



# ISI

## Tackling problem debt, together

# Annual Report 2020

A fresh start for people in debt

**A fresh  
start for  
people  
in debt**



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# 1 Foreword by the Director

## As Director of the ISI I am pleased to present our annual report for 2020.

Our report is presented as Covid-19 continues to dominate our everyday lives with uncertainty remaining around how it will impact our economy in the longer term. Prior to the Covid-19 outbreak there were many people who were struggling with unsustainable debts. The economic impact of Covid-19 may exacerbate these issues and create new debt problems for others, especially when the existing emergency financial support measures are reduced. The personal insolvency framework is there to help people who may find themselves in severe financial difficulty in these circumstances.

In that context, the ISI has welcomed the publication of the Personal Insolvency (Amendment) Bill 2020. The Bill provides for very important and welcome changes to the legislation; broadening access for debtors to the insolvency framework and introducing a number of reforms designed to improve the overall efficiency of the process. We also welcome the commitment of the Minister for Justice to supplement these changes with further reforms as contemplated by the statutory review of the legislation. We look forward to continuing to work with the Minister and her Department to implement not only these but also bankruptcy-related reforms as soon as possible.

The restrictions introduced to combat the pandemic created a number of logistical challenges for the ISI and for the framework in general. However, due to the dedication of our staff and with the assistance and co-operation of all our stakeholders, the framework remained operational and continued to be available to those who needed it. From personal insolvency practitioners (PIPs) offering consultations to debtors by way of video-conferencing to insolvency court hearings being held remotely, all our stakeholders adapted well to drastically changed circumstances. Indeed, some of the innovations that came out of the restrictions have created

efficiencies that we hope will outlast the pandemic.

The disruption caused by the pandemic did have an impact on activity in 2020 with a reduction in the volumes of protective certificates, insolvency solutions and bankruptcy adjudications compared to 2019. It is noteworthy though that despite the logistical challenges the number of Personal Insolvency Arrangements, which is the solution that typically deals with mortgage debt, fell by only 3% compared to the previous year. This is testament to the efforts and collaboration of all involved.

During 2020 we continued to invest in our ICT systems. Our new insolvency case management system, Phoenix, went live in September and is delivering significant efficiencies for both internal and external users in streamlining the insolvency application process. We have also commenced a project to upgrade our bankruptcy case management system. This will further enhance the efficient administration of bankruptcy estates for the benefit of both debtors and creditors.

In March 2020, a new Abhaile PIP panel became operational following a revision of the scheme's terms and conditions. The scheme continues to successfully engage those debtors in arrears of more than two years and a commentary on the uptake and outcomes being generated by the scheme is contained in our report.

Finally, I would like to thank our staff who have worked so hard in very difficult circumstances throughout the last 12 months to ensure that the ISI continued to provide its services. My thanks also to our stakeholders for their continued support and flexibility and I look forward to continuing to work closely with them in 2021.

**Michael McNaughton**  
April 2021

## 2 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 (the “Act”). These include:

- ▶ to operate the system to support the three alternatives to bankruptcy – Debt Relief Notice (DRN), Debt Settlement Arrangement (DSA) and Personal Insolvency Arrangement (PIA)
- ▶ to administer the estates of bankrupts
- ▶ to regulate authorised practitioners around the country who offer personal insolvency advice and who 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

# 3 The ISI – Who We Are



**Michael McNaughton**  
**Director**

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



**Trevor Noonan**  
**Case Management**

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



**Liza Doyle**  
**Legal Services**

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



**Ian Larkin<sup>1</sup>**  
**Official Assignee**  
**Bankruptcy**

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



**John Phelan<sup>2</sup>**  
**Policy, Regulation and**  
**Corporate Affairs**

Responsible for research and policy development, the regulation and supervision of Personal Insolvency Practitioners and approved intermediaries, all governance matters and the provision of a range of support services.

<sup>1</sup> Ian Larkin commenced in the ISI in November 2020, replacing Chris Lehane, the former Official Assignee

<sup>2</sup> John Phelan commenced in the ISI in April 2020, replacing Cormac Keating.

# 4 Infographics

## 2020 Statistics at a Glance

**1,402**  
**PCs issued**



**85% of which were for PIAs, the solution that deals with mortgage debt**

The representative sample from the **Abhaile Deep Dive exercise** in 2020

shows that of those borrowers who availed of a PIA, **98%** had terms which saw them remain in their family home while **39%** of debtors had a reduction in their mortgage debt through a write-down of the principal.



**1,362**  
debt solutions were put in place in 2020



**85 PIPs + 11 AIs approved**

**1,833**

**Abhaile vouchers issued for a free PIP consultation**



**130 people adjudicated bankrupt, with 262 people exiting bankruptcy**

**€2,866,617**  
in dividends paid from bankruptcy estates to creditors



**188,296**  
visitors to the ISI websites

**88% of visitors to Back on Track were new visitors**



**Reached out to over 800 parishes and 39 mental health organisations with details of help available through the ISI**



**402** new s.115A applications lodged in 2020, down from **432** in 2019

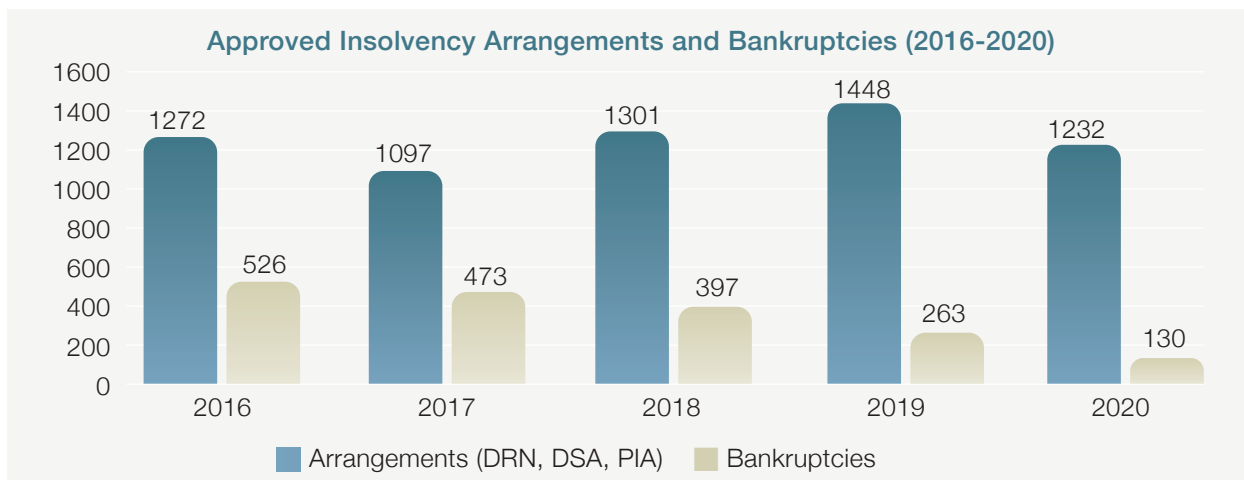


# 5 Operations

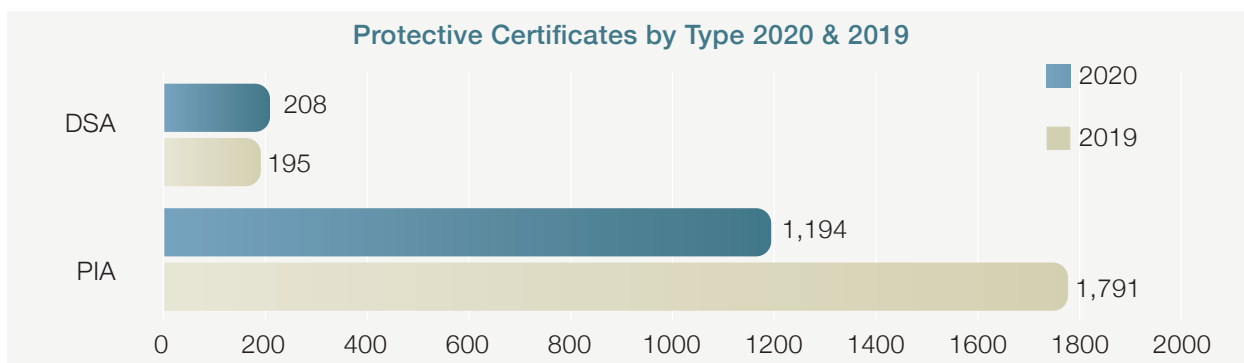
The ISI administers four distinct schemes to allow people in debt to seek to resolve their debt problems – DRN, DSA, PIA and Bankruptcy. The ISI has facilitated over 11,000 solutions for insolvent debtors since its inception over seven years ago<sup>3</sup>.

## Protective Certificates and arrangements affected by Covid-19

The number of Protective Certificates issued in 2020 was down on 2019, reflecting in large part the uncertainty created by the effects by the Covid-19 pandemic, with new applications being deferred and those already in the Courts adjourned until a greater degree of certainty existed which would help in achieving more sustainable debt solution going forward.



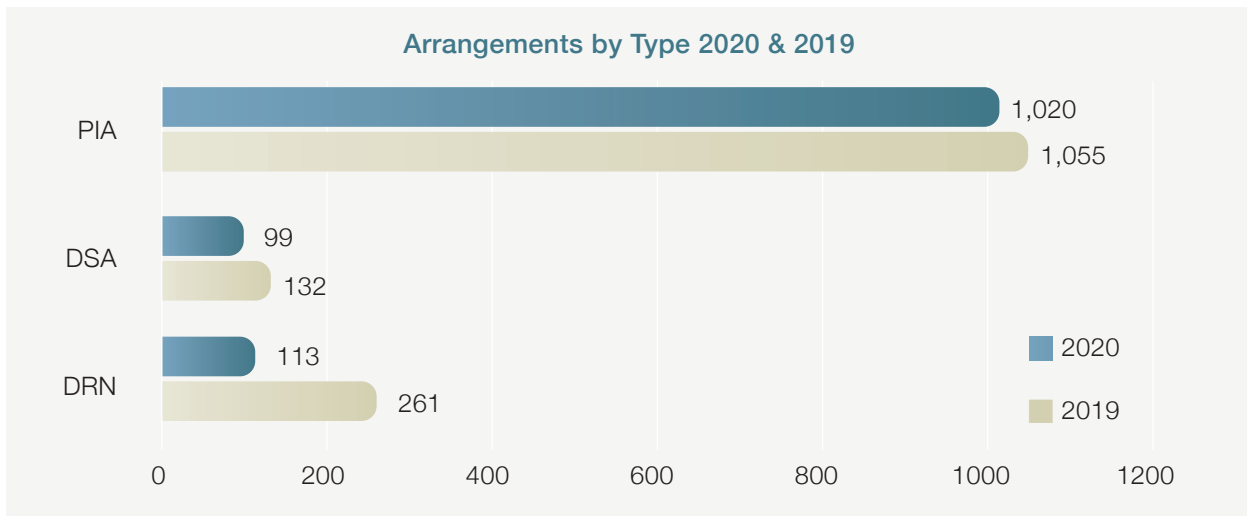
**Figure 1:** Approved Insolvency Arrangements and Bankruptcies (2016-2020)



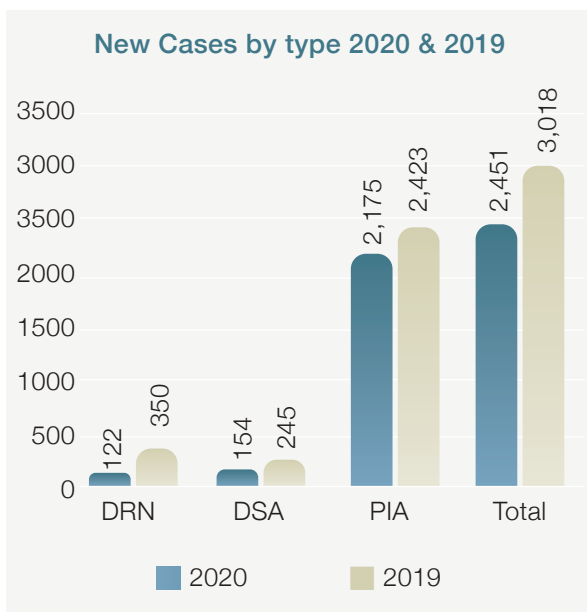
**Figure 2a:** Recent Trends – Protective Certificates

<sup>3</sup> Detailed statistics covering the work of the ISI are published quarterly on the ISI website [here](#)

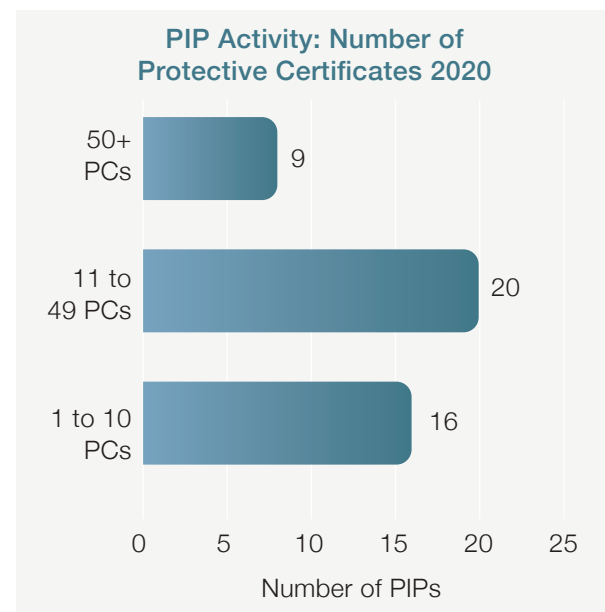




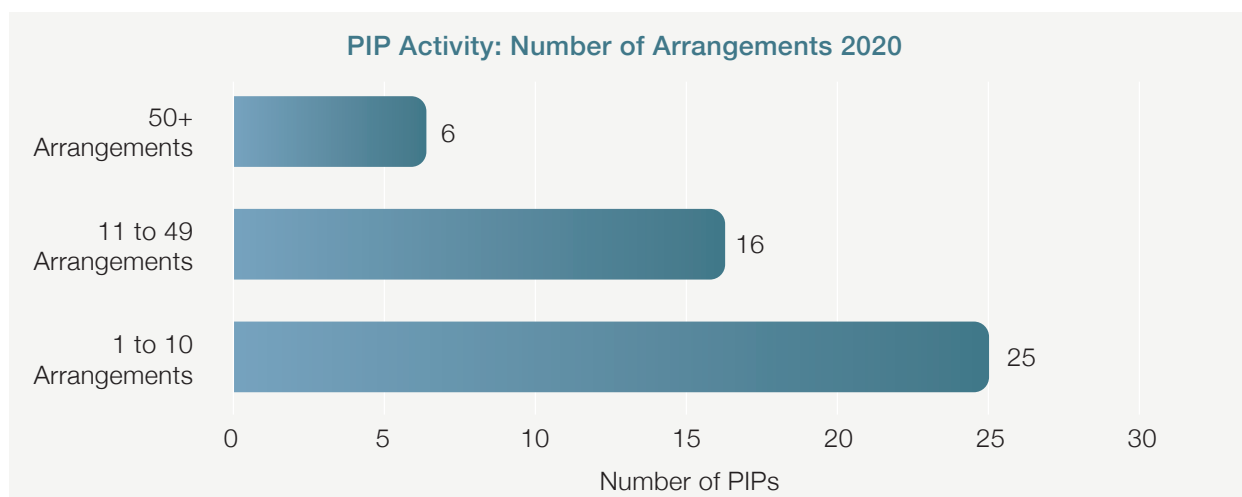
**Figure 2b:** Recent Trends – Arrangements



**Figure 3:** Recent Trends - New Applications



**Figure 4:** Number of Protective Certificates by Number of PIPs 2020



**Figure 5:** Number of Arrangements by Number of PIPs 2020

## Bankruptcy

### Bankruptcy cases affected by Covid-19

The number of people entering Bankruptcy was 130 in 2020, down 50% from 263 in 2019. It should be noted that bankruptcies in Ireland (adjusted for population) are lower than those of England and Wales and Northern Ireland, our closest comparable jurisdictions.

**Bankruptcy figures for 2020 and 2019 – Ireland and Comparable Jurisdictions**

Jurisdiction	2020 Bankruptcies	2019 Bankruptcies
Ireland	130	263
England & Wales	14,112	16,742
Northern Ireland	204	625

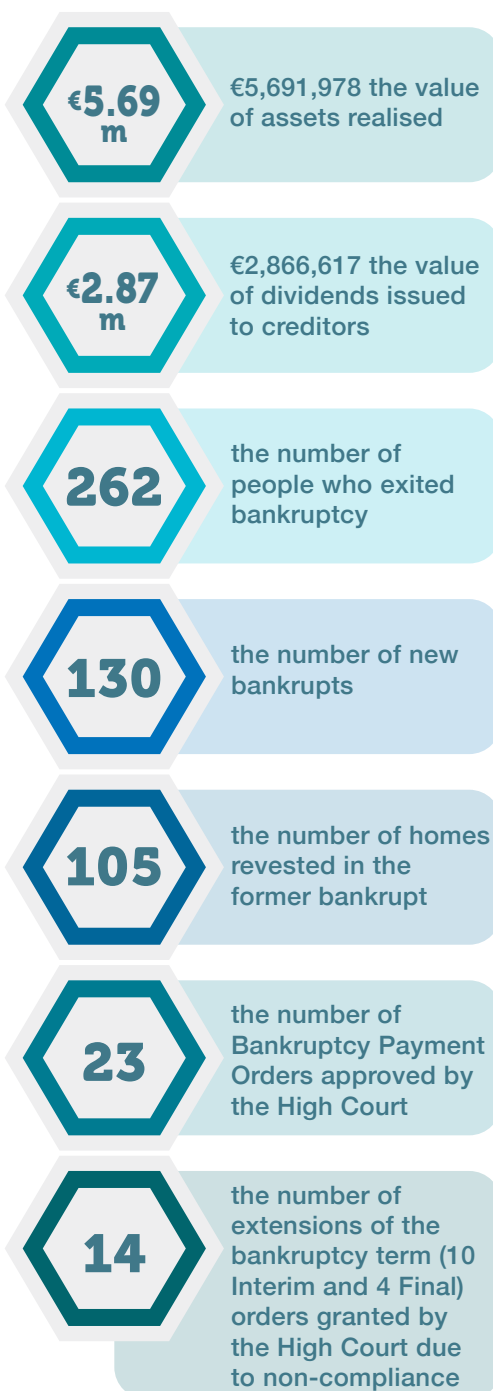
The overall number of individuals being adjudicated bankrupt has remained low since the beginning of March 2020. This, of course, coincides with emergency measures introduced by the Government to address the Covid-19 pandemic and mitigate its economic effects, including:

- ▶ Financial support for individuals and businesses facing a loss in income due to the pandemic and associated emergency measures;
- ▶ Lockdown measures and travel restrictions;
- ▶ Interruptions to the number of High Court hearings for bankruptcy being scheduled and held.

The reduction is similar to the trend witnessed in England and Wales and Northern Ireland for Bankruptcies in 2020 according to their year-end indicative statistics.

### Increased Cooperation with Financial Institutions

The Official Assignee welcomes the increased engagement and the cooperation of financial institutions with this Office; this will assist in the speedy realisation of assets.



### The Year Ahead

The High Court, with the assistance of the Courts Service, has moved to online hearings for a number of different types of Bankruptcy applications. This is a positive and welcome step and enables debtors to avail of the benefits of the Bankruptcy system.

The Official Assignee is looking forward to starting a project in 2021 to upgrade the Bankruptcy case management system. The Division will also continue to monitor and improve upon its operations to foster an innovative and efficient approach to reaching its business goals and objectives. These factors should contribute to the orderly management of estates providing debtors with the benefits of the Bankruptcy system and result in the prompt realisation of assets and payments of dividends to creditors.

### Insolvency - s.115A

#### Review of rejected PIAs (section 115A reviews)

Proposed PIAs that have been rejected at the statutory creditors' meeting can be subject to a court review, thanks to an amendment to the Act introduced in late 2015. A PIP, acting on instruction from a debtor, can make an application for an order from the court confirming the coming into effect of the proposed PIA. Where the court review 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 2020. The number of applications made in 2020 (402) shows a slight decrease on the 2019 figure (432); this decrease corresponds to a general decrease in the number of applications for debt relief made during 2020 due to the impact of the Covid-19 pandemic. However, it may also be that the continued emergence of jurisprudence of the High Court, providing clarity on certain aspects of the legislation,

### Section 115A Court Reviews as at end December 2020

Arrangements Approved	On Review	On Review- Creditor Appeal Active	Confirmed on Creditor Appeal	On Debtor Appeal	Total	%
Uncontested	280				280	
On Consent	87		6	31	124	
On Consent Subject to Variation	94		1	46	141	
Contested	164	4	14	32	214	
<b>Total Arrangements Approved</b>	<b>625</b>	<b>4</b>	<b>21</b>	<b>109</b>	<b>759</b>	<b>48%</b>

Arrangements Not Approved	On Review	On Review- Debtor Appeal Active	Revoked on Creditor Appeal	On Debtor Appeal	Total	%
Withdrawn	21				21	
On Consent	151			146	297	
Refused	323	88	1	106	518	
<b>Total Applications Not Approved</b>	<b>495</b>	<b>88</b>	<b>1</b>	<b>252</b>	<b>836</b>	<b>52%</b>
Total Applications With Decisions	1120	92	22	361	1595	
Applications Active On Review					519	
<b>Total Applications Made</b>					<b>2114</b>	

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

could also be a factor. In the meantime, the ISI continues to keep stakeholders informed of developments through its periodic e-Briefs.

The majority of review applications are decided on the basis of arguments put forward that relate to the commercial merits of each case, including the sustainability of proposals and the extent of alleged unfair prejudice suffered by creditors. The conclusion of live cases has proved to be a challenge in 2020 due mainly to the changing circumstances of debtors as a result of the impact of the Covid-19 pandemic, and such cases are likely to

remain live until some certainty is brought to debtors' circumstances going forward. Notwithstanding these delays, the courts are continuing to stress the need to have cases concluded at the earliest possible opportunity. Another factor in this regard is the number of appeals of decisions of the Circuit Court that have been brought to the High Court, some of which are delaying the progress of cases that will be affected by the outcome of certain appeals. However, there appears to be a slight increase in the number of cases being resolved through settlement negotiations, which it is expected will further assist in minimising the backlog of case outcomes.

### Summary of Significant Court Rulings for Section 115A in 2020

The table below sets out the significant decisions of the High Court during 2020.

These are also available on the Courts website, [www.courts.ie](http://www.courts.ie).

Case	Main issues dealt with	Date	Hyperlink to judgment
McNamara	Class of creditor.	20/08/2019	
	Sustainability. Disposal of Assets.	02/03/2020	
Forde Egan	Creditors' rights against spouse (a discharged bankrupt).	20/12/2019	
	Costs.	02/03/2020	
Varvari	Lack of adequate due diligence by PIP regarding income verification. Pursuit of appeal in knowledge of lack of affordability.	27/01/2020	
Lowe	Debt for equity.	02/03/2020	
Hyde (s.120)	Treatment of debt of a secured creditor as unsecured.	09/03/2020	
Nuzum	Costs of remaining in the PPR disproportionately large.	30/03/2020	
Fay	Class of creditor. Relevant debt due to presence of commercial loan.	06/04/2020	
Murphy	Relevant Debt.	12/10/2020	

### Project Phoenix

The ISI's new Insolvency Case Management System (Phoenix) went live on the 7th September 2020, replacing the previous Lotus Notes-based system that was put in place following the establishment of the ISI in 2013. The system provides a modern relational database framework for online applications from Personal Insolvency Practitioners and Approved Intermediaries, who are authorised by the ISI under the Personal Insolvency Act 2012. These applications are then sent to and from the Courts Service Online System in accordance with the stages of each case as set down in the primary and secondary insolvency legislative framework.

Data from over 10,000 historic and live cases was successfully migrated in to the new system. The development and roll out of the new system required close collaboration with colleagues in Justice IT, the Courts Service as well as Personal Insolvency Practitioners and Approved Intermediaries. The new system is delivering significant efficiencies for both internal and external users in streamlining the insolvency application process.

# 6 Legislation

## Personal Insolvency (Amendment) Bill 2020 (Bill 76 of 2020)

The Personal Insolvency (Amendment) Bill 2020 was introduced in Seanad Éireann on 16th December 2020. The Bill proposes to amend the Personal Insolvency Act 2012 to facilitate insolvent persons, including those in financial difficulties arising from the economic effects of the Covid-19 pandemic, being able to avail of the provisions of that Act; and to modernise procedures under that Act.

The Bill provides for the removal of the cut-off date contained in section 115A of the Personal Insolvency Act 2012, which limits eligibility to apply under that section to insolvent persons whose proposal to resolve their debts includes home mortgage arrears that were incurred before 1st January 2015.

It will make it easier for a debtor to qualify for a Debt Relief Notice by increasing the upper asset limit from €400 to €1,500.

This Bill also provides that a debtor's protective certificate may be extended by a court, on application by the Personal Insolvency Practitioner, where the court is satisfied that it would be just to do so by reason of exceptional circumstances and clarifies another ground on which extension may be approved by the court.

It will increase from 14 days to 28 days the period within which application must be made by a Personal Insolvency Practitioner for court review under section 115A of the Personal Insolvency Act 2012.

In order to modernise procedures under the Personal Insolvency Act 2012, the Bill provides for the advisory meeting between a debtor and the Approved Intermediary or Personal Insolvency Practitioner to take place remotely as an alternative to a meeting in person. It provides for a Personal

Insolvency Practitioner to delegate the performance of functions under the Personal Insolvency Act 2012 to a person employed by him or her, or working in the same firm and acting under his or her direction.

It also provides for the making of a confirmation of truth by a debtor, which does not require to be formally sworn or declared, as an alternative to the statutory declaration required as part of the debtor's application for a Debt Relief Notice, Debt Settlement Arrangement, or Personal Insolvency Arrangement.

The Minister for Justice has said that a second, wider, Personal Insolvency Bill is being finalised. That Bill will implement further important changes arising from the statutory review of the Personal Insolvency Acts, including making the process more streamlined and more effective.

## Personal Insolvency Act 2012 (Prescribed Fees) (Amendment) Regulations 2020 (S.I. No. 678 of 2020)

These Regulations, which were made by the ISI on 22<sup>nd</sup> December 2020 with the consent of the Minister for Justice, extend the temporary waiver of arrangement fees to the end of December 2023.

# 7 Communications

The ISI has a dedicated Communications Project Group. The group comprises cross-divisional representatives of the organisation and is tasked with planning and coordinating communications activities to ensure that key messages are disseminated through the appropriate channels to each stakeholder. During 2020, this group coordinated the delivery of presentations to a number of organisations, liaised with the media, and ensured that ISI websites, publications and related information sources were readily accessible to our target audience.

Similar to previous years, the ISI again ran a significant 'Back on Track' campaign ([www.backontrack.ie](http://www.backontrack.ie)) during the first three months of the year, which is a time when people are reflecting on their Christmas spending and possibly in financial difficulty. The objective of the campaign was to build on brand awareness generated in 2019, and drive the audience to [backontrack.ie](http://backontrack.ie).

The campaign targeted adults aged 35 years or older who are struggling financially. The campaign highlighted how overwhelming debt can be and the sense of relief a person gets once they ask for help. The campaign was rolled out via TV, video on demand, digital display, out of home, radio and press advertisements. Through radio and press interviews the ISI's Director encouraged conversations about debt and acknowledged the sense of helplessness that people feel when they are struggling to make ends meet. The aim was for people to realise that no matter how bad they think their situation is, they are not alone and there is help available. The campaign performed strongly across each media channel and met key performance indicators such as encouraging people to visit the Back on Track website. During the campaign, there were 82,182 new visitors to the Back on Track website, compared to 35,077 new visitors during a similar campaign in 2019.

For much of 2020, many people found themselves at home due to the Covid-19 pandemic, with more time and more

engagement with radio and digital media. Consequently, the ISI took the opportunity to guide people in financial difficulty towards the ISI's debtor-focussed Back on Track website and to promote the ISI's solutions by maintaining an "always on" presence in digital for the last five months of the year. The campaign used programmatic video on demand, audience targeting, custom affinity and programmatic guarantees to build and target a bespoke audience who were researching and engaging with content surrounding topics such as debt, debt consolidation, consolidation loans, mortgage arrears, bankruptcy and insolvency.

The ISI also reached out to sectors most affected by the Covid-19 pandemic and made contact with representative groups for those working in the events industry, childcare, tourism, hospitality, and transport sectors. In addition, the ISI reached out to universities, student unions and newly elected TDs.

As problem debt can have a significant effect on peoples' mental health, the ISI contacted 39 mental health organisations throughout Ireland to introduce the ISI and offer information on our range of solutions to be passed on to anyone struggling with debt. The ISI also contacted over 800 parishes, many of whom included a piece in their parish newsletter about the help available through the ISI.

# 8 Abhaile

Abhaile, the 'Scheme of Aid and Advice for Borrowers in Home Mortgage Arrears' was launched on 22nd July 2016 under the coordination of the Department of Justice and the Department of Social Protection. It is jointly operated by a number of agencies including the Money Advice and Budgeting Service (MABS), Legal Aid Board, Citizens Information Board and the ISI. The scheme, which runs to 2022 following an extension announced by the Government in September 2019, provides a range of services to help people in mortgage arrears and offers free access to financial and legal advice through panels of qualified and regulated professionals by way of a voucher issued centrally by MABS.

ISI maintains a panel of PIPs who are funded to provide independent financial advice and assistance free of charge to eligible borrowers, and processes claims from these PIPs. A new Abhaile PIP panel became operational on 2 March 2020 following a revision of the terms and conditions. As of December 2020, there were 47 PIPs on the panel.

The Abhaile scheme allows for a seamless flow of information between MABS and PIPs in particular, which is important when endeavouring to reach and help borrowers in an integrated way at the most appropriate time.

In 2020 1,833 vouchers were issued to borrowers for a free consultation with a PIP according to MABS records and 1,653 vouchers were redeemed by PIPs having completed borrower consultations.

While the number of Abhaile PIP vouchers issued and subsequently redeemed fluctuates each year, in comparison with 2019 there was a decrease in the number of Abhaile PIP vouchers issued and redeemed of 53% and 18% respectively in 2020. This reduction in activity is attributed to the impact of Covid-19

in the main. Nonetheless, there was a continuance in 2020 of the positive trend observed in the previous year where the majority of borrowers engaging with PIPs are in the greater than two years mortgage arrears category, which is the scheme's target audience.

Analysis of the outputs of the Abhaile PIP panel from launch of the scheme to end-2020 is now presented followed by a deeper analysis of the outcomes for debtors whose vouchers were redeemed by PIPs in Quarter 3 2019.

In summary, our 2020 analysis shows that solutions are being achieved for borrowers through the Abhaile PIP Panel in a timely manner with MABS colleagues being an important route of referral. 78% of the borrowers involved are those in the difficult category of over 2 years in mortgage arrears with 82% of those recommended a statutory solution.



### Analysis of the Abhaile PIP panel – Outputs and Debtor Outcomes

There are two forms of indicator used to analyse the success of the PIP panel through the Abhaile scheme:

**A. Output indicators** which provide background information relevant to the uptake of the scheme through PIP voucher issuance and

redemption (shown below from launch of scheme in 2016 to end 2020); and

**B. Outcome indicators** which show the Outcomes achieved as at August 2020 for borrowers for whom PIP vouchers were redeemed in Q3 2019 (based on a representative sample from the ‘Deep Dive’ exercise).

### Abhaile Output Indicators

**11,723**  
vouchers redeemed by PIPs since the beginning of the scheme to December 2020

The total value of the debt for these vouchers amounted to  
**€5.69 billion**

The total value of mortgage debt for these vouchers amounted to  
**€3.46 billion**

The total negative equity\* for these vouchers amounted to  
**€795 million**

**75%**  
of borrowers who engaged were in mortgage arrears for more than 2 years

**57%**  
of borrowers were either referred from MABS (42%) or were facing court proceedings for repossession (15%)

**71%**  
were recommended a formal solution through a PC application

**15%**  
were recommended alternative informal solutions

**4%**  
were recommended the Mortgage to Rent Scheme

**4%**  
were recommended bankruptcy

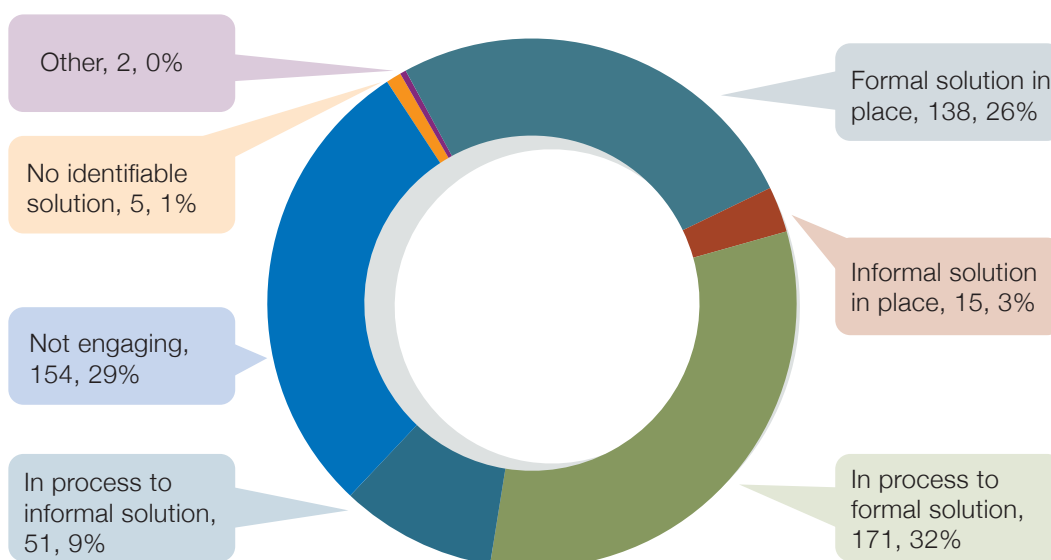
\* Negative equity – the value of the property is less than the mortgage owed

## B. Outcomes - Deep Dive 2020 analysis

Under the Scheme, the PIP reviews the borrower's financial circumstances and makes a recommendation to address their financial difficulties. The purpose of the annual 'Deep Dive' is to examine what has happened to the borrower following this recommendation. Such an examination can only take place in retrospect since ISI data shows that, for cases that resulted in a PIA in 2020, on average it took just over six weeks to obtain a Protective Certificate once the case was submitted and a further thirty-four weeks for an arrangement to be approved by court.

The 'Deep Dive' analysis conducted in 2020 relates to 536 borrowers for whom a PIP redeemed a voucher in Quarter 3 2019. A breakdown of the outcomes achieved for these borrowers as of August 2020 is provided immediately below (Figure B1). The infographic that follows provides an overview of the main findings of the Deep Dive.

- ▶ There are 153 (29%) borrowers that have solutions in place; both formal (26%) and informal (3%) – of these solutions, 136 are PIAs, 15 are informal solutions and 2 are cases where the borrower has been adjudicated bankrupt.
- ▶ 171 borrowers (32%) are working with their PIP to find a formal solution – of these 76 are in the section 115A review process, 82 are in the process of seeking a formal solution, 11 are awaiting court approval after the creditors meeting, while a further 2 borrowers are considering petitioning for bankruptcy.
- ▶ 51 borrowers (9%) are in the process of seeking an informal solution – of these 39 are working with their PIP on securing an informal arrangement, including 12 who are pursuing Mortgage to Rent as an option. In addition 8 have been referred back to MABS for support while the remaining 4 have been referred on to third parties to pursue informal arrangements.



**Figure B1:** Breakdown of borrower outcomes from Quarter 3 2019 as relayed by PIPs in August 2020: 536 borrowers in sample

- ▶ 154 borrowers (29%) did not engage further following receipt of the PIP's recommendation. PIPs continue to try and engage this cohort on an ongoing basis.
- ▶ 5 borrowers (1%) have voluntarily surrendered their homes. Please note that the voluntary surrender of a home may be a favourable outcome for a borrower depending on their circumstances.
- ▶ 2 borrowers (0%) are classified as other. The PIP noted that the formal cases had been withdrawn but that no other category currently suited their situation.

It is possible that the onset of Covid-19 and its associated restrictions may have impacted the above figures as prior to this year, the prevailing trends showed that the figures for non-engagement had been holding steady between 12-13% while in progress figures for both formal and informal solutions had been broadly equal.

### Abhaile – Deep Dive 2020 Outcomes

**78%**

of borrowers in the sample were in mortgage arrears for over 2 years when they sought advice from a PIP



**82%**

were recommended to pursue a formal arrangement under the Personal Insolvency Act 2012



**64%**

have been referred to their PIP through MABS



**98%**

of those who have a Personal Insolvency Arrangement in place have remained in their homes



**136**

Personal Insolvency Arrangements put in place



**92%**

of arrangements were put in place with no objection from creditors



**39%**

of arrangements included a write-down on the mortgage



**49%**

of all the arrangements in 2020 were approved by non-traditional lenders



Arrears capitalisation followed by term extension were the most prevalent mortgage restructure types found in arrangements for both traditional and non-traditional lenders. The third most popular restructure type, principal reduction / write-down, is more popular among non-traditional lenders.

# 9 Stakeholders

The ISI acts as an authority on the statutory personal insolvency options available to individuals in financial difficulty. It aims to provide stakeholders with statistical data and trends of interest with respect to the uptake of these options on a regular basis given the ever evolving environment in which the personal insolvency legislation operates. During the year, the ISI continued to engage with a broad range of stakeholders to further develop the personal insolvency framework for the ultimate benefit of all citizens. Indeed, the Covid-19 pandemic emphasised the importance of all stakeholders working together to achieve fair outcomes for debtors and creditors. Despite the challenges encountered as a result of the restrictions in place due to the pandemic, the personal insolvency framework remained operational for those individuals in need of assistance thanks to the efforts of many. In particular, the ISI liaises on an ongoing basis on various issues with the Association of Personal Insolvency Practitioners (APIP) and the Banking and Payments Federation Ireland (BPFI).

## Protocol Oversight Committee

The committee was established in 2015 to promote and monitor the practical implementation of the DSA and PIA Protocols<sup>4</sup> agreed by the various stakeholders to enhance the overall operation of the insolvency framework. Although the committee, which comprises of representatives of creditors, debtor groups, PIPs and others, did not meet in 2020, work continued on two working groups established under the Protocol Oversight Committee to consider: (i) a proof of debt template; and (ii) annual review/variation documentation and dividend payments schedule.

## Stakeholder e-Brief

There were two stakeholder e-Briefs published in 2020 in January and October. These are one of the core channels of communication for the ISI with its broader stakeholder community.

The e-Brief, published as required on the [ISI website](#), provides a concise overview of activities within ISI and other significant developments for the purpose of facilitating the ongoing development of the personal insolvency framework. In particular, the e-Brief summarises the pertinent detail of relevant court case decisions to highlight the evolution of statutory solutions over time and issues of interest, with direct links provided to written court judgments.

## PIP Newsletters

There were two PIP newsletters issued in 2020 in January and November. These newsletters, which are issued to all authorised PIPs by email, are used to update PIPs on policy and technical issues and practical items in respect of interacting with the ISI, particularly through its Case Management system. PIP newsletters are archived through the professional development portal in place

<sup>4</sup> The DSA and PIA Protocols are published on the ISI website. Please see [https://www.isi.gov.ie/EN/ISI/PAGES/FINALISED\\_PROTOCOL](https://www.isi.gov.ie/EN/ISI/PAGES/FINALISED_PROTOCOL)

and are intended to act as a repository of information for all PIPs, including those recently authorised.

### PIP Renewal Meetings

The authorisation period for PIPs is every three years and 32 PIPs were due for renewal in 2020. Of these, thirteen PIPs made a decision not to seek renewal of their authorisation while a further two PIPs requested a cessation of their authorisation prior to the renewal being due. There are different operating models employed by PIPs and, in circumstances where fewer than three court approved arrangements are put in place in the preceding three year period, PIPs wishing to renew their authorisation are requested to meet with the ISI Regulation Division. The purpose of such meetings is to establish if the resources (including financial capacity), policies, procedures, systems and controls necessary for a PIP to comply with their obligations under the Act and regulations made under the Act remain adequate and in place. In addition, the meetings are an opportunity to build relationships and to discuss opportunities and challenges for the PIP community. There were 10 such meetings held in 2020.

### Continuous Professional Development (CPD) for PIPs

In February, a workshop was held for PIPs interested in joining the new Abhaile PIP panel. Items discussed included changes to the Terms and Conditions of the Abhaile PIP panel, the debtor engagement project and its initial feedback as well as the prominent issues arising in the context of processing payment claims. The workshop provided a platform for PIPs and their staff to interact with ISI staff directly on practical issues as well as a forum for participants to share their

valuable practical experience and identify opportunities and challenges in personal insolvency work.

In 2020, there were CPD hours awarded to PIPs who completed training on the new Phoenix case management system. In addition, development of the CPD framework for PIPs is continuing with the opportunity to gain hours for the review and consideration by PIPs of relevant High Court cases as included in the ISI e-Briefs.

### Creditor Engagement

In Autumn 2020, the ISI instigated a further series of dialogue meetings with the main retail lenders, credit servicers and funds. The purpose of these meetings is to gather feedback on the implementation of provisions in the Personal Insolvency Act 2012 and to facilitate discussion on issues influencing the personal insolvency framework as it evolves. These regular dialogue meetings seek to ensure an open channel of communication to share trends and feedback. As per the analysis of the Abhaile 'Deep Dive' provided earlier in the report, there is a trend in recent years towards greater involvement of funds in arrangements approved.

The ISI continues to liaise with the Central Bank of Ireland, the Banking and Payments Federation of Ireland and the Irish Banking Culture Board in the context of aligning relevant work programmes.

### International Association of Insolvency Regulators (IAIR)

The ISI continued to engage with IAIR in respect of remaining abreast of international issues in personal insolvency in addition to availing of networking opportunities to share good practices.

In August, IAIR facilitated two video conferences on the topics of practical and legislative responses to address Covid-19 challenges. All jurisdictions struggled to a greater or lesser extent with the abrupt change to remote working. The IAIR conference and AGM 2020 proceeded virtually and were hosted by the Official Receiver in Hong Kong. A number of webinars were held with a particular emphasis on the use of technology to increase both the efficiency of insolvency practitioners and regulators and to support debtor compliance.

The ISI had the following interactions with stakeholders relating to Covid-19:

### **Payment Breaks**

APIP and the ISI in consultation with the Banking & Payments Federation Ireland (BPFI) and its members agreed on a process and associated templates in respect of seeking payment breaks on mortgage payments for those debtors who were party to a statutory arrangement where income had been impacted as a result of the Covid-19 crisis.

### **Abhaile Scheme**

To assist borrowers access the services of the Abhaile PIP panel, the ISI engaged with MABS voucherdesk and relevant PIPs to agree that an email confirmation from the borrower in conjunction with the completed PIP voucher application form would be accepted in lieu of a borrower's signature.

The ISI also liaised with the Abhaile Working Group to secure an extension of the validity period of the PIP panel vouchers by 3 months to provide additional time for borrowers to engage with PIPs (applicable to vouchers issued between 1 January and 30 June 2020).

### **Debtor meeting with PIP**

The Personal Insolvency Act 2012 and the terms and conditions of the Abhaile

PIP panel make reference to a meeting between the debtor and a PIP (or a member of PIP staff) and this is taken to mean a physical face-to-face meeting. Given Covid-19 restrictions and the need to take exceptional measures to protect public health, the ISI issued a communication to PIPs in March 2020 that it would be prudent for PIPs to offer consultations to debtors by video conferencing, where considered necessary, for the purposes of the Personal Insolvency Act 2012 and for the Abhaile PIP panel.

### **Witnessing Proxy Forms**

Creditors drew ISI's attention to the difficulty that some were experiencing in having an authorised person's signature witnessed on a proxy form due to large numbers of employees working remotely. The Personal Insolvency Act 2012 (Procedures for the Conduct of Creditors' Meetings) Regulations 2013 (S.I. 335 of 2013) regulate the conduct of creditors' meetings. Given the discretion afforded to PIPs in the Regulations, the ISI liaised with PIPs and as a goodwill gesture PIPs agreed to facilitate the proxy system during the pandemic by accepting proxies in the form set out in the Schedule to the Regulations without requiring the authorised person's signature to have been witnessed.

### **Court Arrangements**

In March, in response to requests made by APIP on behalf of the PIP profession and to developments regarding the spread of Covid-19 and the need to ensure business continuity in extraordinary circumstances, the ISI contacted the Courts Service with a view to establishing an agreed approach to the procedures to be followed to ensure continuity of personal insolvency cases in the system. A protocol was agreed with the specialist judges of the Circuit Court, which was subsequently circulated to relevant stakeholders.

# 10 Corporate Updates

## Staffing

The ISI has an operational requirement for 86.5 staff. As of 31st December 2020, there were 76.5 full time equivalents (“FTE”) employed in the ISI when work patterns are taken into account. The table below shows the staff numbers (FTEs) broken down across divisions.

Divisional Breakdown	
Director	1
Bankruptcy	37
Case Management	20
Policy & Regulation	11
Legal Services	2
Corporate Affairs	5.5
Total	76.5

## Code of Practice for the Governance for State Bodies

In the absence of a statutory board, the ISI has a senior management team (SMT) which meets under the chairmanship of the Director. The role of the team is to provide strategic leadership, direction, support and guidance for the ISI and to promote commitment to its core values, policies and objectives. There were 12 meetings of the SMT in 2020. Generally where a member was unable to attend a representative attended in their place.

## Number of Senior Management Team Meetings Attended

Michael McNaughton	12
Trevor Noonan	12
Liza Doyle	11
John Phelan	8
Christopher Lehane <sup>5</sup>	5
Denis Ryan	2
Ian Larkin	2
Niamh Lenehan	2
Cormac Keating <sup>6</sup>	1

As an independent statutory body, the ISI has adopted comprehensive corporate governance structures and procedures to ensure that it applies high standards of corporate governance in line with the requirements set out in the Code of Practice for the Governance of State Bodies (2016).

All appropriate procedures for 2020 with regard to financial reporting, internal audit, procurement and asset disposals were followed by the ISI. The ISI accounts and internal controls are subject to internal and external audit. The administration of bankruptcy estates is also subject to independent review with an annual report issuing to the High Court. The ISI has complied with all its obligations under taxation law.

<sup>5</sup> Christopher Lehane left the ISI in July 2020. Denis Ryan was designated to carry out the functions of the Official Assignee in Bankruptcy until November 2020 when Ian Larkin was appointed to the post.

<sup>6</sup> Cormac Keating left the ISI in February 2020. Niamh Lenehan was assigned to carry out the functions of Head of Policy, Regulation and Corporate Affairs until April 2020 when John Phelan was appointed to the post.



## Oversight Agreement

The ISI and the Department of Justice were party to an Oversight Agreement and Performance Delivery Agreement for 2020. The agreements document an agreed level of service between the parties. They set out respective commitments on which performance should be measured and support the mission expressed in ISI's Strategic Plan of returning insolvent people to solvency and full participation in social and economic activity.

## Public Spending Code

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

2020	Budget €	Expenditure €	Variance €
Pay	4,710,000	3,848,669	861,331
Non-pay	2,800,000	2,881,560*	(81,560)*
Total	7,510,000	6,730,229	779,771

\* As agreed with the Department of Justice's governance section, a level of funding was sanctioned for the Official Assignee in Bankruptcy and was partially funded from savings in the ISI non-pay budget.

## Risk Management

The ISI operates a formal risk management policy and maintains a risk register, in accordance with guidelines issued by the Department of Public Expenditure and Reform. The risk register is designed to ensure that risks are identified and assessed and that appropriate mitigating actions, where necessary, are put in place. The risk

register is compiled on behalf of the SMT and reviewed on a monthly basis.

In 2020, following a review of risk assessment in the ISI, the ISI risk policy was updated and a new format risk register was formally adopted.

Reflecting the key priorities for the organisation, the main potential risks managed by the ISI in 2020 were:

- ▶ The implementation of the new case management system for insolvency which went live in September 2020.
- ▶ The maintenance of business continuity during the Coronavirus pandemic including the requirement to have staff work on a largely remote basis while ensuring the health and safety of staff working in the office. Other measures implemented included, inter alia, agreeing protocols with the courts to ensure continuity of personal insolvency cases in the system and allowing PIP's offer consultations to debtors by videoconferencing.

## Freedom of Information

The ISI continued to meet its obligations under the Freedom of Information Act 2014. In 2020 the ISI dealt with five Freedom of Information requests.

## Data Protection

The ISI protects the integrity of data supplied to us by users of our services and third parties. In 2020, we reviewed and refreshed our data protection policies and conducted staff training to help ensure that we continue to comply with the EU General Data Protection Regulation (GDPR). The ISI responded to three data subject access requests during the year.



## Protected Disclosures

Under the Protected Disclosures Act 2014, the ISI is required to publish an annual report on the number of protected disclosures made to it and the action, if any, taken in response to those protected disclosures. There were no protected disclosures notified to the ISI during the year.

## Customer Charter

The ISI's Customer Service Charter is available on its website, [www.isi.gov.ie](http://www.isi.gov.ie). The Charter sets out the standards of service a customer can expect to receive from the ISI. One complaint under the customer service charter was received in 2020.

## Overview of Energy Usage 2020

The ISI must report annually on the energy consumption of its office and on 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. 426 of 2014.

	Electricity	Gas
2019	232,459 kWh	169,189 kWh
2020	269,575 kWh	215,548 kWh

## 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](mailto:info@isi.gov.ie) / [press@isi.gov.ie](mailto:press@isi.gov.ie)

► **Websites:** [www.isi.gov.ie](http://www.isi.gov.ie) / [www.backontrack.ie](http://www.backontrack.ie)

► **Facebook:** Back-On-Track

► **Twitter:** [www.twitter.com/ISIbackontrack](https://www.twitter.com/ISIbackontrack)

# 11

## Appendix 1

### Case Studies

#### Case Study 1: DSA write-down

Sinead is a 37-year-old office worker. She is separated from her husband and now lives in rented accommodation.

Prior to the separation, Sinead and her ex-husband bought a family home and an apartment between them. They also had significant credit card debt. They got into difficulty with the repayments and their debt became unsustainable. When the marriage broke down, Sinead's ex-husband moved to the UK and stopped making any payments towards the debt. The family home and apartment were subsequently repossessed by the lender and sold, leaving residual debt of over €150,000 that Sinead could not repay. Sinead contacted a Personal Insolvency Practitioner for advice.

Having assessed Sinead's situation, her PIP advised that a Debt Settlement Arrangement (DSA) was the most appropriate solution for her circumstances. The PIP applied to the court for a protective certificate (PC) on Sinead's behalf, as is standard practice as part of the insolvency application process. Sinead was not required to attend court to be granted the Certificate. The PC gave Sinead court protection against her creditors while her DSA was being put in place and creditors were not permitted to contact her during this time.

Sinead's PIP put forward a proposal to her creditors outlining the amount Sinead was in a position to pay toward the debt, while maintaining a reasonable standard of living.

The proposal was accepted by the creditors and subsequently agreed by the court. Sinead entered into a DSA for a period of 60 months, agreeing to pay a fixed amount each month.

At the end of the arrangement each creditor will have received a dividend of approximately 6% and the remaining unsecured debt of €140,000 will be written off and the debtor will be returned to solvency.

"It got to the stage where you hated coming home to see what was in the post. But from the moment I appointed my PIP there was a sense of relief. From that day on I never got another worrisome creditor's letter."

## Case Study 2: PIA involving a Fund

Terry is a 44 year old married man. He lives in the family home with his wife and four dependent children. He is employed full-time and works in an office. Terry's financial difficulties started when his wife was made redundant. She was no longer in a position to pay half the monthly mortgage payments and, without her contribution, Terry fell into arrears on the mortgage.

After three years of not being able to meet repayments, Terry's mortgage was sold by his bank to a fund, which secured a possession order against his home. A family friend who had heard about the Abhaile scheme on the radio suggested Terry seek professional advice. Abhaile is a free service for insolvent borrowers who are in danger of losing their homes due to mortgage arrears. As part of the service, borrowers can avail of a free consultation with a panel of professionals, including Personal Insolvency Practitioners (PIPs).

Terry contacted a PIP from the Abhaile panel and following a consultation, he was advised that a Personal Insolvency Arrangement (PIA) was the most suitable solution that could facilitate a restructure of the mortgage on the family home and return Terry to solvency.

Under the PIA, the creditor agreed to reduce the mortgage balance by €80,000, and that amount would be treated as unsecured debt in the arrangement.

The mortgage term was extended to 30 years with fixed repayments that Terry could afford.

The creditor agreed not to execute its order and to relinquish its claim for possession of the property to the

debtor within 21 days of court approval of this arrangement and Terry was able to keep the family home and the lower repayments were manageable.

This case shows that even at the stage where steps have been taken by a lender to repossess a home, it's still not too late for a person to sort out their finances and, potentially, keep their home.

**"Straightaway I knew she (the PIP) actually cared. She understood the situation."**

### Case Study 3: PIA involving Mortgage to Rent scheme

Olivia and Patrick are a married couple in their 50s, living in a three-bedroom house. Olivia previously worked as a childminder but, having been diagnosed with a life-limiting illness six years ago, she is now unable to work. Patrick was previously working as a General Operative but is now Olivia's full-time carer and receives a carer's allowance.

The couple did all they could to try to repay their mortgage, agreeing with their lender to pay "interest only" for a period of time, but with outstanding mortgage debt of over €300,000, and other personal debt of €20,000, the mortgage became unsustainable. They consulted a local PIP for advice.

Having assessed their age, income and future prospects of earning additional income, Mortgage to Rent ("MTR") was identified as the appropriate treatment of the secured debt to incorporate in to their PIA.

The mortgage-to-rent scheme allows those eligible to switch from owning their home to renting it as a social housing tenant. Under the scheme, ownership of the home transfers to an Approved Housing Body (AHB) or private company and the person becomes a social housing tenant, paying an affordable rent based on their income.

In Olivia and Patrick's case, the total outstanding secured debt was €337,672. Following an independent valuation of the current market value of the property, the home was revalued at €170,000. The couple's unsecured debt was also written off.

The PIP facilitated the MTR process between the debtors and their mortgage provider. Ownership of the home transferred to a housing association for an amount agreed between the mortgage provider and the housing association and the couple and continued to live in it as tenants, paying an affordable rent.

The lender received the sum that the house was sold for and the residual debt was written off.

The couple have been returned to solvency and have a long-term solution to their debt problems that allows them to remain in their family home.

**"Knowing what I know now, I should have gone for an insolvency solution years ago instead of struggling for years and trying to negotiate myself."**

#### Case Study 4: Debt Relief Notice (DRN) – change of circumstances

Maria is a 39-year-old single woman with one child. At the time of her DRN application Maria was unemployed. Maria had accrued almost €32,000 of credit card and personal loan debt which was unsustainable.

Maria met with an Approved Intermediary (AI) authorised by the ISI to DRN application for a debtor wishing to resolve their debt difficulties, and it was agreed that Maria met the criteria for a DRN. Maria was insolvent and was granted a DRN. With a DRN in place, subject to a supervision period of up to 3 years, the full amount of her debt would be written off.

Two years in to the three-year supervision period, Maria advised the ISI that she had secured temporary employment and she would be earning an income for a period of time. Maria submitted the relevant documentation to the ISI for review as required under the Personal Insolvency Act 2012.

If a debtor's circumstances change during the supervision period of a DRN because their income increases, the amount to be surrendered to ISI will be calculated by the ISI having regard to the person's reasonable living expenses

With all of the ISI's solutions, the ISI believes that a person is entitled to have a reasonable standard of living. The ISI has guidelines on living expenses that are considered reasonable to live on, after making any debt payments. These are called reasonable living expenses and they allow for expenses such as food, clothing, health, household goods and services, communications, education,

transport, childcare, insurance and modest allowances for savings and contingencies.

Maria's reasonable living expenses were calculated at €2,294 and at the time of her application she was living well below that guideline amount.

Under the Act, a person subject to a DRN whose net monthly income increases by €400 or more a month may be obliged to surrender half of the increase to the ISI to be paid to his or her creditors.

However, the ISI used the reasonable living expenses as the base amount to compare against Maria's temporary income. In Maria's case, no payment had to be made to the ISI as her new income did not surpass the reasonable living expenses by €400.

Maria's DRN ended in 2020, her debt has been written off and she is now solvent.

**"I wasn't earning and there was a dark cloud over my head. I felt like this was the perfect solution for me and I literally had nothing to lose"**

### Case Study 5: Bankruptcy – Discharged Bankrupt

Liam had run into some financial difficulty as a result of an illness which left him unable to work for a considerable time. He had €85,000 of unsecured debt and was not able to reach an agreement with his creditors. He approached a PIP who arranged to review his financial circumstances.

He considered all his options, as he had no secured debt he could not pursue a Personal Insolvency Arrangement and as he felt he could not reach agreement with the majority of his creditors a Debt Settlement Arrangement would not be accepted, it was finally agreed that a self-petitioned bankruptcy was his best option. He was apprehensive about pursuing this option due to the perceived stigma involved. His PIP explained the process and put his mind at ease. After some deliberation he filled out the necessary forms and paid his €200 application fee.

He was informed of his court date by his PIP and arrived at the Court as requested. His PIP accompanied him and they were met by two staff members of the Insolvency Service of Ireland who explained what was required on the day. They took his personal details and explained what would happen in the hearing. The actual process of being adjudicated bankrupt was surprisingly quick; his name was called, the Judge asked were all his papers in order and upon confirmation of this he was adjudicated bankrupt. The process took less than two minutes. After he left the courtroom the ISI staff said that they would be in contact to discuss his case.

About a month later he was contacted by a member of the ISI who reviewed his income and expenditure. As his net

income was less than his reasonable living expenses he was assessed as not being liable for a Bankruptcy Payment Order and received a letter from the ISI confirming this. He was contacted by another member of the ISI to discuss his assets and an assessment of these was carried out. Shortly after his discharge from bankruptcy Liam received a letter signed by the Official Assignee confirming that he had been discharged.

In reply, the debtor wrote to the Official Assignee expressing his positive experience with the process.

**“Dear Mr Lehane,**

**Thank you to you and your team for the way you all dealt with me during my recent bankruptcy.**

**Everyone at the ISI was helpful and courteous and no one ever spoke to me in a way that made me feel ashamed of being bankrupt.**

**Also the wording in the discharge letter was very encouraging and much appreciated.**

**Regards  
(Identity withheld)”**

## Appendix 2

### Further detail and key statistics – DRN, DSA and PIA

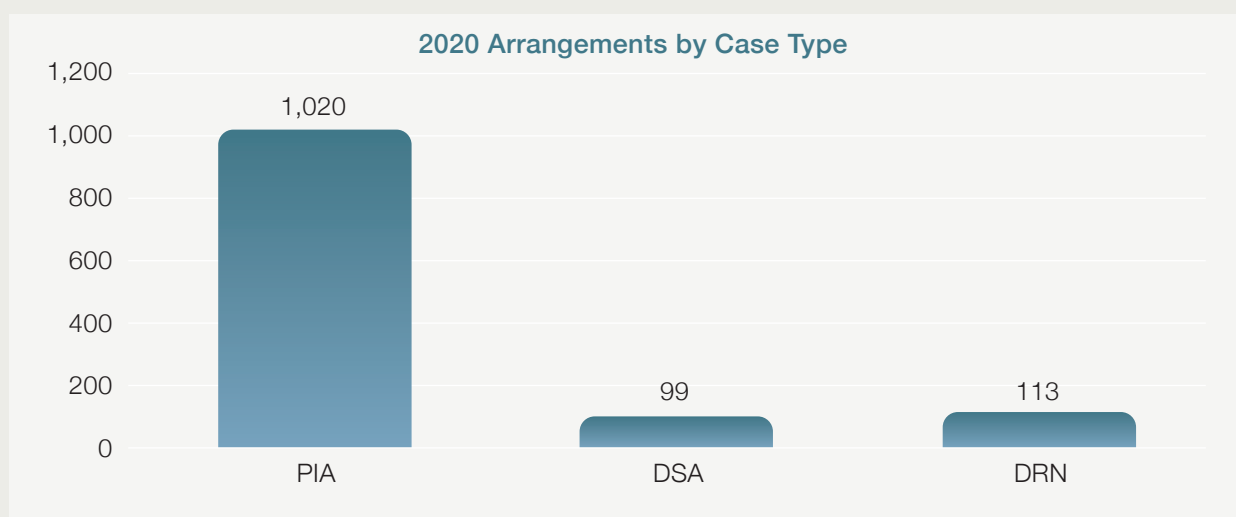
#### Protective Certificates down 29% in 2020

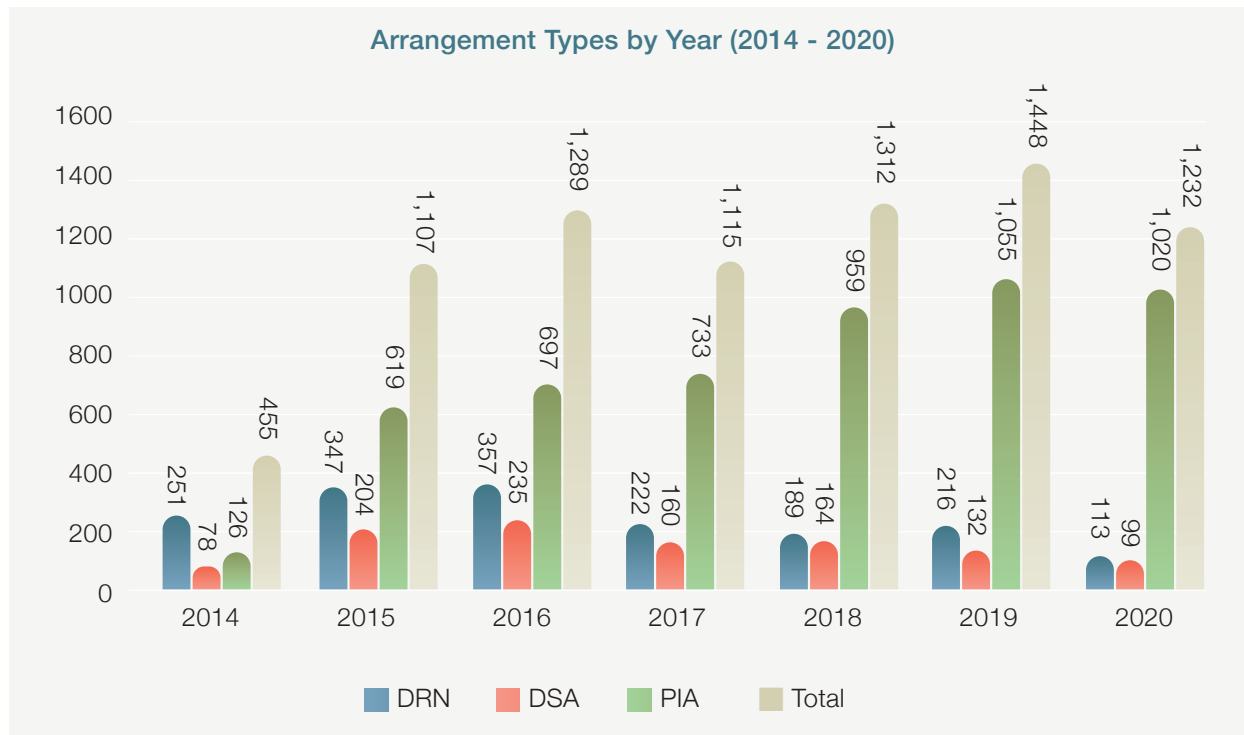
The number of Protective Certificates decreased in 2020, from 1,986 to 1,402. The reason for this is likely to be related to the onset of the Covid-19 pandemic in 2020, and the need for PIPs to defer making applications in some cases until debtors' circumstances had settled somewhat. This represents a lead indicator of debtors who will, in time, enter into a DSA or PIA.



#### Court-approved Arrangements down 15% in 2020

The number of Arrangements decreased in 2020, from 1,448 to 1,232. The decrease is likely to be due to a lower numbers of applications being submitted to the ISI in light of developments related to Covid-19. In addition, approval of a number of Arrangements was deferred due to many debtors having to avail of government supports during this period, in the context of the need to assure the courts of the sustainability of those Arrangements.





### PIP Performance 2020

- ▶ The Top 30 PIPs accounted for 1,080 Arrangements, 97% of PIP Arrangements (DSA & PIA)
- ▶ The Top 20 PIPs accounted for 991 Arrangements, 89% of PIP Arrangements (DSA & PIA)
- ▶ The Top 10 PIPs accounted for 747 Arrangements, 67% of PIP Arrangements (DSA & PIA)
- ▶ 47 PIPs secured at least 1 Personal Insolvency Arrangements in 2020
- ▶ 25 PIPS had between 1 and 10 Approved Arrangements in 2020
- ▶ 16 PIPs had between 11 and 49 Approved Arrangements in 2020
- ▶ 6 PIPs had 50 or more Approved Arrangements in 2020



## Appendix 3

### Further detail and key statistics – Policy and Regulation

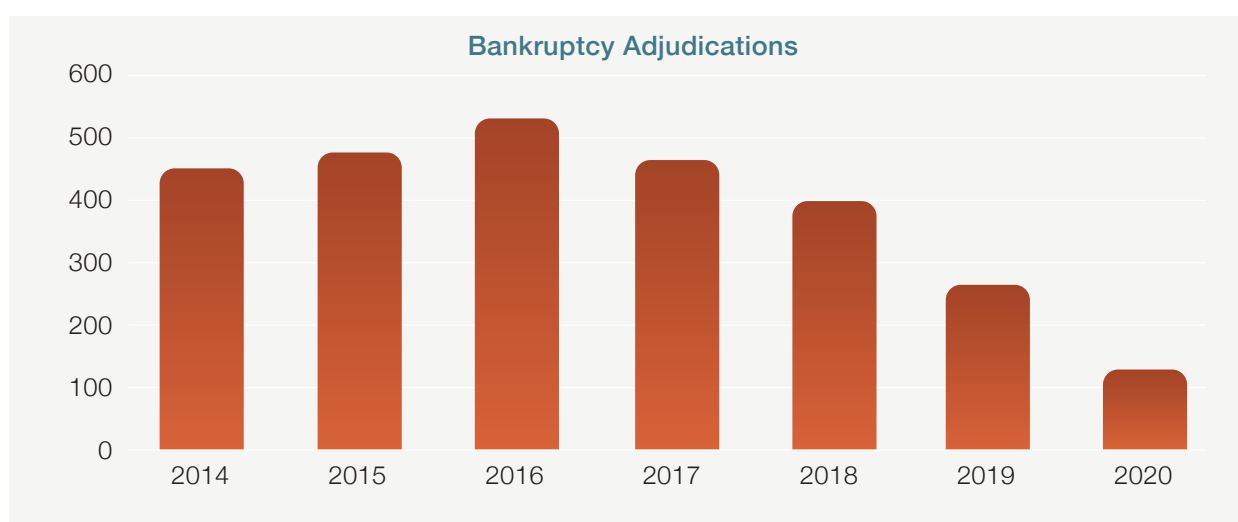
Summary of status of Authorisations	
Authorised PIPs at end of year	85
New authorisations during 2020	2
Renewal of authorisations during 2020	19
Non-renewal of authorisations during 2020	13
Cessation of authorisation before expiry	2
Approved Intermediaries at end of year	11
Responsible persons linked to Approved Intermediaries Authorisations	135

An authorisation as a PIP normally lasts for three years and the first authorisations of PIPs occurred in 2013.

# Appendix 4

## Further detail and key statistics

### - Bankruptcy



The number of debtors petitioning the High Court for their own bankruptcies in 2020 was 118, compared to 229 in 2019, which is a decrease of 111. There were 12 creditor petitioned bankruptcies in 2020 compared to 34 in 2019, a decrease of 22 on last year; the complexity of the administration of these bankruptcies is challenging.

2020 Case Type	2020 % Break Down
Petitioning Creditor	9.2%
Self-Adjudication	90.8%

#### Family Home / Principal Private Residences (PPR)

105 Family Homes / PPR re-vested in former bankrupts under the 3 year rule in 2020. The Bankruptcy Division completed 10 settlements with either the former bankrupt or the bankrupt's spouse in relation to these properties. The Official Assignee took 11 applications to sell his interest in the Family Home / PPR during 2020.

#### 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. This Office will continue its policy to vigorously pursue the recovery of assets not declared. During 2020 165 investigations were undertaken; in many instances investigations have resulted in the identification of undisclosed assets such as bank accounts, cars, properties, rental income, and transfers of assets prior to bankruptcy (the figure for the realisation of such assets is in excess of €2m). In one case alone over €540,165 was recovered.

#### Enforcement and Compliance

The Enforcement and Compliance Team was setup to: manage PC cases; manage properties in which the OA has rental interest; inspect bankruptcy assets and carry out asset seizures in situ; ensure that bankrupts comply with the terms

of their bankruptcy, and, ensure they cooperate fully with the Office. During 2020, proceedings for non-cooperation have led to bankruptcy term extensions orders in 14 cases. Of these 14 orders, 10 were interim orders and 4 were final orders. The final extension order terms granted were for durations of between 4 years and 8 years.

### Asset Realisations

Assets with a value of €5,691,978 were realised into 140 Bankruptcy Estates. €4,176,226 was received from Moveable Assets and €1,515,752 was received from the sale of Immoveable Assets.

	Amount €
Sale of Securities	1,626,840
Proceeds from Land and Buildings	1,515,752
Rental income from properties	854,977
Proceeds from Debts Due and other sources	852,010
Income Payment Orders	672,634
Encashment of Pensions Plans	169,765
<b>Total</b>	<b>5,691,978</b>

### 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 calculated as the surplus of income earned by the bankrupt on a monthly basis over the reasonable living expenses allowed to them under the Reasonable Living Expense Guidelines (issued by the ISI) and any allowable Special Circumstances expenses.

In 2020, 23 BPOs were put in place through the High Court resulting in an average monthly figure of €777 per case being made available for the benefit of creditors.

### Payment of Dividends

Dividends with a cumulative total of approximately €2,866,617 were paid out to 146 creditors in 38 cases by year-end 2020.

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## Appendix 5

### 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 - Scheme of Aid and Advice for Borrowers in Home Mortgage Arrears**

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 to him/her 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.

#### **Formal Arrangement / Solution**

Statutory debt solutions available

#### **Informal Arrangement / Solution**

Debt solution outside of the statutory solutions available

#### **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 an officer of the Court, 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.

### Responsible Person

A responsible person is an individual or the person who will provide Approved Intermediary services for the applicant who is a body corporate (responsible person)

### Reasonable Standard of Living / Reasonable Living Expenses

The ISI is required, under section 23 of the Personal Insolvency Act 2012, 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.

# 13

## **Financial Statements**

For the year ended 31  
December 2020

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# 1

## GOVERNANCE STATEMENT OF THE INSOLVENCY SERVICE OF IRELAND

### Governance

The Insolvency Service of Ireland (the ISI) was established in March 2013 under the Personal Insolvency Act 2012 (the Act). Section 9 of the Act sets out the principal functions of the ISI. The responsibilities of the Director are detailed in Section 11 of the Act and include

- ▶ To manage and control generally the Insolvency Service's staff, administration and business
- ▶ To be responsible to the Minister for the performance of his or her functions, and
- ▶ To perform such other functions as may be required by the Minister or as may be authorised under the Act.

The role of Director is supported by a senior management team in his or her responsibilities of providing strategic leadership, direction, support and guidance and in promoting commitment to core values, policies and objectives.

Section 17 (2) of the Personal Insolvency Act 2012 (as amended by Section 39 of the Courts and Civil Law (Miscellaneous Provisions) Act 2013), states the ISI shall keep in such form and in respect of such accounting periods as may be approved by the Minister for Justice ("the Minister") with the consent of the Minister for Public Expenditure and Reform all proper and usual accounts:

- a) of monies received and spent by the Insolvency Service, including an income and expenditure account and a balance sheet,
- b) relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment.

In preparing the financial statements in the form approved by the Minister, the ISI:

- ▶ selected appropriate accounting policies and apply them consistently
- ▶ made judgements and estimates that are reasonable and prudent
- ▶ prepare the financial statements on the going concern basis
- ▶ stated, where applicable, accounting standards have been followed subject to any material departures disclosed and explained in the financial statements.

The ISI is responsible for keeping proper books of account which disclose with reasonable accuracy at any time its financial position and which enable it to ensure that the financial statements comply with Section 17(2) of the Personal Insolvency Act 2012. The ISI is also responsible for safeguarding its assets and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.



The ISI has adopted the Code of Practice for the Governance of State Bodies 2016 with certain exceptions which mainly relate to the fact that the ISI has no Board. The ISI has received sanction from its sponsoring Department (Department of Justice) for this approach.

### Audit and risk committee

The Act does not provide for a board and due to the size of the ISI an audit and risk committee has not been formed. The Director together with the senior management team approves the risk management framework and monitors its effectiveness. Key risks are highlighted to the Department and internal and external auditors as appropriate. Both the Director and the Department of Justice are satisfied this approach fulfils the requirements of an audit and risk committee.

### Disclosures required by the Code of Practice for the Governance of State Bodies (2016)

Employee short-term benefits breakdown above €60,000			
From	To	2020	2019
€60,000	€69,999	6	5
€70,000	€79,999	9	6
€80,000	€89,999	2	6
€90,000	€99,999	1	0
€100,000	€109,999	0	2
€110,000	€119,999	0	0
€120,000	€129,999	0	0
€130,000	€139,999	0	1
€140,000	€149,999	1	0
<b>Total</b>		<b>19</b>	<b>20</b>

Aggregate employee benefits comprise short-term benefits only. No termination payments, benefits, post-employment benefits or other long-term benefits were paid to any employee in 2020.

Consultancy costs	2020 €	2019 €
Legal advice	263,816	173,466
Public relations/marketing	0	0
Other	24,576	38,597
<b>Total</b>	<b>288,392</b>	<b>212,063</b>

Legal costs and settlements	2020 €	2019 €
Legal costs and settlements	0	0

Travel and subsistence expenditure	2020 €	2019 €
<b>Domestic</b>		
- Director - Michael McNaughton (from 30 September 2019)	64	0
- Lorcan O'Connor (to 22 February 2019)	0	966
- Interim Director - Christopher Lehane (between above dates)	0	35
- Employees	2,391	22,468
<b>International</b>		
- Director - Michael McNaughton (from 30 September 2019)	0	0
- Lorcan O'Connor (to 22 February 2019)	0	0
- Interim Director - Christopher Lehane (between above dates)	0	1,470
- Employees	0	1,815
<b>Total</b>	<b>2,455</b>	<b>26,754</b>

Hospitality expenditure	2020 €	2019 €
Hospitality expenditure	0	0

Aggregate employee benefits	2020 €	2019 €
Aggregate employee benefits	4,170,750	3,788,328
Number of employees (whole time equivalent)	76.5	80.5

Key management employee benefits	2020 €	2019 €
Director - Michael McNaughton (from 30 September 2019)	141,320	33,640
Lorcan O'Connor (to 22 February 2019)	0	22,369
Interim Director - Christopher Lehane (between above dates)	0	83,363
Senior Management Team	356,713	307,617
<b>Total</b>	<b>498,033</b>	<b>446,989</b>

Director salary and benefits	2020 €	2019 €
Director salary and benefits	141,320	139,372

### Value of retirement benefits

ISI staff are civil servants and their pension liabilities will be met from the superannuation vote managed by the Department of Public Expenditure and Reform. Superannuation entitlements do not extend beyond the standard arrangements for civil servants.

### Statement of compliance

The ISI has adopted the Code of Practice for the Governance of State Bodies (2016) and has put procedures in place to ensure compliance with the Code. Except as explained above with regard to an audit and risk committee, the ISI was in full compliance with the Code of Practice for the Governance of State Bodies for 2020.

*The Governance Statement was approved by the Director on 20 December 2021.*

## 2

# STATEMENT ON INTERNAL CONTROL

Section 11(3) of the Personal Insolvency Act 2012, states that the Director shall:

- (a) manage and control generally the ISI's staff, administration and business,
- (b) be responsible to the Minister for the performance of his or her functions, and
- (c) perform such other functions (if any) as may be required by the Minister or as may be authorised under this Act.

The Director has overall responsibility for ensuring that an effective system of internal control is maintained and operated by the ISI. This responsibility takes account of the requirements of the Code of Practice for the Governance of State Bodies (2016).

### **Purpose of the System of Internal Control**

The system of internal control can only provide reasonable and not absolute assurance that assets are safeguarded, transactions authorised and properly recorded, and that material errors or irregularities are either prevented or would be detected in a timely way.

The system of internal control, which accords with guidance issued by the Department of Public Expenditure and Reform has been in place in the ISI for the year ended 31 December 2020 and up to the date of approval of the financial statements.

### **Capacity to Handle Risk**

There is a non-statutory Senior Management Team (SMT) in place which is comprised of the Director, Head of Bankruptcy, Head of Case Management, Head of Policy, Regulation and Corporate Affairs and Head of Legal Services. All major strategic matters facing the ISI are considered at formal meetings of the SMT which meets at regular intervals.

The ISI's control procedures are subject to review by the Department of Justice's Internal Audit Division.

The Department of Justice Audit Committee reviews the work of Internal Audit.

In 2020 the SMT updated the risk management policy which sets out its risk appetite, the risk management processes in place and details the roles and responsibilities of staff in relation to risk. The policy has been issued to all staff who are expected to work within the ISI's risk management policies, to alert management on emerging risks and control weaknesses and assume responsibility for risks and controls within their own area of work.

### **Risk and Control Framework**

The ISI has implemented a risk management system which identifies and reports on the key risks to the ISI and on the management actions being taken to address and, to the extent possible, to mitigate those risks.

A risk register is in place which identifies the key risks facing the ISI and these have been identified, evaluated and graded according to their significance. The register is reviewed on a monthly basis by the SMT and on a quarterly basis by the Risk Committee and updated where applicable. The outcome of these assessments is used to plan and allocate resources to ensure risks are managed to an acceptable level.

The risk register details the controls and actions needed to mitigate risks and responsibility for the operation of controls assigned to specific staff. Controls are tested periodically as set out in the Risk Testing Schedule. I confirm that a control environment containing the following elements is in place:

- ▶ procedures for all key business processes have been documented;
- ▶ financial responsibilities have been assigned at management level with corresponding accountability;
- ▶ there is an appropriate budgeting system with an annual budget which is kept under review by senior management;
- ▶ there are systems aimed at ensuring the security of the information and communication technology systems;
- ▶ there are systems in place to safeguard the assets.

### Ongoing Monitoring and Review

Formal procedures have been established for monitoring control processes. Control deficiencies are communicated to those responsible for taking corrective action and to the SMT, where relevant, in a timely way. I confirm that the following ongoing monitoring systems are in place:

- ▶ key risks and related controls have been identified and processes have been put in place to monitor the operation of those key controls and report any identified deficiencies;
- ▶ reporting arrangements have been established at all levels where responsibility for financial management has been assigned;
- ▶ there are regular reviews by senior management of periodic and annual performance and financial reports which indicate performance against budgets/forecasts.

### Procurement

I confirm that the ISI has procedures in place to ensure compliance with current procurement rules and guidelines and that during 2020 the ISI complied with those procedures in all but one instance with a value of €100,977. This arose as a contract for specific IT services in respect of a major ISI information technology investment expired close to the end of the project. Given the experience of the existing service provider, the rates being charged, the critical stage at which the project was at with significant adverse effects anticipated if a delay occurred in obtaining the necessary information technology services and the fact that there was no other available active contract for the drawdown of equivalent services a decision was taken that the most economically advantageous approach was to continue with the service provider in situ.

### **Impact of Covid-19 pandemic on the control environment**

Prior to the Covid-19 pandemic certain key ISI personnel had access to secure remote working and, with the assistance of the Department of Justice IT section, this was rolled out to all ISI personnel following the initial imposition of restrictions by Government in March 2020. This enabled ISI to continue to deliver its services effectively.

Key organisational and financial controls were maintained with regular SMT, and other team and committee, meetings being conducted via Zoom calls etc. and others such as payment approvals were executed by e-mail rather than by physical signature where required. Internal and external audits were conducted remotely with relevant documentation provided electronically.

### **Review of effectiveness**

The ISI, in monitoring and reviewing the effectiveness of the system of internal control, is informed by internal audit reports undertaken by the Department of Justice and the comments made by the Comptroller and Auditor General in his management letter or other reports. The Department of Justice carried out an internal audit on the effectiveness of the ISI's system of control in February and March 2021.

I confirm that the Senior Management Team conducted a review of the effectiveness of the system of internal control in respect of the year ended 31 December 2020. This review resulted in an updated Risk Management Policy.

### **Internal Control Issues**

No weaknesses in internal control were identified in relation to 2020 that require disclosure in the financial statements.

*The Statement on Internal Control was approved by the Director on 20 December 2021.*

## 3

## AUDITORS REPORT



## Ard Reachtaire Cuntas agus Ciste Comptroller and Auditor General

### Report for presentation to the Houses of the Oireachtas

### Insolvency Service of Ireland

### Opinion on financial statements

I have audited the financial statements of the Insolvency Service of Ireland for the year ending 31 December 2020 as required under the provisions of section 17(3) of the Personal Insolvency Act 2012. The financial statements comprise

- the statement of income and expenditure and retained revenue reserves
- the statement of financial position
- the statement of cash flows and
- the related notes, including a summary of significant accounting policies.

In my opinion, the financial statements give a true and fair view of the assets, liabilities and financial position of the Insolvency Service of Ireland at 31 December 2020 and of its income and expenditure for 2020 in accordance with Financial Reporting Standard (FRS) 102 — *The Financial Reporting Standard applicable in the UK and the Republic of Ireland*.

### *Basis of opinion*

I conducted my audit of the financial statements in accordance with the International Standards on Auditing (ISAs) as promulgated by the International Organisation of Supreme Audit Institutions. My responsibilities under those standards are described in the appendix to this report. I am independent of the Insolvency Service of Ireland and have fulfilled my other ethical responsibilities in accordance with the standards.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Report on information other than the financial statements, and on other matters

The Insolvency Service of Ireland has presented certain other information together with the financial statements. This comprises the governance statement and the statement on internal control. My responsibilities to report in relation to such information, and on certain other matters upon which I report by exception, are described in the appendix to this report.

I have nothing to report in that regard.

**Paul Southern**  
For and on behalf of the  
Comptroller and Auditor General

21 December 2021

## Appendix to the report

### Responsibilities of the Director

The governance statement sets out the Director's responsibilities. The Director is responsible for

- the preparation of financial statements in the form prescribed under section 17(2) of the Personal Insolvency Act 2012
- ensuring that the financial statements give a true and fair view in accordance with FRS102
- ensuring the regularity of transactions
- assessing whether the use of the going concern basis of accounting is appropriate, and
- such internal control as he determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### Responsibilities of the Comptroller and Auditor General

I am required under section 17(3) of the Personal Insolvency Act 2012 to audit the financial statements of the Insolvency Service of Ireland and to report thereon to the Houses of the Oireachtas.

My objective in carrying out the audit is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement due to fraud or error. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with the ISAs, I exercise professional judgment and maintain professional scepticism throughout the audit. In doing so,

- I identify and assess the risks of material misstatement of the financial statements whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- I obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- I evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures.
- I conclude on the appropriateness of the use of the going concern basis of accounting and, based on the audit evidence obtained, on whether a material uncertainty exists related to events or conditions that may cast

significant doubt on the Insolvency Service of Ireland's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my report. However, future events or conditions may cause the Insolvency Service of Ireland to cease to continue as a going concern.

- I evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

### Information other than the financial statements

My opinion on the financial statements does not cover the other information presented with those statements, and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, I am required under the ISAs to read the other information presented and, in doing so, consider whether the other information is materially inconsistent with the financial statements or with knowledge obtained during the audit, or if it otherwise appears to be materially misstated. If, based on the work I have performed, I conclude that there is a material misstatement of this other information, I am required to report that fact.

### Reporting on other matters

My audit is conducted by reference to the special considerations which attach to State bodies in relation to their management and operation. I report if there are material matters relating to the manner in which public business has been conducted.

I seek to obtain evidence about the regularity of financial transactions in the course of audit. I report if there is any material instance where public money has not been applied for the purposes intended or where transactions did not conform to the authorities governing them.

I also report by exception if, in my opinion,

- I have not received all the information and explanations I required for my audit, or
- the accounting records were not sufficient to permit the financial statements to be readily and properly audited, or
- the financial statements are not in agreement with the accounting records.



## 4

# STATEMENT OF INCOME AND EXPENDITURE AND RETAINED REVENUE RESERVES

## FOR THE YEAR ENDED 31 DECEMBER 2020

Hospitality expenditure	Notes	2020 €	2019 €
<b>Income</b>			
Oireachtas grants	2	6,730	6,239
Abhaile Scheme	3	1,004	1,232
Other income	4	704	1,143
<b>Total Income</b>		<b>8,438</b>	<b>8,614</b>
<b>Expenditure</b>			
Staff Costs	5	4,174	3,816
Administration	6	2,087	1,663
Abhaile Scheme	3	1,004	1,232
Audit Fee		12	10
Depreciation	7	186	165
<b>Total Expenditure</b>		<b>7,463</b>	<b>6,886</b>
<b>Surplus / (Deficit) for the year before appropriations</b>		<b>975</b>	<b>1,728</b>
Remitted to the Department of Justice		(767)	(1,083)
Transfer (to) / from capital account	9	(565)	(824)
<b>(Deficit)/Surplus for the year after appropriations</b>		<b>(357)</b>	<b>(179)</b>
Balance brought forward at start of year		617	796
<b>Balance carried forward at end of year</b>		<b>260</b>	<b>617</b>

The statement of income and expenditure and retained revenue reserves includes all gains and losses recognised in the year. The statement of cash flows and notes 1 to 15 form part of these financial statements.

*The Financial Statements were approved by the Director on 20 December 2021.*

# 5

## STATEMENT OF FINANCIAL POSITION AS AT 31 DECEMBER 2020

	Notes	2020 €	2020 €	2019 €	2019 €
<b>Fixed assets</b>					
Property, plant and equipment	7		2,348		1,783
<b>Current assets</b>					
Cash and cash equivalents		83		139	
Receivables	8	621		597	
		704		736	
<b>Current liabilities</b>					
Accruals		(444)		(119)	
Net current assets			260		617
Total net assets			<b>2,608</b>		<b>2,400</b>
Representing					
Capital account	9		2,348		1,783
Retained revenue reserves			260		617
			<b>2,608</b>		<b>2,400</b>

**The statement of cash flows and notes 1 to 15 form part of these financial statements.**

*The Financial Statements were approved by the Director on 20 December 2021.*

## 6

# STATEMENT OF CASH FLOWS

## FOR THE YEAR ENDED 31 DECEMBER 2020

Hospitality expenditure	2020 €	2019 €
<b>Net cash flows from operating activities</b>		
Excess income over expenditure	975	1,728
Amortisation of deferred capital grants	186	165
(Increase) / Decrease in receivables	(24)	195
Increase / (Decrease) in payables	325	44
Contribution to the Exchequer	(767)	(1,083)
<b>Net cash inflow from operating activities</b>	695	1,049
<b>Cash flows from investing activities</b>		
Payments to acquire property, plant and equipment	(751)	(989)
<b>(Decrease) / Increase in cash and cash equivalents</b>	<b>(56)</b>	<b>60</b>
Cash and cash equivalents at start of year	139	79
<b>Cash and cash equivalents at end of year</b>	<b>83</b>	<b>139</b>

Notes 1 to 15 form part of these financial statements.

*The Financial Statements were approved by the Director on 20 December 2021.*

## 7

# NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 DECEMBER 2020

## 1. Accounting policies

### General information

The basis of accounting and significant accounting policies adopted by the Insolvency Service of Ireland is set out below. They have all been applied consistently throughout the year and for the preceding year.

### Statement of compliance and basis of accounting

The financial statements of the ISI for the year ended 31 December 2020 have been prepared in accordance with FRS 102, the financial reporting standard applicable in the UK and Ireland issued by the Financial Reporting Council (FRC), as promulgated by Chartered Accountants Ireland. The financial statements have been prepared under the accruals method of accounting, except where stated below, and in accordance with generally accepted accounting principles under the historical cost convention and in the form approved by the Minister for Justice with the consent of the Minister for Public Expenditure and Reform.

### Income Recognition

Oireachtas funding for the ISI provided through Programme A – Subhead A11 of Vote 24 -Department of Justice is reported on a cash basis. Other income is reported on a cash received basis with the exception of fees for the authorisation of personal insolvency practitioners and renewal fees which are recognised in the year when an application has been approved.

Fee income is remitted to the Department of Justice. It is recorded as appropriations-in-aid in the Department's accounts.

The Abhaile scheme was introduced in 2016 to provide a free consultation with a Personal Insolvency Practitioner (PIP) for people who are insolvent and in arrears on their mortgage. The scheme operates on a voucher system and is administered by the Money Advice Budgeting Service (MABS) in conjunction with the ISI. The ISI pays the PIP and the payment is refunded to the ISI by the Department of Social Protection. The expenses are recorded on an accruals basis with matching income recognised as expenses are incurred.

Further information in relation to income and expenditure is provided in note 3.

### Expenditure

All expenditure, including payroll, is processed by the Department of Justice and recorded in the financial statements and includes VAT, which is not recoverable by ISI, where applicable.

The new Single Public Service Pension Scheme ('Single Scheme') commenced with effect from 1 January 2013. All new entrants to pensionable public service employment on or after 1 January 2013 are, in general, members of the Single Scheme as set down in the Public Sector Pensions (Single Scheme and Other provisions) Act 2012.

All pension deductions made under the Single Scheme are remitted to the Department of Public Expenditure and Reform. As all the ISI's staff are civil servants their pension liabilities will be met out of Vote 12 Superannuation.

### Official Assignee

Section 17(2A) of the Personal Insolvency Act 2012 (as amended), requires the ISI to maintain accounts relating to the functions of the Official Assignee under the Bankruptcy Act 1988 or any other enactment. These accounts are subject to the supervision of the Court. Consequently, the financial statements of the ISI do not recognise any transactions in relation to bankrupts.

The accounts in respect of the Official Assignee do not form part of these financial statements and do not fall under the remit of the Comptroller and Auditor General. In accordance with S.I. No. 464 of 2013 – Bankruptcy Act 1988 (Official Assignee Accounts and Related Matters) Regulations 2013 the accounts are reviewed annually by independent accountants and an Independent Accountants Report is issued to the High Court. The administration costs and relevant fees in relation to the work of the Official Assignee are recognised in these financial statements.

The Courts and Civil Law (Miscellaneous Provisions) Act 2013 provided for the transfer of the Office of the Official Assignee in Bankruptcy to the ISI. Under the Act, the Official Assignee continues to be an Officer of the Court and is independent in the performance of his/ her functions under law.

### Property, plant and equipment

Property, plant and equipment is shown at the net book value at date of transfer to the ISI and is amortised on a straight-line basis over their estimated useful life starting in the month the asset is placed in service, as follows:

Furniture	10% Straight Line
IT Hardware & Software	20% Straight Line
Office Equipment	20% Straight Line

### Capital Account

The capital account represents the unamortised value of income applied for capital expenditure.

## 2. Oireachtas grants

	2020 €'000	2019 €'000
Vote 24 - Justice (Programme A. – Sub-head A11)	6,730	6,239
	<b>6,730</b>	<b>6,239</b>

Funding for the ISI is provided from the Vote of the Department of Justice which makes all payments on behalf of the ISI. The total grant matches the sum charged to the Appropriation Account of that Department.

### 3. Abhaile Scheme

	2020 €'000	2019 €'000
Payment made by ISI	1,004	1,232
Reimbursement from Department of Social Protection	(1,004)	(1,232)
	<b>0</b>	<b>0</b>

The scheme was introduced in 2016 to provide a free consultation with a Personal Insolvency Practitioner (PIP) for people who are insolvent and in arrears on their mortgage. The amount payable to a PIP for each consultation is €615 (€500 plus VAT at 23%). (Note that this amount of €615 was briefly reduced to €605 (€500 plus VAT at 21%) during the temporary reduction in the standard rate of VAT to 21% with effect from 1 September 2020 to 28 February 2021.) The scheme operates on a voucher system and is administered by the Money Advice Budgeting Service (MABS) in conjunction with the ISI. The ISI pays the PIP and the payment is refunded to the ISI by the Department of Social Protection. The number availing of the scheme amounted to 1,640.

### 4. Other income

	2020 €'000	2019 €'000
Personal insolvency practitioners authorisation application fees	11	60
Bankruptcy administration fees	39	47
Bankruptcy realisation fees	639	1,002
Bankruptcy distribution fees	15	34
	<b>704</b>	<b>1,143</b>

The ISI in exercising its powers under Sections 3 and 20 of the Personal Insolvency Act 2012 can prescribe fees for the authorisation and renewal of personal insolvency practitioners. This is set out in S.I. No. 246 of 2013 (Personal Insolvency Practitioner Authorisation and Renewal of Authorisation Prescribed Fees) Regulations 2013. The fee payable for the initial authorisation is €1,500 and the fee payable for renewal of authorisation is €1,000. The term for authorisation of a practitioner is three years.

During the year a total of 17 (2019: 58) personal insolvency practitioners were granted authorisations to practice. The figure of 17 is comprised of 13 renewals and 4 new authorisations.

The ISI in exercising its powers under Sections 3 and 20 of the Personal Insolvency Act 2012 can prescribe fees for applications for protective certificates and debt relief notices. These fees are set out in S.I. No. 620 of 2015, Personal Insolvency Act 2012 (Prescribed Fees) Regulations 2015.

Under S.I. No. 620 of 2015 any fees payable to the ISI in respect of Personal Insolvency Applications (PIAs), Debt Settlement Arrangements (DSAs) and Debt Relief Notices (DRNs) were waived until 31 December 2017. S.I. No. 609 of 2017 amended Regulation 6 of S.I. No. 620 of 2015 by substituting 31 December 2020 for 31 December 2017. S.I. No. 678 of 2020 further amended Regulation 6 of S.I. No. 620 of 2015 by substituting 31 December 2023 for 31 December 2020.

The ISI in exercising its powers under Sections 3 and 20 of the Personal Insolvency Act 2012 (the Act) can prescribe fees to be paid in respect of the performance of the functions of the Official Assignee under the Bankruptcy Act 1988. These fees are set out in S.I. No. 465 of 2013, Personal Insolvency Act 2012 (Prescribed Fees) Regulations 2013.

The fees are in respect of administration of the bankrupt estate, realisation fees on disposal of assets and distribution fees on the payment of a dividend to creditors of the bankrupt estate.

Fee income is remitted to the Department of Justice net of bank charges.

The Official Assignee remitted fees totalling €692,836 to the ISI for the year ended 31 December 2020 in respect of bankrupt estates. (2019: €1,082,678).

## 5. Staff Costs

	2020 €'000	2019 €'000
Wages and salaries	4,149	3,770
Overtime	2	1
Allowances	20	18
Travel and subsistence	3	27
<b>TOTAL</b>	<b>4,174</b>	<b>3,816</b>

The ISI had 78 (2019: 83) staff at 31 December 2020. In full time equivalent numbers this represented 76.5 staff at 31 December 2020 (2019: 80.5).

## 6. Administration Costs

	2020 €'000	2019 €'000
Postage and telecommunications	29	38
Office supplies	13	29
Office cleaning, maintenance and utilities	74	17
IT support	640	483
Contracted services	28	43
Legal fees	264	173
Public information campaign	704	682
Funding for the Official Assignee (i)	300	0
General expenses (ii)	35	198
<b>TOTAL</b>	<b>2,087</b>	<b>1,663</b>

- (i) Funding of €300,000 for the Official Assignee was provided by the Department of Justice during the year ended 31 December 2020.
- (ii) An accounting adjustment has been made to account for an amount of €1k (2019 €131k) arising from a timing difference in end of year Abhaile receipts which are remitted to the Department of Justice.



## 7. Property, plant and equipment

	IT Equipment €'000	Office Equipment €'000	Furniture €'000	ISI CMS €'000	New ISI Online CMS (Went live in Sept 2020) €'000	Bankruptcy CMS €'000	Total €'000
<b>Cost</b>							
At 1 January 2020	41	10	293	3,102	1,678	669	5,793
Additions	2	0	0	0	741	8	751
Disposals	(4)	0	0	(3,102)	0	0	(3,106)
At 31 December 2020	<b>39</b>	<b>10</b>	<b>293</b>	<b>0</b>	<b>2,419</b>	<b>677</b>	<b>3,438</b>
<b>Accumulated amortisation</b>							
At 1 January 2020	40	10	194	3,102	0	664	4,010
Charge for the year	0	0	29	0	151	6	186
Disposals	(4)	0	0	(3,102)	0	0	(3,106)
At 31 December 2020	<b>36</b>	<b>10</b>	<b>223</b>	<b>0</b>	<b>151</b>	<b>670</b>	<b>1,090</b>
<b>Net Book Value</b>							
At 31 December 2020	<b>3</b>	<b>0</b>	<b>70</b>	<b>0</b>	<b>2,268</b>	<b>7</b>	<b>2,348</b>
At 1 January 2020	1	0	99	0	1,678	5	1,783

The new ISI Online CMS consists of an online case management system for the processing and handling of debt solutions. This system went live in September 2020. Depreciation of this system commenced from the date it went live.

At 31 December 2020, ISI had future contractual commitments of €0.553 million (2019 €1.084 million) to the main contractor engaged in the development and implementation of this online case management system in respect of that contract.

The ISI CMS consisted of a case management system for the processing and handling of debt solutions. This system, which was fully depreciated, was retired when the above mentioned new ISI Online CMS went live in September 2020.

Bankruptcy CMS consists of a case management system dealing with the estates of bankrupt individuals.

## 8. Receivables

	2020 €'000	2020 €'000	2019 €'000	2020 €'000
Debtors	89		89	
Provision for bad debt	(89)	0	(89)	0
Prepayments and other receivables	621		597	
<b>TOTAL</b>		<b>621</b>		<b>597</b>

Debtors represent an amount which is due to the ISI from the Courts Service of Ireland. The ISI paid the costs for a contractor to work with the Courts Service of Ireland in order that their IT systems were compatible with the new systems developed by the ISI. The total amount paid to the contractor by the ISI was €158,297. The agreement in place stipulates that the ISI will recoup the costs incurred by offsetting amounts (Court Fees) collected by the ISI on behalf of the Courts Service. €68,610 was offset against the fees collected in 2014 by the ISI for the Courts Service on debt settlement and personal insolvency arrangements which leaves a remaining balance due of €89,687. Under statutory instruments any fees payable to the ISI in respect of Personal Insolvency Arrangements, Debt Settlement Arrangements and Debt Relief Notices have been waived from 22 December 2015 to 31 December 2023.

## 9. Capital Account

	2020 €'000	2020 €'000	2019 €'000	2020 €'000
Balance at 1 January		1,783		959
State grant applied to purchase assets	751		989	
Amortisation of deferred capital grants	(186)		(165)	
Transfer from / (to) income and expenditure account		565		824
Balance at 31 December		<u>2,348</u>		<u>1,783</u>

## 10. Pension Levy

Salary costs are the gross costs to the ISI for the year. The Department of Justice pays salaries on behalf of the ISI. Pension levy deductions, as per Section 2(3) of the Financial Emergency Measures in the Public Interest Act 2009 (No. 5 of 2009), are made by the Department and are retained as Appropriations-in-Aid. This amounted to €68,094 in 2020 (2019: €96,199).

## 11. Premises

The ISI operates from accommodation at Block 2, Phoenix House, Conyngham Road, Dublin 8 the lease of which is paid by the Office of Public Works. Utilities costs are borne by the ISI.

## 12. Directors' Remuneration

The Directors' remuneration for the year ended December 2020 totalled €141,320 (the total annual salary in 2019 was €139,372). This comprised the remuneration of:-

- ▶ Michael McNaughton, (who commenced as Director on 30 September 2019), €141,320, (2019: €33,640)
- ▶ Lorcan O'Connor, (who stepped down as Director on 22 February 2019 to take up another appointment outside of the ISI), €Nil, (2019 €22,369) and
- ▶ Christopher Lehane, (who was designated, by the Minister for Justice, to perform the functions of the Director between the above two dates), €Nil (2019: €83,363) (while acting as Interim Director).

They were paid the following in respect of travel and subsistence expenses for the year in accordance with Civil Service travel and subsistence rates:-

- ▶ Michael McNaughton €64 (2019: Nil)
- ▶ Lorcan O'Connor €Nil (2019: €966)
- ▶ Christopher Lehane, €Nil (2019: €1,504) (while acting as Interim Director)

Pension entitlements do not extend beyond the standard entitlements in the public sector defined benefit superannuation scheme. No performance related payments were made in 2020.

### 13. Movement in Accumulated Surplus

	2020 €'000	2019 €'000
Opening surplus	617	796
(Deficit)/surplus for the year	(357)	(179)
<b>Total at end of the year</b>	<b>260</b>	<b>617</b>

### 14. Contingent Liabilities

The Insolvency Service of Ireland is involved in pending legal proceedings which may generate liabilities depending on the outcome of the litigation. The actual amount or timing of these liabilities is uncertain.

### 15. Approval of the financial statements

The financial statements were approved by the Senior Management Team of the Insolvency Service of Ireland on 16 December 2021.

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**ISI**  
Tackling problem debt, together

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