

PIA

Scenario 8

Relationship breakdown



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 ASSUME 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.

DATE OF PUBLICATION: February 2014

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SCENARIO 8

PIA: APPLICANT ELIGIBLE, RELATIONSHIP BREAKDOWN.

This sample scenario is designed to illustrate the basic features of a PIA where there has been a relationship breakdown.

1. MAUREEN'S STORY

Maureen is a civil servant and her net monthly income is €2,350. She is single and owns a car currently worth €3,000.

Maureen and her former fiancé John bought a house together ten years ago which they shared until they split up three years ago. Maureen lives in the house now and it is her principal private residence. John moved out of the house when the relationship ended and has since emigrated to Australia. John does not make any contribution to the mortgage nor does he want anything to do with the property. The current mortgage outstanding is €250,000 and the house is valued at €170,000. Maureen has total unsecured debts of €90,000 which consists of a credit union loan of €30,000, credit cards totalling €40,000 and an overdraft of €20,000. Her current monthly commitments are as follows:

- Mortgage repayments - €1,325
- Unsecured debts repayments - €1,500

Maureen's day-to-day outgoings amount to €1,045 per month. She has cooperated with her bank in relation to the mortgage on her principal private residence (PPR) under the Central Bank Code of Conduct on Mortgage Arrears for a period of ten months but has been unsuccessful in agreeing an alternative payment arrangement. Maureen is unable to pay her debts in full as they fall due and acknowledges that she is insolvent.

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

2. Maureen's Insolvent Position

Assets	Value	Loan	Monthly Income	
Principal Private Residence	€170,000	€250,000	Maureen's Net Income	€2,350
Car	€3,000	€0		
Total	€173,000	€250,000	Total	€2,350
Debts			Monthly expenses	
Secured debts			Total Set costs ¹	€1,045
PPR Mortgage		€250,000	Rent/Mortgage ²	€1,325
Unsecured debts			Childcare Costs ²	€0
Credit union loan		€30,000	Reasonable Living Expenses	€2,370
Credit card debts		€40,000	Available for unsecured debt service (€2,350-€2,370)	(20)
Overdraft		€20,000	Unsecured debt repayments	€(1,500)
Total		€340,000	Deficit in meeting unsecured debt obligations (-€20-€1,500)	€(1,520)

3. ELIGIBILITY

Maureen qualifies for a PIA because

- ✓ Maureen has secured debts.
- ✓ Maureen has not incurred 25% or more of her debts in the 6 month period ending on the application date for the Protective Certificate.
- ✓ Maureen has participated in the Mortgage Arrears Resolution Process (process approved by Central Bank) with her PPR mortgage provider for a minimum period of six months in relation to her PPR but has been unable to agree an alternative repayment arrangement.
- ✓ Maureen's total secured debts do not exceed €3 million.
- ✓ Maureen 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). Maureen's circumstances meet those covered by Table 2. "One Adult Household (vehicle)" on page 38 of the Guide (€1,045.48). For illustrative purposes and ease for the reader, the total set costs figure is rounded to €1,045.

² The Personal Insolvency Practitioner will assess the reasonableness of mortgage, rent and/or childcare payments in accordance with pages 11 and 12 "Guidelines on a reasonable standard of living and reasonable living expenses".

4. NEXT STEPS

- a) The PIP is satisfied Maureen meets all the eligibility criteria for a PIA and submits an application to the Insolvency Service of Ireland (ISI) for a Protective Certificate (PC) on her behalf, including a Prescribed Financial Statement (PFS).
- b) The ISI and the Court are satisfied with Maureen's application and the Court issues a PC. Maureen'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 Maureen and her assets protection from legal proceedings by her creditors while she is 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) Maureen agrees to the PIA proposal developed by the PIP (details of the potential PIA solution are set out below in point 5).
- e) The PIP provides the necessary documentation to each creditor prior to the creditors' meeting including analysis which demonstrates how the financial outcome for creditors under the terms of the PIA is likely to be better than the estimated financial outcome for such creditors were Maureen adjudicated bankrupt.
- f) Creditors representing 65% or more of Maureen'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 Maureen's secured debt (i.e. second threshold needed for creditors' approval), and creditors representing 50% or more of Maureen's unsecured debt (i.e. third threshold needed for creditors' approval).
- g) The PIP records the creditors' meeting results and sends them to the ISI, Maureen and each of her creditors. No creditor appeals at any point of the process.
- h) The ISI and the Court carry out final reviews of Maureen's case and the Court approves the PIA.
- i) Maureen's details are placed on a Public Register of Personal Insolvency Arrangements. (This includes her name, address, year of birth, and the date of coming into effect of her PIA).

5. POTENTIAL PIA SOLUTION FOR MAUREEN PROPOSED BY PIP

Maureen's mortgage is not sustainable on her current income.

John is working in a low paid job in Australia and does not have the money or resources to make any contribution to the mortgage. However John's parents are willing to gift him €30,000 which he will put towards paying down a portion of the mortgage principal provided that this is a full and final settlement of his obligation to the mortgage. As all parties including the mortgage bank are agreeable to this arrangement John makes the €30,000 payment and his name is taken off the mortgage and deeds. This would reduce the mortgage principal to €220,000 and reduce the monthly mortgage payment from €1,325 to €1,166. However, taking into account Maureen's unsecured debt obligations even this lower repayment is unsustainable.

The PIP assesses whether a change in the mortgage term or interest rate will make the mortgage sustainable. Due to Maureen's age it is not possible to extend the mortgage term. The mortgage interest rate already runs on a very low "tracker" rate and leaves no room for downward adjustment.

In order to make the mortgage sustainable and allow Maureen address some of her unsecured debt the PIP proposes that the mortgage principal be reduced by €20,000 to €200,000.

This would reduce Maureen's monthly mortgage payment to €1,060 per month, and leave a small amount available for Maureen's unsecured creditors.

The mortgage principal reduction of €20,000 is treated similarly to the unsecured debt in accordance with section 102(11)¹ of the Personal Insolvency Act.

Amounts forming Maureen's unsecured debts after PIA restructuring

Credit Union	€30,000
Credit Card	€40,000
Overdraft	€20,000
PPR Mortgage (Principal reduction)	€20,000
Total Unsecured Debt	€110,000

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.

Maureen's monthly income and expenses after PIA restructuring

Monthly Net Income	€2,350
Less:	
Principal Private Residence Mortgage	€1,060
Childcare Costs	€0
Total set costs	€1,045
Available to Unsecured Creditors	€245

Maureen's monthly disposable income, after deducting total set costs and mortgage repayments, is €245 per month. This amount is now available to make payments to her unsecured creditors. This equates to €17,640 over the duration of the PIA.

6. REPAYMENTS TABLE

Year			1	2	3	4	5	6	Totals	Return for Creditors
Net monthly income			€ 2,350	€ 2,350	€ 2,350	€ 2,350	€ 2,350	€ 2,350		
Set costs			€ 1,045	€ 1,045	€ 1,045	€ 1,045	€ 1,045	€ 1,045		
Rent/mortgage			€ 1,060	€ 1,060	€ 1,060	€ 1,060	€ 1,060	€ 1,060		
Childcare			€ 0	€ 0	€ 0	€ 0	€ 0	€ 0		
RLE			€ 2,105	€ 2,105	€ 2,105	€ 2,105	€ 2,105	€ 2,105		
Monthly contribution			245	€ 245	€ 245	€ 245	€ 245	€ 245		
Annual contribution			€ 2,940	€ 2,940	€ 2,940	€ 2,940	€ 2,940	€ 2,940	€ 17,640	
Less PIP's fees			(€ 1,500)	(€ 1,100)	(€ 1,100)	(€ 1,100)	(€ 1,100)	(€ 1,100)	(€ 7,000)	
Net contribution			€ 1,440	€ 1,840	€ 1,840	€ 1,840	€ 1,840	€ 1,840	€ 10,640	
Repayment breakdown between creditors¹										
Credit Union	€ 30,000	27%	€ 393	€ 502	€ 502	€ 502	€ 502	€ 502	€ 2,903	10%
Credit Card	€ 40,000	36%	€ 523	€ 668	€ 668	€ 668	€ 668	€ 668	€ 3,863	10%
Overdraft	€ 20,000	18%	€ 262	€ 335	€ 335	€ 335	€ 335	€ 335	€ 1,937	10%
PPR Reduction	€ 20,000	18%	€ 262	€ 335	€ 335	€ 335	€ 335	€ 335	€ 1,937	10%
	€ 110,000	100%	€ 1,440	€ 1,840	€ 1,840	€ 1,840	€ 1,840	€ 1,840	€ 10,640	

For the purposes of this scenario, it is estimated that the PIP fees are €7,000. Therefore Maureen's unsecured creditors will receive €10,640 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 drawdown 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.

¹ For illustrative purposes and ease for the reader, figures shown in the repayments table have been rounded.

7. MAUREEN'S POSITION AFTER MEETING HER DUTIES AND OBLIGATIONS UNDER THE PIA

- a) Maureen's PPR mortgage is sustainable as a result of:
- The €30,000 which John put towards paying down a portion of the mortgage principal;
 - The mortgage principal reduction of €20,000;
 - Unsecured debts being discharged.
- b) Maureen will have repaid €10,640 of her unsecured debts at the end of the term of the PIA and the remaining €99,360 is discharged. This represents over 10% return for the unsecured creditors based on amounts outstanding at the date of issue of the Protective Certificate.
- c) Maureen is solvent.

8. APPENDICES

Appendix A: Maureen Meeting Voting Rights

Threshold 1 – 65% vote required	Total Debt Vote	Voting Rights
PPR	€220,000	71%
Credit Union	€30,000	10%
Credit Card	€40,000	13%
Overdraft	€20,000	6%
Total	€310,000	100%
Threshold 2 – 50% vote required	Secured Debt Vote	Voting Rights
PPR	€170,000	100%
Total	€170,000	100%
Threshold 3 – 50% vote required	Unsecured Debt Vote	Voting Rights
Credit Union	€30,000	27%
Credit Card	€40,000	37%
Overdraft	€20,000	18%
PPR Principal Reduction	€20,000	18%
Total	€110,000	100%