

Appendix 4 contains further information on the operation of the Abhaile scheme.

Case Study

PIA

(A solution for debt including a mortgage)

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

Marie and Conor met with a PIP, who assessed their situation and advised them that a PIA was the best solution for them.

Case Summary

Mortgage balance:	€286,000
Current market value of property:	€105,000
Negative equity:	€181,000
Other debts (unsecured):	€266,835
ISI Reasonable Living Expenses: Two-adult household with three children, aged four, six and twelve and a vehicle	€2,251

Solution

Principal:	Write-down of €166,000.
Term:	Proposed mortgage €120,000 @ 2.5% for 72 months.
Rate:	Rate to revert to 4.50% variable post-arrangement.
Other key features:	Other debts of €266,835 also dealt with under the arrangement (2% dividend).

The solution identified a sustainable mortgage of €120,000, and resulted in a write-down of over €166,000, with their other debts also being dealt with under the arrangement. The lower interest rate during the term of the PIA was to allow the debtors to pay a dividend to their unsecured creditors. The family home was retained under the arrangement.

(Note: names have been changed to protect identities)

5. Stakeholders

During the year, the ISI continued to engage with stakeholders with the aim of ensuring that all stakeholders are updated on developments in the evolving personal insolvency environment.

Stakeholder e-Brief

In the past, the ISI issued communications on specific matters on an ad hoc basis to PIPs and creditors, including commentary of relevant Court cases together with updates on policy and operational matters. In some cases, these communications were overlooked in email flows between the ISI, PIPs and creditors. For this reason, in February the ISI decided to formalise its communications as an e-Brief to issue on a periodic basis.

A dedicated stakeholder section, containing the [e-Briefs and links to the full text of relevant Court cases](#), was also added to the ISI website.

Section 115A Reviews

The section 115A review process, introduced at the end of 2015, was designed to operate in a relatively quick manner whereby Courts would be asked to review a creditor-rejected PIA proposal and, where satisfied as to its reasonableness, make an order confirming the PIA.

The ISI continues to monitor the operation of the section 115A reviews through the Courts. The number of applications continued to grow at a steady pace during the year. Set out in Appendix 1 is a summary of the total number of applications received and those still within the management of the Courts.

While the process has resulted in a number of PIAs being approved that were previously rejected at creditors' meetings, progress remains slow, due in part to a series of legal challenges to certain technical aspects of the process brought by creditors, the most significant of which was in relation to the locus standi of the debtor under the Act (the ability of the debtor to bring an application for a review).

Notwithstanding these challenges, a number of significant rulings have been made by the High Court to date, which has given greater clarity to certain aspects of the operation of the legislation. In this regard, Appendix 1 also contains a summary of such rulings, indicating the main issues dealt with by the Court in each case.

Creditor engagement

During the year, the ISI met individually with the six main retail lenders and a number of servicing firms and funds. The purpose of these meetings was to listen to creditor concerns, seek feedback on the ISI [Guidelines to a Reasonable Standard of Living and Reasonable Living Expenses](#) and to set out ISI policy in relation to certain matters.

In December, the ISI convened a meeting of creditors to provide background to the ISI's opening statement to the October 2017 Oireachtas Committee on Justice and Equality hearing and discuss the issue in more detail ([Opening statement to the October 2017 Oireachtas Committee](#)).

The meeting covered general creditor engagement in the Insolvency process, the general downward trend in PIA acceptance rates and the slow progress of section 115A cases. It also offered the opportunity for the ISI to obtain further feedback from creditors.

Further engagement is planned that is designed to increase PIA acceptance rates and reduce the necessity to avail of section 115A Court reviews.

Case Study

Section 115A

(Review Case)

Aisling is a young woman who resides with two children under 10 years of age. Aisling has income from employment and is in receipt of child maintenance payments from her ex-spouse. As a result of ill-health and a breakdown in her marriage, Aisling was unable to meet her mortgage repayments and arrears accrued. Following the breakdown of her marriage Aisling continued to reside in the family home with her children but received no contribution towards the mortgage repayments from her ex-spouse who was also jointly liable for the mortgage.

Aisling met with a PIP, who assessed her situation and advised her that a PIA was the best solution for her. The requisite proportion of her creditors did not support the PIA so the PIP applied for a Court review.

Case Summary

Mortgage balance:	€322,227
Current market value of property:	€190,000
Negative equity:	€132,227
ISI Reasonable Living Expenses: One-adult household with two children, aged six and nine and a vehicle (including childcare and special circumstances)	€2,075

Solution

Principal:	Write-down of €102,227.
Term:	Proposed mortgage €220,000 @ 3.7% for 324 months. €80,000 of the mortgage to be deferred at 0% for 6 years to enable a contribution to be made to other creditors during the PIA.
Other key features:	Other debts of €32,034 also dealt with under the arrangement (4% dividend).

The debtors' creditors had argued that the arrangement was unfairly prejudicial, largely due to the co-debtor not having consented to the PIA, and it should not be approved by the Court. They also sought to have the Court deem the arrangement as unsustainable, casting doubt on the certainty attaching to maintenance payments being made by the debtor's ex-husband. These arguments were dismissed by the High Court, however, and it approved the coming into effect of the PIA.

The solution resulted in a write-down of over €100,000 on her family home and her other debts amounting to €32,034 were dealt with under the arrangement. The family home was retained under the Arrangement. The Court also confirmed that the permission/involvement of her ex-spouse was not required.

(Note: names have been changed to protect identities)

Seminars

Four CPD-accredited seminars were held for PIPs in late 2017 in Cork, Limerick, Sligo and Dublin to reflect on the first year of operation of the Abhaile scheme and to examine its terms and conditions. In addition, the ISI arranged for a CPD-accredited seminar on Mortgage to Rent (MTR) at which the Housing Agency and the Department of Housing, Planning, Community and Local Government provided detail on the scheme and advice on the role of PIPs in the MTR process.

As part of the ongoing CPD programme for PIPs, the ISI hosted a number of regional seminars to discuss the latest developments in the insolvency and bankruptcy processes and facilitate greater understanding of legislative developments and application.

Protocol Oversight Committees

The Committee was established in 2015 to monitor how the [DSA and PIA Protocols](#) are working in practice. The Committee is representative of creditors, debtor groups, PIPs and other key stakeholders and meets on a periodic basis. During 2017, the Committee considered a template for comparing the outcome of a PIA with that of bankruptcy and the payment of dividends to creditors during an arrangement.

Consultative Forum

The Consultative Forum is comprised of members from a number of insolvency stakeholder groups including creditors and creditor representatives, PIPs and PIP representatives, debtor representatives, the Courts Service and the ISI. The forum met on four occasions between March and June to consider proposals from individual members on their recommended amendments to the Personal Insolvency Acts 2012 to 2015, which would form the basis of the forum's submission to the consultation process on the operation of Part 3 of the Personal Insolvency Act 2012. The forum reached agreement in principle on nine proposals and, in addition, individual members also made submissions in their own capacity.

[\(Consultative Forum Submission\)](#)

International Associations

The ISI is a member of the International Association of Insolvency Regulators – an international body that brings together the collective experiences and expertise of government insolvency regulators from jurisdictions around the world. The Director of the ISI was elected to the Executive Committee of the Association in 2015. The ISI attended and presented at the 2017 annual conference in London.

The ISI also participates in an annual meeting to discuss areas of mutual interest across similar organisations in England and Wales, Scotland, Northern Ireland, Jersey and Guernsey.

Mortgage Arrears

The ISI is an active member of both the inter-departmental Senior Officials Group on Mortgage Arrears and the Abhaile Joint Working Group.

Reflecting its statutory role to contribute to the development of policy in the area of personal insolvency and to contribute to addressing the extent of mortgage arrears that currently exists, the ISI contributed to a number of other stakeholder meetings and fora, including:

- Cabinet Sub-Committee on Housing
- European Commission Post-Programme Surveillance Review 2017
- IMF Article IV Consultation 2017

Case Study

Bankruptcy

John and Mary are a couple with five children under 14 years of age. They were adjudicated bankrupt in November 2014 and discharged from bankruptcy in July 2016. John and Mary had secured debts of €809,000, which consisted of a mortgage on the family home of €416,000 and a mortgage on a buy to let property of €393,000. John and Mary also had unsecured debts of €98,000 made up of credit card debt, overdraft, and outstanding legal bills. They were in possession of two cars over 10 years old and the contents of their family home. The family home was valued at €130,000 and the buy to let property was valued at €90,000. Their liabilities exceed their assets by €687,000.

Case Summary	
Mortgage family home	€416,000
Market value	€130,000
Negative equity (family home)	€286,000
Buy to let (BTL) property	€393,000
Market value	€90,000
Negative equity (BTL)	€303,000
Unsecured Debt	
Credit cards, overdraft, legal bills	€98,000
Total debt liability	€687,000
Monthly income	€3,200
ISI Reasonable Living Expenses: Two-adult household with five children and a vehicle	€3,193

Outcome in Bankruptcy	
Debt write-off	€401,000 (€98,000 unsecured and BTL in negative equity)
Family Home revested	

No Income Payment Order was sought as the couple had no disposable income after allowance for the ISI's reasonable living expenses. In bankruptcy the unsecured debt of €98,000 was written off. The buy to let was sold off by the financial institution, and the residual mortgage debt was equally written off in bankruptcy. The cars and the household contents were allowable under excepted articles, that is, assets that are deemed essential items.

The bankrupts agreed mortgage payment terms with the financial institution and the Official Assignee, which has allowed them retain their family home. The family home subsequently revested in them in November 2017. Revesting is the process by which the Official Assignee reverts his interest in a property to the bankrupt.

(Note: names have been changed to protect identities)

Corporate Updates

New Code of Practice for the Governance of State Bodies

A new Code of Practice for the Governance of State Bodies was published by the Department of Public Expenditure and Reform in September 2016. An exercise to ensure the ISI was in compliance with the code for 2017 and future years was undertaken. The new code is built upon the assumption that a state body has a board and chairperson. The ISI has agreed with the Department how the objectives behind the code can be achieved notwithstanding the fact that the ISI does not have a board.

Oversight Agreement

The ISI and the Department were party to an Oversight Agreement for 2017. The agreement documents an agreed level of service between the parties. It sets out respective commitments on which performance should be measured and supports the ISI's [Strategic Plan](#) in achieving its high level goals in the restoration of insolvent individuals to solvency.

Public Spending Code

The ISI continued to adhere to the relevant aspects of the Public Spending Code published by the Department of Public Expenditure and Reform throughout the year.

Risk Management

The ISI operates a formal risk management policy and maintains a risk register, in accordance with the Department of Public Expenditure and Reform guidelines, which is maintained on an ongoing basis. The maintenance of the register is designed to ensure that risks are identified and assessed and necessary mitigating actions are, where resources allow, put in place. The risk register is compiled on behalf of the Senior Management Team and reviewed by them on a monthly basis.

Reflecting the key priorities for the organisation, the main potential risks managed by the ISI are as follows:

- Lack of resources to achieve targets;
- Procurement of a replacement case management system;
- Personal Insolvency Practitioner business model.

Freedom of Information

The ISI received two requests during the year. Both requests were refused because, under Schedule 1, Part 1 (r) of the Freedom of Information Act 2014, the ISI disclosure requirements are confined only to records concerning the general administration of its functions.

Data Protection

Throughout the year, the ISI continued to implement the findings of a data protection review undertaken by the ISI in late 2016. This review involved an assessment of the data protection risks within the ISI.

Data protection training sessions were also held for staff to ensure that they are aware of the ISI's data protection obligations.

The ISI received four data access requests during the year.

Overview of Energy Usage in 2017

The ISI must report annually on the energy consumption of its office and the initiatives undertaken to improve energy performance. The table below sets out the return made by the ISI to the Sustainable Energy Authority of Ireland (SEAI) in compliance with S.I. No. 542 of 2009.

	Electricity	Gas
2017	234,614kWh	314,653kWh

The ISI continued its efforts to minimise energy usage.

Protected Disclosures Act

There were no protected disclosures notified to the ISI during the year.

Contact Us

Information Line: 076 106 4200 / +353 76 106 4200
Freetext: Freetext ISI to 50015 or Free text GETHELP to 50015
Email: info@isi.gov.ie / press@isi.gov.ie
Websites: www.isi.gov.ie / www.backontrack.ie
Facebook: Back-On-Track / www.backontrack.ie
Twitter: www.twitter.com/ISbackontrack

Appendices

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Statistics

Detailed statistics covering the work of the ISI are published quarterly on the ISI website [here](#)

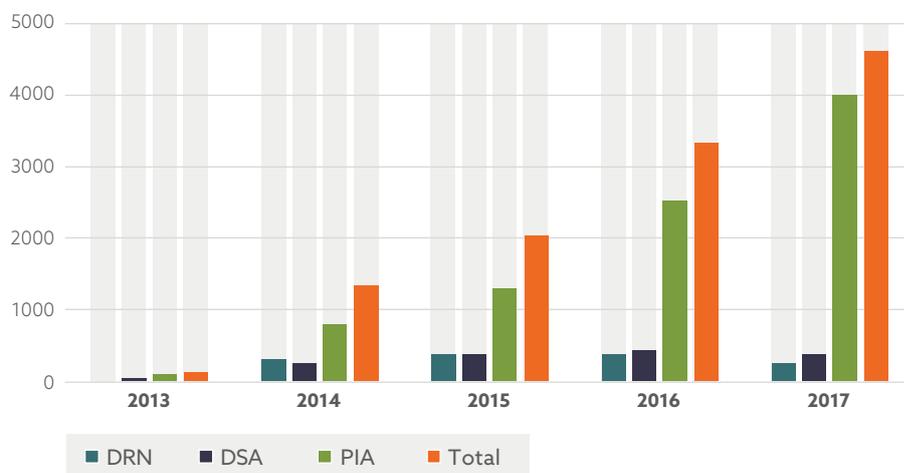
Appendix 1

Further detail and key statistics – DRN, DSA and PIA

New applications up 39% in 2017

The number of new applications for all insolvency solutions available through the ISI has increased this year from 3,329 to 4,626. This is reflective of greater awareness by the public of the ISI and its solutions through increased communications initiatives and the existence of the Abhaile scheme - the Government’s free mortgage arrears service, which includes free PIP consultations for insolvent debtors and aims to keep people in their homes where possible.

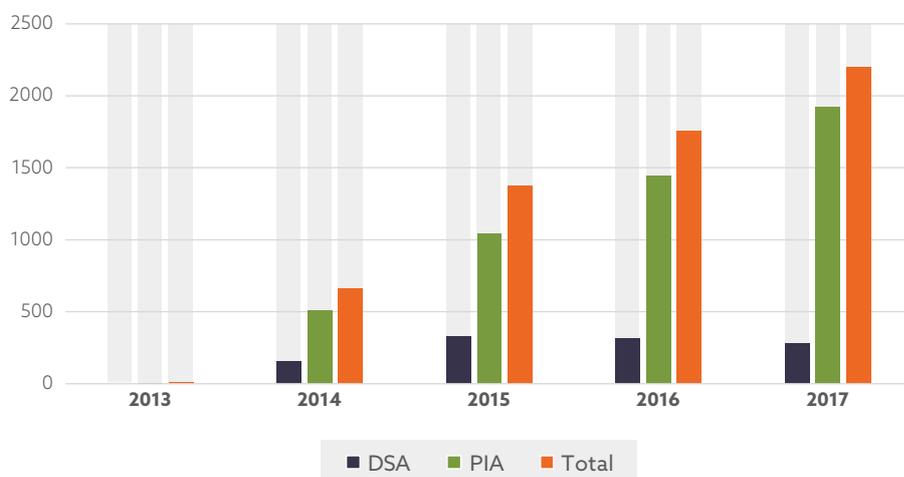
Applications



Protective Certificates up 23% in 2017

The number of Protective Certificates has increased this year from 1,786 to 2,198. This represents a lead-indicator of debtors who will, in time, enter into a DSA or PIA.

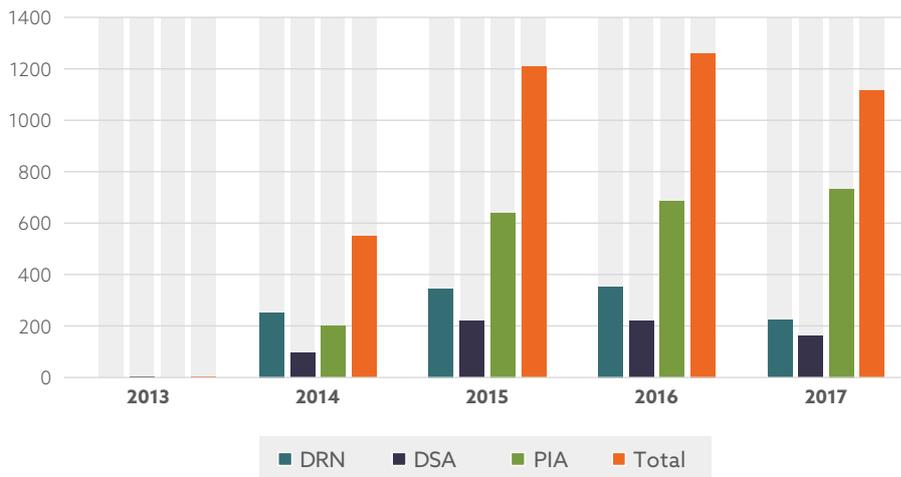
Protective Certificates



Court-approved Arrangements down 13% in 2017

The number of Arrangements has decreased this year from 1,289 to 1,115. This is most likely due to the uncertainty surrounding the locus standi issue to be determined by the High Court, which resulted in a decrease in the number of PIA proposals being put forward for approval in the latter half of 2017 pending the outcome of that legal issue.

Arrangements



Court Review of rejected PIAs (section 115A reviews)

In late 2015, an amendment to section 115 of the Act introduced a Court review of proposed PIAs that have been rejected at the statutory creditors’ meeting. The process allows a PIP, on instruction from his/her client (the debtor), to seek an order from the Court confirming the coming into effect of the proposed PIA. If the Court review application is successful, the Court grants this order and the PIA comes into effect. The table below shows the number and status of section 115A review applications received and progressed up to the end of 2017. In the meantime, the ISI continues to keep stakeholders informed of developments in this area and in respect of specific Court rulings through its e-Brief.

Section 115A Court Reviews at end December 2017		
	Number	Information Note
Applications	724	Circuit Court 706; High Court 18
Concluded Cases (28%)	203	Circuit Court 196; High Court 7
of which		
creditor objection upheld (54%)*	109	24 cases appealed to the High Court
creditor objection not upheld (32%)	65	6 cases appealed to the High Court
application withdrawn (14%)	29	Circuit Court 29; High Court 0

*The ISI is aware of a number of cases where a creditor objection is recorded as upheld but where a settlement has been reached between the debtor and objecting creditor.

Summary of significant Court Rulings for section 115A

The table below sets out the significant outcomes that have been decided by the High Court to the end of 2017.

Case	Main issues dealt with	Date	Hyperlink to Judgment
Hill	Existence of relevant debt. Existence of agreed alternative repayment arrangement.	18/1/2017	Link
Hickey	Timeline for application to be lodged	18/1/2017	Link
Dunne	Unfair prejudice. Continuing solvency.	6/2/2017	Link
JD	Unfair prejudice. Co-borrower cooperation. Sustainability of arrangement.	21/2/2017	Link
Ennis	Conduct of debtor. Sustainability of arrangement.	27/2/2017	Link
Varma	Timeline for creditor objection to be lodged	6/4/2017	Link
Callaghan	Warehousing. Provision for future solvency.	22/5/2017	Link
Phelan	Timeline for serving Notice of Motion	19/6/2017	No written judgment issued
McDonnell	S.105 Valuation	3/7/2017	Link
Reilly	Locus standi	5/10/2017	Link
Hayes	Unfair prejudice. Fixing of interest rate.	1/11/2017	Link
Douglas	Class of creditor. Retention of non-core asset	29/11/17	Link

More detailed summaries are contained in the ISI's [e-Briefs](#).

Appendix 2

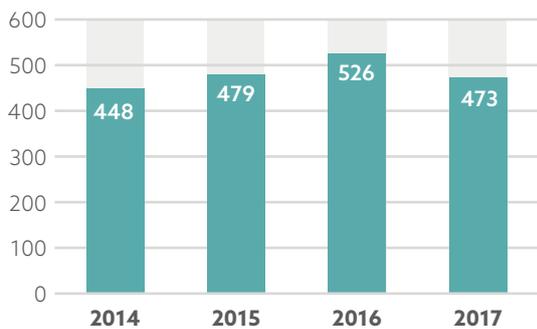
Further detail and key statistics

– Bankruptcy

Bankruptcy cases down 10% in 2017

The number of new bankruptcies has decreased this year from 526 to 473. The number of debtors petitioning the High Court for their own bankruptcies in 2017 was 432 compared to 498 in 2016, a decrease of 13%. There were 41 creditor petitioned bankruptcies compared to 28 in 2016, an increase of 46%. Creditor petitioned bankruptcies are generally more complex to administer than debtor petitioned bankruptcies.

Bankruptcy Adjudication



Case Type	% Break Down
Petitioning Creditor	7%
Self-Adjudication	93%

Age Range	%
20-29	0.63%
30-39	25.58%
40-49	38.68%
50-59	24.52%
60-69	9.72 %
70-79	0.84%

Family Home / Principal Private Residence (PPR)

In a case of a family home/PPR, if the Official Assignee has not issued proceedings for the sale of a family home within 3 years of the date of a person being adjudicated a bankrupt, then their home may automatically transfer back into their ownership.

In 2017, 118 family homes/PPR reverted in former bankrupts.

In a case where there is equity (i.e. surplus in value of property above amount of mortgage) in the family home, the Official Assignee will firstly seek to sell his half share to the bankrupt or his/her spouse or civil partner. However, if this is not possible the Official Assignee is required to make a section 61(4) application to the Court to enable him to sell the property. The Official Assignee took 25 such applications in 2017. To date three sales were completed to either the former bankrupt or spouse under this process. The other 22 applications are progressing and no forced sales have resulted from this process in 2017.

Enforcement / Investigations and Asset Recovery

Bankruptcy is a process that delivers debt relief to bankrupts while transferring all their assets to the Official Assignee. The integrity of the system depends on bankrupts making full disclosure and cooperating with the Official Assignee. The Bankruptcy Division of the ISI will continue its policy to vigorously pursue the recovery of assets not declared or illegally transferred by a bankrupt in accordance with his/her bankruptcy obligations. During the course of 2017 there were in excess of 300 specific investigations, many of which have resulted in finding undisclosed assets such as bank accounts, cars, properties, rental income, and transfers of assets prior to bankruptcy. In just three cases following an investigation by the Bankruptcy Division, in excess of €6.5 million was recovered.

Furthermore, proceedings for non-cooperating bankrupts have led to bankruptcy term extensions. In 2017 two bankrupts had their term of bankruptcy extended for five years, while another two bankrupts had their term extended for 15 months and 11 months respectively. A further five bankrupts are subject to an interim order extending their term pending a final order of the Court.

Asset Realisations

Assets with a net value of €9.6 million were realised in 2017.

Payment of Dividends

Dividends with a cumulative total value of approximately €5.6 million were paid to creditors in the case of 10 estates.

Bankruptcy Payment Order (BPO)

BPOs are orders of the Court for the payment by the bankrupt of a defined sum on a monthly basis to the Official Assignee, for a maximum period of three years. The order amount is assessed as the surplus of income earned by the bankrupt on a monthly basis over the reasonable living expenses allowed under the Reasonable Living Expense Guidelines issued by the ISI.

56 BPOs were ordered by the High Court, resulting in an average monthly figure of €604.15 per case being made available for the benefit of creditors.

Bankruptcy

A year in numbers

9 The number of extensions of the bankruptcy term granted by the High Court due to non-compliance

25

The number of applications to sell the OA's interest in family homes

473

The number of new bankrupts

56

The number of Bankruptcy Payment Orders approved by the High Court

118

The number of homes re-vested in the former bankrupt through the new legislative provision

521

The number of people who exited bankruptcy

€5.6m

The value of dividends issued to creditors

€9.6m

The value of assets realised

Appendix 3

Further detail and key statistics – Policy and Regulation

Summary of status of Authorisations	
Authorised PIPS at end of year	110
New authorisations during 2017	7
Renewal of authorisations during 2017	29
Non-renewal of authorisations during 2017	13
Cessation of authorisation before expiry	2
Approved Intermediaries at end of year	55
Responsible Persons linked to Approved Intermediaries Authorisations	143

An authorisation as a PIP normally lasts for three years. As the first authorisations as PIPs issued in 2013, this was the second year the ISI received requests to renew authorisations.

Appendix 4

Abhaile

1. Introduction

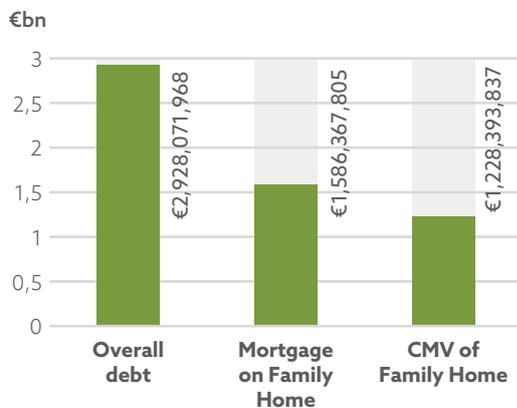
Abhaile, the service to help homeowners find a resolution to home mortgage arrears, was commenced by Government in July 2016. It provides a range of services to help people in mortgage arrears to deal with their situation and offers free access to financial, legal and insolvency advice. Abhaile has resulted in a significant level of engagement between debtors and advisors, and has increased the level of cross-referral between MABS and PIPs. Processing of the voucher claims by PIPs is handled by the ISI.

2. Abhaile Scheme Outputs

2.1 Level of Debt since launch to December 2017

Figure 2.1 presents the level of debt recorded against the redeemed vouchers.

Figure 2.1
Level of Debt since launch to December 2017

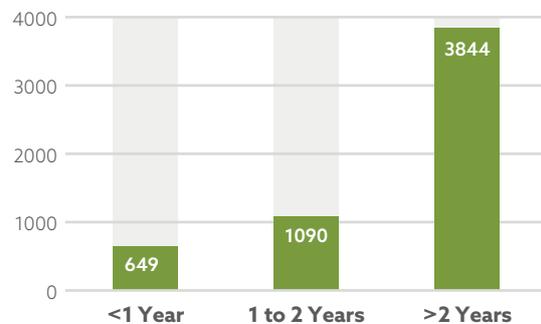


- The total value of borrower debt for the 5,583 vouchers amounted to €2.93 billion
- The total negative equity of borrowers amounted to €358 million, that is, the difference between the total value of borrower mortgages on the family homes and the total current market value of those borrower homes

2.2 Length of Mortgage Arrears since launch to December 2017

Figure 2.2 presents the three different categories relating to the length of mortgage arrears recorded against the redeemed vouchers.

Figure 2.2
Length of Mortgage Arrears since launch to December 2017

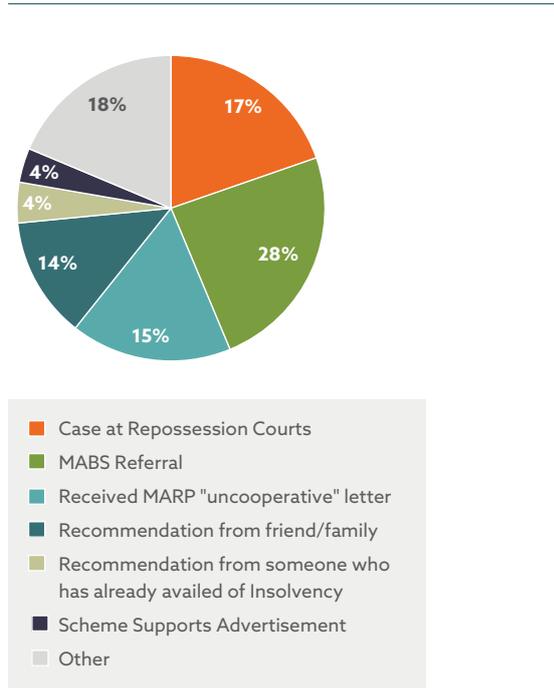


- Over 69% of borrowers (3,844 out of 5,583) were in mortgage arrears of over two years
- The over two-year category of mortgage arrears has been the slowest to reduce in recent years and has been the most difficult for creditors to secure engagement from the borrower

2.3 Reason for Borrower Engagement since launch to December 2017

Figure 2.3 presents the reasons for borrower engagement with the scheme.

Figure 2.3
Reason for Borrower Engagement since launch to December 2017

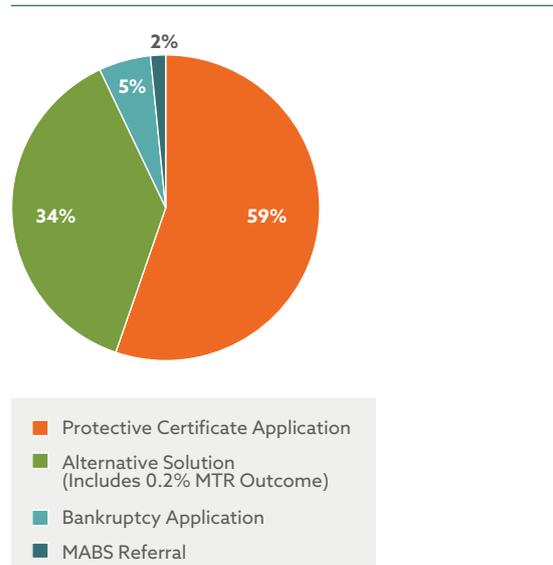


- Just under half of borrowers were either before the Repossession Courts (17%) or had been referred from MABS (28%)
- One in seven borrowers (15%) were in receipt of a MARP "uncooperative" letter

2.4 Breakdown of PIP recommendations since launch to December 2017

Figure 2.4 presents a breakdown of the PIP recommendations in the 5,583 vouchers redeemed.

Figure 2.4
PIP Recommendation since launch to December 2017



- The key output from a PIP consultation is the recommendation of the action the borrower should take to address their financial difficulties
- The PIP recommendations can be broken down into three categories:
 - a recommendation that 59% of borrowers pursue a PIA through applying for a Protective Certificate
 - a recommendation that 34% of borrowers engage with the secured lender, including to re-negotiate the terms of the mortgage or to apply for Mortgage to Rent
 - a recommendation, supported by a written statement signed by the PIP, that 5% of borrowers should petition for bankruptcy
- A small number of cases (2%) were referred to MABS by the PIP

3. Abhaile Scheme Outcomes

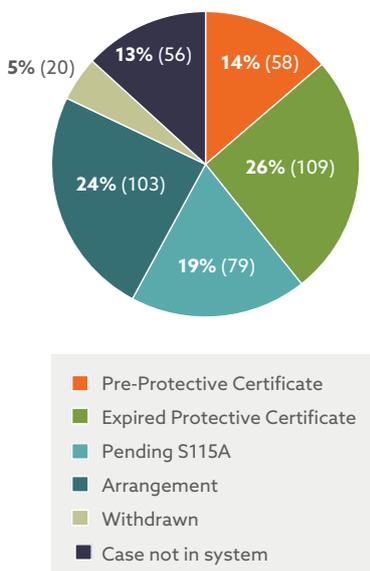
3.1 Introduction

Under the scheme, the PIP holds a meeting with the borrower, examines the borrower’s financial situation and assists the borrower in completing his/her Prescribed Financial Statement (PFS). The PIP, having reviewed the borrower’s financial circumstances, makes a recommendation to the borrower to address their particular financial difficulties. The purpose of this section is to examine what has happened to the debtor following a PIP recommendation. Such an examination can only take place in retrospect since ISI data shows that for Abhaile cases that resulted in a PIA it took just over three months to obtain a Protective Certificate and a further four months to have an arrangement approved by court.

3.2 Protective Certificate recommendation by PIP

Figure 3.2 presents an ISI August 2017 analysis of the status of the cases where a PIP recommended in Quarter 3 2016 that a borrower, either individually or jointly apply for a Protective Certificate.

Figure 3.2
Borrower status at end August 2017 where PIP recommended a Protective Certificate



- Protective Certificate recommendations resulted in successful arrangements in 24% of cases while in a further 18% of cases the PIP has sought a Court review of the creditor rejected PIA
- 5% of cases were withdrawn which means that the PIP had created a PFS on the ISI system but subsequently withdrew the application prior to applying to court for a Protective Certificate on the borrower’s behalf
- 14% of cases are shown as not in the ISI system which means that the case met the terms of the scheme but the PIP did not upload the documentation, particularly the PFS
- 26% of cases are recorded as an expired Protective Certificate. The ISI intends investigating these cases further to establish the current status of the borrower

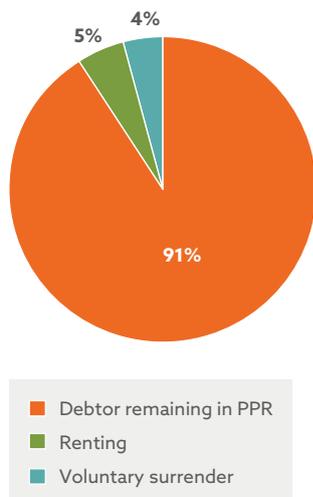
3.3 Arrangement Analysis

A total of 104 cases where Protective Certificate was recommended resulted in successful arrangements. Ten of these arrangements were DSAs. An examination of the 94 cases where a PIA was approved is set out overleaf.

3.3.1 Treatment of Principal Private Residence

Figure 3.3.1 presents how the borrowers Principal Private Residence (family home) was treated as part of the PIA.

Figure 3.3.1
Treatment of Principal Private Residence

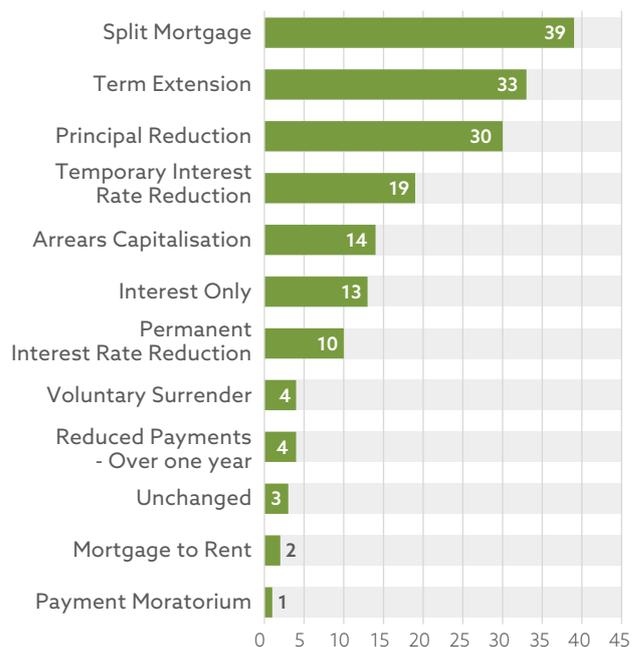


- The vast majority of borrowers (91%) remained in their family homes, highlighting that the scheme is achieving one of its main priorities, which is to keep borrowers in their family home
- The renting category includes cases where a borrower has moved out of the family home and is currently renting accommodation from a third party. For example, in the case of a separated couple where one party has moved out of the family home, that party is still liable for the mortgage on the home

3.3.2 Principal Private Residence Mortgage Restructure Type

Figure 3.3.2 presents the different categories of restructure that were applied to the mortgage on the family home as part of the PIA.

Figure 3.3.2
Restructured PPR Mortgage by Restructure Type



- The average mortgage debt was €239,000
- One third of borrowers secured a reduction in the principal sum of their mortgage and the average principal reduction was €98,000
- The number of restructure types is greater than the number of arrangements as some of the restructure types involve a hybrid, e.g. principal reduction and term extension
- Under the Mortgage to Rent restructure type the borrower switches from owning their home to selling their home to a housing body and subsequently becoming a social tenant in the home the borrower previously owned
- Under the Lump Sum Payment restructure type the borrower reduces their mortgage by a single large payment typically arising from a family gift or inheritance

Appendix 5

New Statutory Instruments in 2017

List of new Statutory Instruments (full list of all legal matters available on website)

- [Personal Insolvency Act 2012 \(Worth of Motor Vehicle\) Regulations 2017 \(S.I. No. 594 of 2017\)](#)
- [Personal Insolvency Act 2012 \(Prescribed Fees\)\(Amendment\) Regulations 2017 \(S.I. No. 609 of 2017\)](#)

List of new or revised publications (full list of all publications available on website)

- [Guidelines on a reasonable standard of living and reasonable living expenses](#)

Statistical Reports for 2017 (full list of all statistical reports available on website)

- [Quarter 1 Statistical Report](#)
- [Quarter 2 Statistical Report](#)
- [Quarter 3 Statistical Report](#)
- [Quarter 4 Statistical Report](#)

Appendix 6

Glossary of Terms

“The Personal Insolvency Acts”

Personal Insolvency Acts 2012 to 2015. A consolidated text, prepared by the Law Reform Commission, can be found [here](#).

“The Bankruptcy Acts”

Bankruptcy Acts 1988 to 2015. A consolidated text, prepared by the Law Reform Commission, can be found [here](#).

Abhaile Free Mortgage Arrears Support

[Abhaile](#) is a free service to help homeowners find a resolution to home mortgage arrears. It provides a range of services to help people in mortgage arrears to deal with their situation and offers free access to financial, legal and insolvency advice.

Approved Intermediary

An Approved Intermediary is a person or class of persons authorised by the ISI to support a debtor to make an application for a Debt Relief Notice. A list of [Approved Intermediaries](#) is available on the ISI’s website.

Bankruptcy

Bankruptcy is a personal insolvency process available under the Bankruptcy Act 1988, as amended, where a person cannot pay his/her debts. In most cases, once a person has been made bankrupt, an official (the “Official Assignee”) takes control of the person’s property and realises that property to discharge debts of the bankrupt person.

Bankruptcy Payment Order (BPO)

BPOs are orders of the Court for the payment by the bankrupt of a defined sum on a monthly basis to the Official Assignee for a maximum period of three years. The order amount is assessed as the surplus of income earned by the bankrupt on a monthly basis over the reasonable living expenses allowed under the Reasonable Living Expense Guidelines issued by the ISI.

Debt Relief Notice (DRN)

A [DRN](#) is a solution for people with low income, no mortgage and very few assets. This solution allows for the write-off of debts up to €35,000 and can be applied for through an Approved Intermediary.

Debt Settlement Arrangement (DSA)

A [DSA](#) allows a debtor settle their unsecured debts over a period of time (usually up to five years), with any remaining balance written off.

“The Department”

Department of Justice and Equality.

Insolvency Service of Ireland (ISI)

The ISI is a statutory body established under the Personal Insolvency Act 2012. The functions of the ISI are set out in section 9 of the Act.

Official Assignee

The Official Assignee is a Court-appointed official, based in the ISI, whose function is to get in and realise the property of a bankrupt, to ascertain the debts and liabilities and to distribute the assets in accordance with the provisions of Bankruptcy Act 1988.

Personal Insolvency Arrangement (PIA)

A [PIA](#), while similar to a DSA in respect of unsecured debts, also deals with secured debts. Secured debts are restructured or settled during a PIA. It contains a number of protections for debtors in mortgage arrears who wish to retain their family home where possible.

Personal Insolvency Practitioner (PIP)

A Personal Insolvency Practitioner (PIP) is a person authorised by the ISI under Part 5 of the Personal Insolvency Act 2012 to act as a PIP. A PIP liaises between the debtor and their creditors in relation to a PIA or DSA. A [list of PIPs](#) is available on the ISI website.

Protective Certificate

A Protective Certificate is a certificate issued by the Court that offers a period of protection to a debtor from creditors when applying for a DSA or PIA. Creditors cannot contact the person during this time. In general, a Protective Certificate remains in force for 70 days but it may be extended in limited circumstances.

Reasonable Standard of Living / Reasonable Living Expenses

The ISI is required, under section 23 of the Personal Insolvency Act, to prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses.

The guidelines are relevant to the assessment of a debtor's eligibility for a DRN, the formulation of DSA and PIA proposals and the Court's making of a bankruptcy payment order. In particular, they are intended to give direction to Approved Intermediaries and guidance to Personal Insolvency Practitioners in assessing, for relevant provisions of the Act, what may be considered 'reasonable' in the context of a standard of living and living expenses. The [guidelines](#) are available on the ISI's website.

Senior Management Team

In the absence of a Statutory Board, the ISI has a Senior Management Team which meet under the chairmanship of the Director. The role of the Senior Management Team is to provide strategic leadership, direction, support and guidance for the ISI and promote commitment to its core values, policies and objectives.

