Banking & Payments Federation Ireland

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Review of Reasonable Living Expenses (RLEs) – ISI Public Consultation July 2021

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Introduction

BPFI welcomes the opportunity to take part in the ISI's consultation about the review of RLEs. BPFI members are committed to supporting customers in their personal and financial well-being. The extensive work of the VPSJ in the area of research into the expenditure and income needed for a minimum essential standard of living is invaluable to society and to the financial services industry. Members acknowledge and endorse that in calculating the Minimum Essential standard of Living (MESL), consideration is given to the critical holistic factors being the physical, psychological, and social needs of individuals and households.

Question 1

Pending further research, do you agree that the secondary school child allowance, including the amount of the Child Benefit payment, should be used as the default allowable expense for a college-going child in the RLEs? Please feel free to provide a rationale for your response.

BPFI members agree that funding third level education is important but must be balanced with the importance of managing to comply with the terms of a Personal Insolvency Arrangement, making regular payments and managing to remain living in the principal private residence.

Clients must be left with enough income to maintain a reasonable standard of living and the PIA must be sustainable. These principles are paramount and BPFI members considered them "front and centre" when looking at this question and concluded that third level funding should be looked at on a case by case basis, and given its importance should fall into the category of a special circumstance.

Funding third level costs should not have a negative impact on a client's debt servicing capacity. The inability to pay secured repayments could push clients further down the "waterfall" into voluntary surrender, stakeholders have to weigh up keeping a family in their home with funding a student at third level. There may be unintended consequences if stakeholders do not consider this question and any proposed changes carefully.

We elaborate in further detail and share some additional observations, below.

BPFI members recognise that people in financial difficulty would like to support their children financially, should they wish to avail of a third level education. The prospect of being unable to fund third level education is a concern for parents/ guardians in financial distress.

Members acknowledge that there is a typical cost involved and therefore to apply a methodology and standardised approach may be preferable, rather than applying arbitrary figures in each proposal. However, members have a concern about the level of allowance proposed by the ISI.

BPFI members have concerns about a blanket assumption that all children will enrol in and complete third level education. Third level costs should be allowed for children who are studying / enrolled in third level education at application stage. However, future forecasting of six year cashflows based on the presumption that children will automatically attend a third level institution, following completion of secondary school is potentially flawed given the costs involved.

At the proposed amount €549.91/€562.16pm per child, enrolment in third level education represents a material change to a person's outgoings. As such, members believe it should be dealt with by way of a variation requiring documentary evidence of the third level placement. Where a child is successful in obtaining a place at third level in ,for example, year 3 of a 6 year arrangement, the PIP / debtor would seek a variation on the basis of the increased expense associated with funding the education for years 3-6. Similarly, where someone is attending third level in year 1 but chooses not to complete their studies, a variation should be submitted to reflect the reduced outgoing and resultant increase in contribution available to secured/unsecured creditors. The change in circumstance may be an opportunity to restructure the mortgage.

A point which came up for a number of BPFI members when responding to this question is that they would like to see more work done between creditors and PIPs around annual reviews. In particular, annual reviews must be submitted in accordance with the agreed timeframe and with verification that the debtor is funding the child's third level education, before creditors can agree to this being the "default position".

Members emphasise the importance of full disclosure about family dynamics/ dependants. Full details of all dependants should be disclosed and ,for example, if an adult child/ student is self-sufficient, then this should be disclosed. We are fortunate to have Student Universal Support Ireland (SUSI) and it is important that full disclosure be made in this regard also, as SUSI will help to support a student through third level with some supplementary income from a part time job etc. It is only on the basis of full disclosure that a creditor can accurately assess RLEs.

A final point to note in responses received from BPFI members to this question and the ISI's proposal (that the secondary school child allowance without a deduction for Child Benefit should continue to guide the costs for inclusion for a college-going child in the special circumstances category of the RLEs, pending research into the minimum essential costs) is that the proposed benchmark figure is too high and should be substantiated by the proposed VPSJ research of the minimum essential cost of a college going child.

Question 2

Do you agree with the approach proposed regarding capturing the actual costs of car, home, and mortgage protection insurance under special circumstances in the RLEs? Please feel free to elaborate on your response.

BPFI members agree with the proposal to set out the actual costs of car, home and mortgage protection and that copy invoices must be provided. The MESL figures do not reflect the actual costs for a home owing debtor. Members have raised a concern that this could lead to excessive expenditure in these areas. The client might feel that they might as well spend €100 on a policy where €50 provides adequate cover.

In the absence of evidence, a standard RLE cost should be applied, as per previous ISI RLEs.

Some members expressed surprise at this particular proposal as in their experience the current tabulation in set costs has worked well. Where required, payments in excess of the set costs allowance can be dealt with by way of special circumstances costs, when vouched, on a case by case basis.

The requirement for a second car should continue to be demonstrated (and is generally supported) as essential and is expected to be necessary in certain instances only, rather than an assumed norm. For example, in rural locations, where adults/ parents in a household are working and the option to carpool is unavailable, the purchase of a second car would make sense.

Members reiterate the point that if there is a special cost, relevant proofs should be submitted.

Question 3

Do you agree that a holiday allowance be included in the RLEs? Please feel free to provide a rationale for your response.

As set out above, BPFI members are pleased to note the recognition of a person's well-being in the MESL research. The physical and psychological toll and burden of long term financial and in particular mortgage arrears, cannot be underestimated. People in difficulty since the "crash" of 2007/2008, are carrying this weight for over a decade. Members' understanding to date has been that a holiday would already be covered within the existing allowances for Social Inclusion & Participation allowance, as well as Savings and Contingencies.

On balance, BPFI members' view is that the ISI's proposal will increase the base line for expenditure. Is there some data that indicates that this is required?

In the experience of members, most customers are meeting the terms of their arrangement which indicates that the correct balance has been achieved.

- The ISI model is predicated on needs rather than wants. A holiday is desirable but not a necessity.
- One of the objectives of CCMA is that lenders are required to help customers meet their mortgage obligations. Where customers find themselves in financial difficulty, repayment of the family home debt should take priority over holiday needs.

Question 4

Do you agree that the cost of private health insurance, where deemed appropriate, should continue to be captured under special circumstances in the RLEs? Please feel free to provide a rationale for your response.

Members had some discussion along similar lines to the opening paragraphs under Question 1. The desirability of paying for private health insurance must be balanced with the ability to continue to meet the terms of a PIA so that there is no risk to the principal private residence.

We are fortunate that the State provides healthcare for all, through the HSE and that we do not need to have private health insurance, albeit that it may be desirable.

BPFI members agree that ,where appropriate, the cost of private health insurance should be set out under "special circumstance cost" where an invoice/ satisfactory evidence of the cost is provided. In the absence of evidence, a standard RLE cost should be applied, as per previous ISI RLEs.

As with other insurance cover, it is expected that the person will "shop around" to obtain the optimum premium, with the cost to be vouched on each occasion.

Question 5

In respect of practical implementation of changes to RLEs, do you agree that the revised RLE figures should apply only to new cases at application stage? Do you have an alternative approach to suggest? Please feel free to provide a rationale for your response.

Note in Section 6.6.2, the ISI proposal refers to applying the revised RLE figures to new insolvency cases at application stage, yet the question appears to refer to all cases. With reference to all cases, members agree that the revised RLE figures should apply to new cases at application stage, as it would be impossible to apply revised figures to a case in a post decision state.

As noted in the ISI's Consultation paper, live arrangements have already received Court approval. It does not seem workable to retrospectively apply the proposed changes to arrangements which have already implemented. As stated, BPFI members agree that the revised RLE figures should apply to new cases only, at application stage.

Additional Comment

BPFI members welcomes the clarification by way of foot note no 15 on Pg. 17 with regard to the set costs where a family has more than two children. Members have long since considered the existing allowance in the "with car" category of €52.72 for the fourth child as an anomaly.