



ISI

Síorús Dóchtairneachta
na hÉireann
Insolvency Service
of Ireland

Review of Reasonable Living Expenses

Post-Consultation Report:
Feedback & ISI Response
February 2022

Insolvency Service of Ireland

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1 Introduction

Section 23 of the Personal Insolvency Act 2012 (hereafter '2012 Act') directs the ISI to "prepare and issue guidelines as to what constitutes a reasonable standard of living and reasonable living expenses" (RLEs).

While RLEs are reviewed regularly by the ISI, it was considered timely to undertake a more extensive public consultation on RLEs. The consultation paper requested feedback on five questions in particular and provided the ISI's proposed direction on each of the matters.

This report presents a summary of the consultation process and salient points made in the responses received. The report also sets out the general observations and response of the ISI to the feedback received and describes next steps in respect of the publishing of revised RLE guidelines including consultation with relevant Ministers on the ISI's decisions.

2 The Consultation Process

The ISI published the [consultation paper](#) on 13 July 2021 to inform its annual review of RLEs and consultation with relevant Ministers on any changes deemed appropriate to the RLE guidelines and more specifically to:

- Inform all stakeholders of changes following the review and rebase project relating to the Minimum Essential Standard of Living (MESL) undertaken by the Vincentian Partnership for Social Justice (VPSJ) and the 2021 RLE annual update referred to hereafter as '2021 set cost figures'.
- Obtain submissions on the composition of RLE set costs figures and feedback on the approach to practical implementation of changes to set costs.
- Consider some additional items allowed for in the MESL figures but not previously included in the ISI figures.

Observations were welcome on any aspect of the RLEs, and not just the issues identified in the consultation paper. The consultation period ran until 24 August 2021.

3. Responses to Consultation

A total of seven responses to the consultation paper were received by the ISI. Respondents are listed in alphabetical order below:

- Association of Personal Insolvency Practitioners (APIP)
- Banking & Payments Federation Ireland (BPFi)
- Central Bank of Ireland
- Irish Mortgage Holders Organisation (IMHO)
- McCambridge Duffy
- Money Advice and Budgeting Service (MABS)
- The Revenue Commissioners

The ISI would like to thank respondents for their feedback and welcome in particular responses from representative bodies conveying the views of their members. As indicated in the consultation paper, all responses to the public consultation are published [here](#).

4. Summary of Feedback

While there are some divergences in views amongst stakeholders relating to the specific questions on the consultation paper, it is clear to the ISI that the concept of RLEs is very much accepted and considered a positive and integral part of our personal insolvency framework. In particular, the extensive research by the VPSJ is considered an invaluable resource and a strong and robust foundation underpinning the RLE guidelines. The increased alignment between the categories of expenditure used in the Standard Financial Statement (SFS) and the RLEs resulting from a recent public consultation by the Central Bank is also noted by the ISI as a positive development for all stakeholders.

In the context of some points made in response to the consultation, it is worth highlighting the background to the development of the RLE guidelines and composition of RLEs. The current RLE guidelines in addition to extensive background information are available on the ISI website [here](#). Given the complexity of the RLEs and underpinning research in addition to changes over time since the RLEs were first introduced in 2013, practitioners in particular are encouraged to

re-familiarise themselves with the various building blocks of the RLEs. The following points are of particular note:

- While the VPSJ use certain categories of expenditure in their research to determine the MESL upon which the RLEs are based, how a person's RLE allowance is used is not prescribed by the ISI.
- The MESL is reviewed annually in order to consider whether adjustments are required to reflect inflation. Thus, the ISI takes account of inflation in the normal course of preparing and issuing of RLEs each year.
- The MESL specifies the average weekly cost of the goods and services deemed necessary to enable a socially acceptable minimum standard of living. To take an example, the cost of an adult's winter coat is included in the weekly expenditure figure for clothing and spread over the 2 years the coat is expected to last.

In advance of giving an overview of responses to specific questions in the consultation, it is important to note that the ISI's consultation on RLEs is solely concerned with their use in statutory debt solutions available under the 2012 Act. Further, the ISI recognises the following principles which were raised in the context of feedback provided:

- Full disclosure to the Approved Intermediary (AI) or personal insolvency practitioner (PIP) by the debtor of their means is a statutory obligation and the AI or PIP has the responsibility to ensure all details in the PFS are accurate and underpinned as required by documentation for verification purposes.
- The full means of the debtor should be brought to bear in respect of their debt repayment capacity during an arrangement.
- Implementation of the debt protocols in place is expected. This includes facilitation of annual reviews by the PIP for a debtor and use of provisions to deal with changes in a debtor's circumstances.
- There is a balance to be struck in respect of RLEs on the one hand allowing a debtor an appropriate standard of living while addressing their financial difficulties and, on the other hand, enabling a reasonable return for the creditor based on the debtor's means.

A summary of the feedback received on each of the five specific questions posed (Appendix 1) will now be provided. The consultation paper included a question relating to each of the four issues listed below which appear to be the main topics of interest to stakeholders in recent years in the context of RLEs:

1. Adult child (under 23) in full-time post-secondary education
2. Car, home and mortgage protection insurance
3. Holiday in Ireland
4. Health insurance

A further question (5) related to the practical implementation of changes to the RLEs.

4.1 ADULT CHILD (UNDER 23) IN FULL-TIME POST-SECONDARY EDUCATION

4.1.1 *ISI proposal from consultation paper*

The ISI proposed that the secondary school child allowance without a deduction for Child Benefit should continue to guide the costs for a college-going child in the special circumstances category of the RLEs, pending research into the minimum essential costs for a college-going child. The research will factor in differences in circumstances and costs.

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.

4.1.2 *Summary of feedback*

There is general acceptance amongst stakeholders of the need to consider college-going costs in the RLEs. The majority of respondents agree with the ISI's proposal as an interim measure pending research being conducted. It is understood that the allowance is only applicable where the cost is incurred i.e. there are one or more college-going children. Action as per the debt protocols is expected where circumstances change or projections in the arrangement proposal do not come to pass.

With respect to an allowance, Revenue agrees with the interim approach proposed pending further research in the context that all household income is brought to bear, including any part-time income of the college-going child. The ISI's proposal notes that if the full-time education has an employment element, this will be netted off the amount allowed along with any maintenance grant payments being received. While BPFI members welcome use of a standardised approach in respect of an allowance for a college-going child, the interim allowance proposed by the ISI is considered to be too high and it is felt that the figure should be evidenced through the pending research. MABS feel the interim allowance is too low and provide a proposal on costs that might apply pending further research.

With respect to how an allowance for a college-going child is categorised, the Central Bank refer to the inclusion of the cost of college education and accommodation under the expense category "Education" in the SFS and their support for alignment of this category with that in the RLEs. It is also noted that the majority of respondents to APIP's survey feel that costs for a college-going child should be a separate category under the RLEs as opposed to use of the special circumstances category.

4.1.3 ISI decision

Having reviewed the feedback and the issues raised in respect of costs for a college-going child, it is clear that this allowance is now clearly established and accepted. The ISI notes that in addition to feedback from this consultation, a number of High Court judgments have established that an allowance for a college-going child is justified in the RLEs.

The ISI's view is that changes at this point would be premature given that a detailed analysis of the costs of a college-going child is intended. The secondary school child allowance including the amount of the Child Benefit payment (currently €140 per month) should be used as the default allowable expense for a college-going child in the RLEs. This allowance for a child in a household with a car in the 2022 RLEs (please see tables 1 and 2 in section 5 below) is €432.94 + €140 (total of €572.94) and in a household without a car is €444.64 + €140 (total of €584.64). If the full-time education has an employment element, this will be netted off the amount allowed along with any maintenance grant payments being received. This allowance should be captured under special circumstances pending research into the minimum essential costs of a college-going child.

4.2 CAR, HOME AND MORTGAGE PROTECTION INSURANCE

4.2.1 *ISI proposal from consultation paper*

The ISI recognises the difficulty in using a one-size-fits-all allowance to capture both car and home insurances in the RLEs due to the variations that can occur with such costs. Accordingly, the ISI proposed that car and home insurance costs be removed from set costs in the RLEs and instead captured under the special circumstances category along with mortgage protection insurance costs. The PIP or AI would set out the actual home insurance costs along with actual car insurance and mortgage protection costs (where applicable) by means of requesting documentary evidence from the debtor concerned.

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.

4.2.2 *Summary of feedback*

In general, feedback on this question recognised that insurance costs are not being adequately catered for under the current RLEs and actual costs should be captured. In this scenario, both Revenue and BPFi point to the importance of evidence to verify the cost of adequate cover. In the approach proposed, the ISI expects that PIPs would gather relevant documentation as part of their due diligence and have a responsibility to ensure, insofar as possible, that costs are reasonable based on the individual circumstances of the debtor(s).

Given that car insurance is a statutory requirement and mortgage protection insurance is typically a contractual obligation, a number of respondents felt that the special circumstances category of the RLEs is not appropriate. The Central Bank recommended the continued inclusion of these insurances within set costs to help ensure a greater alignment with the expenditure categories of the SFS and to provide a 'benchmark' for such costs. MABS also supported the inclusion of these insurances as set costs with any additional expense incurred included in the special circumstances category. This latter approach appears to be one used widely in practice currently with some respondents to APIP's survey pointing out that use of the special circumstances category in this way increases the workload for PIPs.

4.2.3 ISI decision

In the first instance, the ISI considers it more appropriate to refer to 'motor vehicle' rather than 'car' in the context of RLEs going forward.

Having considered responses to this consultation, the ISI feels it is appropriate to expand the building blocks that constitute RLEs through the addition of 'motor vehicle and home insurance' which will be used to reflect actual costs of motor vehicle and home insurances. It is clear that, in general, these insurances are not special circumstance costs and are not adequately dealt with through the MESL analysis given that relevant costs in the MESL are calculated on the basis of certain assumptions that do not always apply in personal insolvency cases. Thus, for clarity, in addition to 'set costs' (which depend on household composition and need for a motor vehicle), reasonable costs for housing, childcare, motor vehicle and home insurance and special circumstances will make up the total RLE for a given household (please see figure 1 on page 12). The actual cost of mortgage protection insurance where applicable will continue to be captured under special circumstances.

4.3 HOLIDAY IN IRELAND

4.3.1 ISI proposal from consultation paper

Given the length of time a person could be party to an arrangement, the ISI is proposing that an allowance for a holiday be provided in the RLE set costs to ensure the expense allowances meet a person's physical, psychological and social needs while resolving their financial difficulties. The MESL figures include an allowance for a holiday in Ireland.

Question 3

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

4.3.2 Summary of feedback

While most respondents refer to the psychological benefit of a holiday or break, there are differences of opinion amongst respondents as to the inclusion of a holiday allowance in the RLEs.

The need for a specific allowance for a holiday was questioned by both BPFI and McCambridge Duffy when a social and inclusion allowance is already built into the RLEs. Other responses alluded to the cost of a possible holiday being covered by the amount provided for in the savings and contingencies category in the MESL given that the RLE model is predicated on needs rather than wants. Through the APIP survey, 42% of respondents stated that holidays

should be covered by savings where available. It was also suggested that for short-term arrangements, a holiday is not a necessary cost. Meanwhile, MABS and IMHO in particular welcomed the proposal for a specific holiday allowance highlighting its importance for well-being. On a practical level, the Central Bank suggested that where an allowance is given for a holiday the cost could be captured under special circumstances in the RLEs rather than a set cost to better align with the SFS.

4.3.3 *ISI decision*

On balance, based on feedback received, the ISI is of the view that the inclusion of an allowance for a holiday in Ireland in the RLE set costs is appropriate. The allowance for a low cost holiday has been established as part of MESL i.e. a standard of living below which no person should be expected to live and is a distinct element of the 'Social Inclusion and Participation' category in MESL. Otherwise the make-up of this category in MESL varies by age-group, but includes items such as a TV licence and participating in age-appropriate sports and activities (e.g. swimming, football) in addition to opportunities for family outings (e.g. cinema visits three times a year and one trip to the zoo). In MESL, small allowances are provided for savings and contingencies essentially to provide a cushion against unforeseen and unexpected events such as a funeral for example or the washing machine breaking down. In the case of a single adult, this amounts to €10 in total per week.

4.4 HEALTH INSURANCE

4.4.1 *ISI proposal from consultation paper*

The ISI has proposed not to include an allowance for health insurance in the 2021 set cost figures and to continue use of the special circumstances category of the RLEs to provide for private health insurance costs where deemed appropriate.

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.

4.4.2 *Summary of feedback*

The ISI proposal concerning the treatment of health insurance through the RLEs is accepted by the majority of respondents. However, it is noted that the Central Bank considered that health insurance costs could be included under set costs in the RLEs to align more closely to the SFS but accept that the latter is concerned with actual costs. MABS also suggested capturing health

insurance costs under set costs as it is felt that, for many, these costs reflect a need rather than a want. As with other insurances, the BPFi notes that it is expected that the debtor would 'shop around' to obtain the appropriate cover where deemed necessary and that the actual cost will be verified through documentation.

4.4.3 *ISI decision*

The ISI notes that the overwhelmingly majority of respondents agree with the current treatment of health insurance costs under the RLEs. The cost of private health insurance, where such insurance is deemed appropriate, will continue to be reflected through the special circumstances category of the RLEs. This approach retains the flexibility required to adjust to the unique circumstances of a debtor.

4.5 IMPLEMENTATION OF RLE CHANGES

4.5.1 *ISI proposal from consultation paper*

The ISI proposes that the revised RLE figures will apply to new insolvency cases at application stage with an appropriate lead-in time provided to AIs and PIPs prior to the application of the revised RLE guidelines to ensure the revised figures are considered in any new or draft insolvency applications.

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.

4.5.2 *Summary of feedback*

Most respondents agree with the appropriateness of applying the revised RLE figures to only new cases at application stage given that arrangements in place have already been court approved and that flexibility is already built into the system through variations where there are significant changes in a debtor's circumstances.

4.5.3 *ISI decision*

Revised RLE figures will apply to new insolvency cases at application stage. Arrangements already in place are court-approved with flexibility available to allow for dividend reductions or increases depending on the specific circumstances of the debtor. For completeness, in respect of Debt Relief Notices already in place and under the supervision of the ISI, the current RLEs will continue to apply.

Detailed guidance for practitioners regarding use of ISI's case management system to implement the revised RLE composition and figures will issue in due course.

5 Summary of Changes

1. For a college-going child, the secondary school child allowance without a deduction for Child Benefit should continue to guide the costs for inclusion in the special circumstances category of the RLEs pending further research
2. Motor vehicle and home insurance costs are removed from set costs in the RLEs and are captured under a new building block of RLEs named 'motor vehicle and home insurance' (thus, the total of set costs, costs of housing, childcare and motor vehicle and home insurance in addition to special circumstances will give the RLE for a particular household). Where applicable, mortgage protection insurance costs will continue to be captured under the special circumstances category
3. An allowance for a one-week holiday in Ireland is provided in the RLE set costs
4. Continued use of the special circumstances category of the RLEs to provide for private health insurance costs where deemed appropriate by the PIP or AI
5. Revised RLE figures will apply to new insolvency cases at application stage (a notification will issue to practitioners in due course but revised RLE figures are expected to apply from late March 2022)

5.1 REVISED SET COST FIGURES

Tables 1 and 2 below display the 2022 set cost figures based on ISI's decisions regarding their composition (no motor vehicle and with motor vehicle). These figures were marked '2021' in the consultation paper published last year.

Table 1 – Set Cost Figures (No Motor Vehicle)*



















Monthly Figures No Motor Vehicle	Single Adult (No Children)	Couple (No Children)	Single Adult (With Children)	Couple (With Children)	Infant	Pre-school	Primary School	Secondary School
								
Current Set Costs (€)	938.14	1,509.59	944.71	1,373.63	232.26	68.52	209.37	422.16
2022 Set Costs (€)	942.61	1,509.73	915.40	1,300.83	199.26	60.13	227.25	444.64
Remove home insurance from 2022 Set Costs (€)	-9.06	-9.06	-9.06	-8.26	-	-	-	-
2022 Set Costs excluding home insurance (€)	933.55	1,500.67	906.34	1,292.57	199.26	60.13	227.25	444.64
Change to 2022 Set Costs with inclusion of holiday allowance (€)	36.49	73.35	56.72	63.43	-	5.12	7.20	10.12
2022 Set Costs including holiday allowance (€)	970.04	1,574.02	963.06	1,356.00	199.26	65.25	234.45	454.76
Set Costs from late March 2022 (€)	970.04	1,574.02	963.06	1,356.00	199.26	65.25	234.45	454.76

Table 2 – Set Cost Figures (With Motor Vehicle)*

Monthly Figures With Motor Vehicle 	Single Adult (No Children) 	Couple (No Children) 	Single Adult (With Children) 	Couple (With Children) 	Infant 	Pre-school 	Primary School 	Secondary School 
Current Set Costs (€)	1,050.48	1,486.62	1,096.15	1,420.83	232.26	56.27	197.12	409.91
2022 Set Costs (€)	1,126.99	1,586.16	1,180.51	1,448.00	199.26	60.13	215.55	432.94
Remove home & motor vehicle insurance from 2022 Set Costs (€)	-45.57	-44.74	-59.51	-50.52	-	-	-	-
2022 Set Costs excluding home & motor vehicle insurance (€)	1,081.42	1,541.42	1,121.00	1,397.48	199.26	60.13	215.55	432.94
Change to 2022 Set Costs with inclusion of holiday allowance (€)	36.49	73.35	56.72	63.43	-	5.12	7.20	10.12
2022 Set Costs including holiday allowance (€)	1,117.91	1,614.77	1,177.72	1,460.91	199.26	65.25	222.75	443.06
Set Costs from late March 2022 (€)	1,117.91	1,614.77	1,177.72	1,460.91	199.26	65.25	222.75	443.06

*Date from which 2022 Set Costs figures are to apply will be announced in due course

Figure 1 below details the other elements, exclusive of 2022 set costs (already set out in tables 1 and 2 above), that make up the RLEs. Please note there are no monetary values provided as these will vary on a case-by-case basis.

Figure 1 – RLE Building Blocks other than Set Costs

Reasonable Living Expenses		
Set Costs	Other Costs	Special Circumstances
	Housing	
	Childcare	
	Motor Vehicle and Home Insurance	

6 Next Steps

As required under section 23(2) of the 2012 Act, the ISI will consult with relevant Ministers prior to issuing revised RLE guidelines. It is expected that the consultation regarding the ISI's decisions as outlined above will take place this month (February) following which a notification to include a timeline for implementation will be issued to practitioners. The ISI envisages that the revised RLEs will be in place for all new cases at application stage from late March 2022. The ISI intends to coordinate a seminar on the background to the RLEs and their

implementation in the next year in order to provide an opportunity for practitioners, including those relatively new to personal insolvency, to discuss the topic.

APPENDIX 1 – SUMMARY OF CONSULTATION QUESTIONS

	<u>Consultation Topic</u>	<u>Consultation Question</u>
1	Adult child (under 23) in full-time post-secondary education	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.
2	Insurance (Car, home, mortgage protection)	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.
3	Holiday in Ireland	Do you agree that a holiday allowance be included in the RLEs? Please feel free to provide a rationale for your response.
4	Health Insurance	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.
5	Implementation	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.

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