

Launch of Public Information Campaign

Speech by Mr. Lorcan O'Connor, Director, Insolvency Service of Ireland

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Thursday 18th April 2013

I would like to begin by thanking you all for coming today to the launch of our Public Information Campaign for the new Insolvency Service of Ireland. I'll give you a brief overview of what the insolvency service will entail and the key timelines following today's launch. I will then deal as comprehensively as I can with all of your questions.

Even in advance of today's launch, much has been written and a great deal has been said about the personal insolvency challenge we, as a country, face. There has, understandably, been a great deal of speculation and comment about particular elements of what we might propose, such as the Guidelines for Reasonable Living Expenses and what might or might not be reasonable to include in such guidelines. I hope today's launch will bring clarity to a number of issues.

PEOPLE IN DISTRESS

The information contained in your briefing pack today is evidence of just some of the work that my colleagues and I have been doing in the relatively short time since the Personal Insolvency Act was signed into law at the end of last year.

In the four months since the Act was signed, my colleagues and I have been motivated by one single objective – to put in place the very best solutions we can for people who are living under the burden of debt, for people who are insolvent.

We know that such people are living in distress.

We know the difficult decisions that people are making every day – what bills they can pay, what bills they can't, what they are trying to prioritise, the sacrifices they're making.

We have – just as you have – heard of the daily struggle that so many people are enduring, sacrificing food, doing without heating, or a rare evening out, to make sure that the mortgage gets paid.

We know, above all, the worry, the anxiety, and the distress that money challenges like this can cause – how they can eat up people's lives. For that reason, we have been highly conscious of putting in place, quickly, the best solutions we can, taking account of the various complex factors that need to be addressed – the rights of creditors, moral hazard, the structures that will be needed country wide to ensure we have a fair, transparent and equitable insolvency service.

THREE NEW ARRANGEMENTS

So, as you know by now, there are three new debt solutions.

- There is the Debt Relief Notice or (DRN) which will allow for the write-off of qualifying debt up to €20,000, subject to a three year supervision period. I will come back in a few moments to the word 'qualifying'.
- The Debt Settlement Arrangement (DSA) provides for the agreed settlement of unsecured debt, with no limit involved, normally over five years.
- The Personal Insolvency Arrangement or (PIA) will enable the agreed settlement of secured debt up to €3 million, although this cap may be increased with the consent of all the creditors who have security, normally over six years.

It is also worth noting that the Act also provides for the automatic discharge from bankruptcy after 3 years subject to certain conditions.

DEBTS

We have seen and heard all of the discussions about these arrangements:

- That maybe some people will strategically default seeing them as an opportunity to sidestep debts they built up during the boom;
- Or that the banks and other creditors won't engage with these new arrangements.

And that is where my colleagues and I will keep coming back to some fundamental points. Right now, there are many people out there who simply do not have the money to meet their debts. For some, their debt may be relatively smaller amounts. For some, the amounts will be far greater. Some will have mortgages. Some won't. Some debts will be secured. Some won't. But what the people availing of the insolvency service will have in common is their inability to meet their debts as they fall due.

And it will be our job to put in place systems and structures to ensure that all of those applying for insolvency are genuine cases and genuinely qualify for one of the arrangements I have just outlined.

WEBSITE

Let me now mention our website - www.isi.gov.ie – because, in addition to media coverage, this is how many people will learn about which option is the appropriate one for their circumstances. We have made it as simple and as user-friendly as we can. It has copies of the guides for the three insolvency options. We've provided also a range of sample scenarios and they highlight how each one of these solutions would work in different sets of circumstances. I believe these will be very useful in helping people to identify the most appropriate option for them.

The website will be our primary delivery channel of information. However, a number of our guides have been printed and distributed to MABS offices around the country.

There will also be a summary document – this will be available through the various Citizens' Information offices around the country as well as all libraries.

As of today, the ISI also has an Information Line for people to call with any queries they might have. The Information Line will operate from nine to six Monday to Friday, and we will keep this under review, depending on levels of demand.

GUIDELINES ON RSL & RLE

Let me now address the guide we have produced on a reasonable standard of living and reasonable living expenses.

We were required to produce such a guide in accordance with section 23 of the Personal Insolvency Act 2012. In preparing the Guide we were also required to have regard to a number of matters including - measures and indicators of poverty set out in government policy publications. But also, we were required to have a regard to the need to allow people to be included in society and to participate actively in the economy.

For the purposes of the Act, we consider a reasonable standard of living to be one which meets a person's physical, psychological and social needs.

A reasonable standard of living does not mean that a person should live at a luxury level. But nor does it mean that people should be punished and live only at a subsistence level. The model we have provided is a modified version of the consensual budget standards model originally developed in Ireland by the Vincentian Partnership for Social Justice. The ISI model not only allows for basics such as food for a nutritionally balanced diet but also for social inclusion and participation and savings and contingences.

The model takes into account differences in the size and composition of households and recognises that the cost of a child, for example, varies according to the age of a child.

We have compared the output of our model to specific analysis undertaken on our behalf by the Central Statistics Office, based upon their household budget survey, and the Central Bank, based upon their knowledge of the existing mortgage arrears resolution process. In aggregate, the expenditure levels generated through the ISI model are not materially different to the CSO or Central Bank of Ireland analysis.

It is important to remember that these guidelines are relevant to the assessment of a debtor's eligibility for any one of the insolvency arrangements - a DRN, the formulation of DSA and PIA proposals and the Court's making of a bankruptcy payment order.

Our guidelines are intended to safeguard a minimum standard of living so as to protect debtors while facilitating creditors in recovering all, or at least a portion, of the debts due to them.

These guidelines are not designed to force people out of their jobs. They are not designed for the micro-management of people's day-to-day expenditure or lifestyle by the Insolvency Service or by creditors. They are guidelines. There has to be flexibility in how they are used. This will be apparent to all when they have read all of the document published today. They are a baseline for negotiations and discussions. And we designed them to leave the maximum discretion possible to people in how they spend the money within these guidelines.

To go back to the fundamental point I made earlier – our objective in everything we have done, including the preparation of these Guidelines is to help people who are in genuine distress, to restore them to solvency, and to allow them their dignity as they work out from under the financial burdens they face.

These Guidelines have a dual purpose for distressed debtors-to act as a defensive shield to ensure a reasonable standard of living is maintained and that the insolvent situation of the debtor can be properly addressed.

REGULATION

Let me now turn to the Regulation of Approved Intermediaries and Personal Insolvency Practitioners – known as AIs & ‘PIPs’ – the people who will be assisting debtors directly.

The independent role played by these practitioners will be critical to the success of the new debt solutions. With this in mind, it is important that we provide a strong regulatory framework that will cover the authorisation and supervision of individuals who will provide services under the remit of this legislation. These regulations will be published shortly.

What we can say to potential applicants is that the qualifying criteria for becoming an AI or PIP will be rigorous and will be based on a series of important considerations such as educational and professional qualifications, relevant knowledge and experience, and the completion of a course of study - by passing an exam - on the law and practice generally, as it applies in the State, in relation to the insolvency of individuals and knowledge of the Act.

Applicants will also have to demonstrate to the satisfaction of the Insolvency Service that they are fit and proper persons, that they are financially sound, and that they have the organisational capability and the resources to carry on the practice of being a PIP.

They will have to hold professional indemnity insurance as well as being tax compliant. It is envisaged that applicants who wish to be a PIP are likely to be solicitors, barristers, accountants, qualified financial advisors, and holders of relevant qualifications in law, business, finance or other appropriate qualifications.

The ISI will also have a comprehensive supervision framework designed to protect the integrity of the role of the PIP and to ensure that the service delivered to debtors and creditors is to a high standard and in compliance with the legislation. This will be achieved by ongoing supervision, but we will also monitor important areas such as complaints and advertising.

TIMELINES

A few words now on timelines. I believe that the Insolvency Service of Ireland will be in a position to begin accepting applications by the end of June of this year. Achieving that very ambitious timeline means that we have a great deal to do in a short space of time.

Some of the key remaining pieces to be put in place include an IT system to support the efficient and effective processing of applications, the licensing of practitioners, and our work with the Court Service to ensure that the important role played by the courts in the new processes is efficiently supported.

But I believe we will achieve that deadline. And I base that on what has already been achieved by the team in the few short months since the Act was passed – the recruitment of staff, the development of internal IT systems, the development of detailed guides, the work on the guidelines before you today, together with our website and sample scenarios – all of this has been achieved in a very short time.

THANKS

And let me take this opportunity to thank the growing numbers of staff within the ISI, the Minister, his cabinet colleagues and their respective Departments and Agencies for the help and support we have been given.

INTERVENING PERIOD

I believe it is important that all key stakeholders use the intervening period to their advantage. Debtors should familiarise themselves with the options that the new debt solutions offer to them. I would urge them to be mindful that it will always be in their best interest to continue to work with their creditors to try to resolve their difficulties before exploring any form of formal insolvency process - including these three new debt solutions. In fact this type of cooperation will be a pre-requisite to applying for the Personal Insolvency Arrangement.

Those wishing to apply to be practitioners should use the coming weeks as an opportunity to familiarise themselves with the legislation, begin the necessary work to ensure that they are in a position to apply for authorisation and liaise with creditors to understand what their expectations around proposals are.

Creditors should use the time to familiarise themselves with the operational challenges that the new solutions may bring about. They should also endeavour to deal with as many problem loans as possible, short of any formal insolvency process.

I firmly believe that these new debt solutions are not just good for debtors but are also in the interests of creditors by offering an efficient and fair means to tackle what is a very large problem for all of the main banks and for other creditors.

CLOSING & CORE OBJECTIVE

Finally, I wish to thank you again for coming today. And let me close by saying that I believe it is in all of our interests – in the best interests of society and our economy for the ISI to meet its core objective of restoring people who are insolvent to solvency in a fair, transparent and equitable way. The ISI will do everything within its power to begin meeting this objective by the end of June this year.

Ends