



PIA

STEP BY STEP

EXAMPLE



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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THIS SCENARIO IS DESIGNED TO ILLUSTRATE THE DETAILED STEPS INVOLVED IN SEEKING A PIA.

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. As a result 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 an alternative payment arrangement with the bank. 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.

A potential solution to Anthony's insolvent position is set out in the PIA scenario publication. Set out below is the step-by-step guide as to what the process involves. Debtors will be assisted by a Personal Insolvency Practitioner throughout the process.

ANTHONY'S STEP-BY-STEP JOURNEY

REALISATION OF SITUATION

1. Anthony recognises that he cannot pay his debts in full as they fall due and realises that he is insolvent.

SEEKS INFORMATION

2. He visits the Insolvency Service of Ireland (ISI) website www.isi.gov.ie and reads the ISI guide to Personal Insolvency Arrangements (PIA), one of the new Personal Insolvency measures introduced under the Personal Insolvency

Act 2012. Based on the information he reads, Anthony is hopeful that he might be eligible to seek a PIA.

3. Anthony looks at the list of regulated Personal Insolvency Practitioners (PIPs) available on the ISI website and decides to contact one of them.

CONTACTS AND MEETS WITH PIP

4. Anthony rings a PIP. The PIP instructs Anthony that it is necessary for him to submit a written statement which details all his financial affairs setting out particulars of his creditors, income and expenditures, debts, liabilities, assets, and any guarantees he has given. To assist Anthony, the PIP may send him a questionnaire to complete and return to him.
5. Anthony completes the written statement/questionnaire and posts it to the PIP.
6. When the PIP receives the written statement he examines the details and then contacts Anthony to arrange a meeting.
7. At the meeting they go through Anthony's written statement and his financial affairs. The PIP considers all the information that Anthony has provided. The PIP then advises Anthony in writing of his options for addressing his financial difficulties and whether or not he satisfies the criteria for making a proposal for a PIA on the basis of the information provided. The PIP's advice includes the procedures involved in, and the general effect, including costs of becoming party to a PIA, the fee arrangements and other conditions of appointing a PIP.

DEBTOR CONSIDERS WHETHER TO APPOINT PIP

8. Anthony then goes home to consider whether he wishes to become party to a PIA and whether he wishes to formally appoint the PIP.

DEBTOR APPOINTS PIP

9. Anthony decides to appoint the PIP and informs him of same in writing.
10. The PIP writes to Anthony to confirm that he consents to act on Anthony's behalf as a PIP.
11. The PIP also notifies the ISI that Anthony has appointed him to act on his behalf as a PIP.

PIP ADVICE

12. The PIP then contacts Anthony to arrange a second meeting. The PIP informs Anthony that he should bring supporting documentation to the meeting to be in a position to fully disclose his financial position including income and expenditure, debts and assets. In Anthony's case this is likely to include payslips, bank statements, mortgage balance statements for his PPR mortgage, credit union loan statements, his latest utility bills and a medical report.
13. Anthony gathers all the supporting documentation.
14. Anthony then meets with the PIP. At the meeting the PIP examines all the documentation provided and then helps Anthony fill out the Prescribed Financial Statement (PFS).
15. After completing the PFS, the PIP advises Anthony on a number of matters in writing including the following:
 - a. his options for addressing his financial difficulties;
 - b. that he is eligible to make a proposal for a PIA;
 - c. that the PIP believes it would be more appropriate for Anthony to enter a PIA rather than a DSA.

DECISION TO PROCEED WITH APPLICATION

16. Anthony considers his situation and decides to proceed with the application.
17. He confirms in writing that he wishes to make a proposal for a PIA.

APPLICATION FORM

18. At the meeting the PIP assists Anthony with completing the following forms/documents;
 - a. Prescribed Financial Statement (PFS);
 - b. Schedule of creditors;
 - c. a document signed by Anthony confirming he meets the eligibility criteria for a PIA;
 - d. a declaration signed by Anthony confirming he co-operated for a period of at least 6 months with his PPR Mortgage Lender in respect of his PPR in accordance with the Mortgage Arrears Process provided for by the Central Bank of Ireland's Code of Conduct on Mortgage Arrears (CCMA).

CONSENT FORM

19. Anthony also signs a consent form to enable:
- a. the PIP to disclose Anthony's personal data to the ISI;
 - b. the ISI to process Anthony's application;
 - c. the ISI to disclose Anthony's personal information to his creditors to the extent necessary to process his application;
 - d. the ISI to make any enquiry related to Anthony to the extent necessary to process the application.

STATUTORY DECLARATIONS

20. Anthony has to sign a statutory declaration in the presence of a person authorised by law to take and receive statutory declarations, such as a practicing Solicitor, affirming that the PFS is a complete and accurate statement of his assets, liabilities, income and expenditure.
21. Anthony signs a second statutory declaration in the presence of a person authorised by law to take and receive statutory declarations such as a practicing solicitor confirming he co-operated for a period of at least 6 months with his Mortgage Lender in respect of his PPR in accordance a Mortgage Arrears Process provided for by the Central Bank of Ireland's CCMA.

PIP'S STATEMENT

22. The PIP then completes a statement confirming that he is of the opinion that:
- a. the information contained in Anthony's PFS is complete and accurate;
 - b. Anthony is eligible to make a proposal for a PIA;
 - c. having considered the PFS completed by Anthony, there is no likelihood of Anthony becoming solvent within the period of 5 years commencing on the date on which the statement is made;
 - d. having regard to Anthony's circumstances as set out in the PFS, it is appropriate for Anthony to make a proposal for a PIA as there is a reasonable prospect that Anthony entering into a PIA would facilitate him becoming solvent within a period of not more than 5 years.

PIP SUBMITS APPLICATION FOR PROTECTIVE CERTIFICATE TO ISI

23. The PIP then submits Anthony's application for a Protective Certificate to the ISI (electronically) on his behalf. He also sends hard copies of Anthony's two Statutory Declarations referred to in points 20 and 21 above to the ISI by post. The PIP will also include evidence of payment of the scheduled fee¹ in the post to the ISI.
24. At this point the ISI checks the application. The ISI ensures that Anthony's PIP is entitled to act as a Personal Insolvency Practitioner. The ISI also checks to ensure that all the necessary documents have been included with the application. The ISI could request more information regarding the application; however, in Anthony's case the ISI is satisfied that all the necessary documents have been submitted and the ISI has no reason to believe the information provided in support of Anthony's application for a Protective Certificate is incomplete or inaccurate.

ISI SUBMITS ANTHONY'S APPLICATION FOR PROTECTIVE CERTIFICATE TO THE COURT

25. The ISI is satisfied that the application is in order and issues a certificate to that effect. The ISI furnishes that certificate together with a copy of the application and supporting documentation to the Circuit Court.
26. The ISI also notifies the PIP that Anthony's application has been forwarded to the Circuit Court for consideration.
27. The Circuit Court receives Anthony's application for a Protective Certificate and considers the application.
28. The Circuit Court is satisfied that Anthony's application meets all the eligibility criteria and other relevant requirements and issues the Protective Certificate.

COURT ISSUES PROTECTIVE CERTIFICATE

29. The Registrar of the Circuit Court notifies both the ISI and Anthony's PIP that the Protective Certificate has been issued. The PIP notifies Anthony of the Circuit Court's decision.

¹ Methods of payment and scheduled fee levels will be confirmed in the future.

PROTECTIVE CERTIFICATE RECORDED ON PUBLIC REGISTER OF PROTECTIVE CERTIFICATES

30. The ISI enters Anthony's name, address, year of birth and the date of issue of the Protective Certificate on the Register of Protective Certificates.
31. Anthony's PIP notifies each of the creditors specified in Anthony's schedule of creditors (Mortgage Lender and Credit Union) of the issue of the Protective Certificate. The notification will also contain a statement informing the creditors:
 - a. that Anthony intends to make a proposal for a PIA;
 - b. the effect of the Protective Certificate;
 - c. they have the right to appeal the issue of the Protective Certificate.
32. As part of the notification process in point 31 above the PIP also informs the Mortgage Lender that he has been appointed by Anthony for the purpose of making a proposal for a PIA, enclosing a copy of Anthony's completed PFS. The PIP requests the Mortgage Lender to file a proof of debt as of the date the Protective Certificate is issued. The PIP also invites the Mortgage Lender to:
 - a. make submissions regarding the debt concerned and the manner in which the debt might be dealt with as part of the PIA;
 - b. furnish the PIP with an estimate, made in good faith, of the market value of the security (PPR);
 - c. indicate a preference as to how they wish to have the security and secured debt treated under the PIA;
 - d. indicate and confirm whether they consider some or all of their debt to be a preferential debt and if so furnish evidence of same.
33. As part of the notification process in point 31 above the PIP also informs the Credit Union that he has been appointed by Anthony for the purpose of making a proposal for a PIA, enclosing a copy of Anthony's completed PFS. The PIP requests the Credit Union to file a proof of debt as of the date the Protective Certificate is issued. The PIP also invites the Credit Union to:
 - a. make submissions regarding the debt concerned and the manner in which the debt might be dealt with as part of the PIA;
 - b. indicate and confirm whether they consider some or all of their debt to be a preferential debt and, if so, furnish evidence of same.
34. Neither of Anthony's creditors decides to appeal the issue of the Protective Certificate to the Circuit Court.

ACTIONS TO BE TAKEN BY PIP FOLLOWING ISSUE OF PROTECTIVE CERTIFICATE

35. The PIP receives correspondence from the Mortgage Lender providing details of the mortgage on Anthony's PPR and their preference of how the debt should be dealt with as part of the PIA. The Mortgage Lender provides a market valuation on the PPR of €60,000.
36. The Mortgage Lender's valuation of the property matches Anthony and the PIP's valuation.
37. The PIP receives correspondence from the Credit Union providing details of Anthony's Credit Union loan of €18,000 and their preference for dealing with the debt.

PIP DRAFTS UP PIA PROPOSAL

38. The PIP then drafts up a proposal for a PIA. The PIP takes into account the preferences of the creditors to the extent possible when drawing up the proposal for a PIA.
39. The PIP does not believe that the running costs associated with Anthony staying in his PPR are disproportionately large, and so drafts up a PIA proposal which does not require Anthony to move out of his home.

TIME TO REFLECT ON PIA PROPOSAL

40. The PIP then arranges a meeting with Anthony to go through the PIA proposal. The PIP explains to Anthony that the PIA may be in operation for up to six years so it is important that he is satisfied he will be able to meet the obligations set out in the PIA proposal.
41. Anthony reviews the PIA proposal.
42. Anthony approves the PIA proposal, signs it and gives his consent to the calling of his creditors to a meeting to consider the proposal.

CREDITORS' MEETING

43. The PIP arranges the creditors' meeting and informs both creditors (Mortgage Lender and Credit Union) in writing of the date, time and location of the creditors' meeting providing 14 days notice.
44. The PIP attaches the following documents:
- a. a completed statement of Anthony's financial affairs showing his position of insolvency in the form of a Prescribed Financial Statement (PFS);
 - b. the terms of the proposal for the PIA;
 - c. a statement from the PIP which states:
 - i. he has been instructed by Anthony to act as a PIP in connection with the PIA procedure;
 - ii. he has consented to act as a PIP on behalf of Anthony;
 - iii. he is entitled to act as a PIP;
 - iv. he has advised Anthony in accordance with Section 52 of the Personal Insolvency Act 2012 of his options for managing his financial difficulties;
 - v. he is not aware of any reasonable grounds to believe that the information contained in Anthony's PFS is other than complete and accurate;
 - vi. he is of the opinion that Anthony satisfies the eligibility criteria for the proposal of a personal insolvency arrangement as set out in Section 91 of the Personal Insolvency Act 2012.
 - d. a report compiled by the PIP:
 - i. describing the outcome for creditors, and having regard to the financial circumstances of Anthony whether or not the proposed PIA represents a fair outcome for the creditors, and indicating, where relevant, how the financial outcome for creditors (whether individually or as a member of a class of creditors) under the terms of the proposal is likely to be better than the estimated financial outcome for such creditors if Anthony were to be adjudicated a bankrupt (having regard to, amongst other things, the estimated costs of the bankruptcy process); and
 - ii. indicating whether or not he considers that Anthony is reasonably likely to be able to comply with the terms of the proposed PIA.
45. The PIP also submits a copy of the documents listed above to the ISI.

46. The PIP chairs the meeting.
47. The Mortgage Lender vote by proxy in favour of the PIA and a representative from the Credit Union attends the meeting.
48. At the meeting the PIP runs through Anthony's PIA proposal.
49. The PIP then asks if the Credit Union representative has any questions on the PIA proposal. The representative has no questions.

VOTING AT CREDITORS' MEETING

50. The PIP then states he will proceed with the voting on the PIA proposal.
51. The PIP then collates the vote and records same. The Credit Union representative rejects the proposal. (Appendix A of this document contains a detailed breakdown of the voting rights and voting results)
52. The PIA proposal has been accepted by the required majority of Anthony's creditors at the three different voting thresholds at the creditors' meeting.

STEPS TO BE TAKEN BY PIP FOLLOWING APPROVAL OF PROPOSAL FOR PIA

53. Following the meeting the PIP writes to the ISI to notify them that the PIA was approved at the creditors' meeting. The PIP also encloses the following documentation along with the notification:
 - a. a certificate with the result of the vote taken at the creditors' meeting identifying the proportion of respective categories (three voting thresholds) of votes cast by those voting at the meeting;
 - b. a copy of the approved PIA.
54. The PIP also writes to each of Anthony's creditors to notify them that the PIA was approved at the creditors' meeting. The PIP also encloses the following documentation along with the notification:
 - a. a certificate with the result of the vote taken at the creditors' meeting and identifying the proportion of respective categories of votes cast by those voting at the meeting;
 - b. a copy of the approved PIA;
 - c. a notice that they may make an objection to the coming into effect of the PIA by lodging a notice of objection with the Circuit Court within 14 days.

STEPS TO BE TAKEN BY ISI FOLLOWING NOTIFICATION OF APPROVAL OF PIA FROM PIP

55. When the ISI receives the notification of the PIA being approved at the creditors' meeting it records the approval in the Register of Personal Insolvency Arrangements on the ISI website.
56. The ISI then notifies the Circuit Court of the approval of the PIA at the creditors' meeting and furnishes to the Circuit Court a copy of the PIA.

COMING INTO EFFECT OF PIA

57. Anthony's creditors do not make objections to the Circuit Court to the coming into effect of the PIA.
58. The Circuit Court considers the PIA.
59. The Circuit Court is satisfied that the PIA meets all the eligibility criteria and other relevant requirements and approves the coming into effect of the PIA.
60. The Registrar of the Circuit Court then notifies both the ISI and Anthony's PIP that it has approved the coming into effect of the PIA.
61. The ISI registers the PIA in the Register of Personal Insolvency Arrangements on the ISI website.
62. Anthony's PIA comes into effect on being registered on the Register of Personal Insolvency Arrangements.

OPERATION OF PIA

63. The PIP then contacts Anthony and informs him that the ISI has registered the PIA in the Register of Personal Insolvency Arrangements on the ISI website and the PIA has come into effect.
64. The PIP helps Anthony to implement the terms of the PIA. This includes Anthony setting up monthly direct debits to one of the PIP's Business Bank Accounts.
65. The PIP distributes monies received from Anthony to Anthony's creditors as per the terms set out in the PIA.
66. The PIP arranges a yearly meeting with Anthony to carry out a review of the PIA.
67. At the annual review the PIP assists Anthony in completing an up to date PFS.
68. A copy of the PFS that is completed as part of the annual review process is also sent by the PIP to all of Anthony's creditors.
69. During the six year period Anthony's circumstances do not change and there is no need to apply for a variation to the PIA.
70. During the six years of the PIA Anthony's complies with all his duties and obligations.

SUCCESSFUL COMPLETION OF PIA

71. At the end of the six year period the PIP contacts Anthony, Anthony's creditors, and the ISI to inform them that Anthony has successfully completed the PIA.
72. The ISI records the completion of Anthony's PIA on the Register of Personal Insolvency Arrangements on the ISI Website.
73. Anthony stands discharged from his unsecured debts.
74. Anthony stands discharged from his secured debts only to the extent specified in the PIA.
75. Anthony is now solvent.

APPENDIX A: DETAILS OF VOTING RIGHTS AND VOTING RESULTS

In order for the PIA proposal to be approved **three thresholds** as set out in the table below have to be met.

THRESHOLD 1: TOTAL OUTSTANDING DEBT (65% VOTE)

The 65% threshold is based on the total outstanding debt of the creditors who are voting and participating at the meeting.

THRESHOLD 2: SECURED DEBTS (50% VOTE)

The 50% threshold is based on either the current value of the security or the value of secured debt of the participating creditors. The amount chosen will be the lesser.

THRESHOLD 3: UNSECURED DEBT (50% VOTE)

The 50% threshold is based on the value of the unsecured debts of the participating creditors. In the event that secured debt is written down, the written down amount is reclassified as unsecured debt for the vote of the third threshold.

ANTHONY'S CREDITORS MEETING VOTING RIGHTS

Threshold 1 – Total Outstanding Debt		Voting Rights	Voting Result	Voting Threshold	Voting Result in Percentage
Total Debt	€138,000				
PPR Mortgage Lender	€120,000	87%	Yes	65%	Voted in Favour: 87%
Credit Union	€18,000	13%	No		
Threshold 2 – Secured Debt		Voting Rights	Voting Result	Voting Threshold	Voting Result in Percentage
PPR Mortgage Lender	€60,000	100%	Yes	50%	Voted in Favour: 100%
Threshold 3 – Unsecured Debt		Voting Rights	Voting Result	Voting Threshold	Voting Result in Percentage
Total Debt	€68,000				
PPR Mortgage Lender (reclassified)	€50,000	74%	Yes	50%	Voted in Favour: 74%
Credit Union	€18,000	26%	No		