Society of St Vincent de Paul
Submission to the Department of Justice and Equality on the Personal Insolvency Bill

Social Justice and Policy Team
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1. Introduction
The Society of St Vincent de Paul (SVP) welcomes the draft legislation and also the opportunity to make a submission to the Department of Justice and Equality on the Personal Insolvency Bill. The Bill includes various arrangements which we believe will benefit some of the indebted households we assist, particularly with regard to the retention of minimum income, residual debt write-off and defined payment periods. The draft wording of the legislation is a positive response by Government. However it will only address the symptoms rather than the causes if the responses at policy level do not aim to tackle fundamental social and economic factors which perpetuate the problems that brought rise to the development of the Bill. In this submission we set out some ways in which the legislation could be strengthened in order to better assist lower income households with significant debts, including mortgage debts.

2. The Society of St. Vincent de Paul
SVP is the largest charity of social concern and action in Ireland, with a variety of services for individuals, families and children being provided by over 10,000 voluntary members and 600 staff across the country. Home visitation is the main work of the organisation where we provide support, financial assistance and social connection to individuals and families in need. In 2011 SVP regional offices recorded an average increase of 27% in the volume of requests for assistance which they received. Families with children, in particular those headed by a lone parent are the largest group requesting help, and around three quarters of calls for help are made by women. Approximately 12% of calls come from foreign nationals. Three quarters of those requesting help are reliant on a social welfare payment, with means-tested payments such as the One Parent Family Payment, Disability Allowance and Jobseekers Allowance featuring strongly. Households report struggling to afford the basics such as food and energy costs. We assist a small group of households struggling with mortgage arrears but their problems and debts are significant. We are responding to the Bill in that context.

3. A Holistic Approach to Personal Insolvency
We believe that legislation should adopt a multiple debt approach rather than hiving mortgage debt off. Viewing actions around mortgage arrears in isolation from the wider and often numerous debts that a person may have is not desirable. These other debts are regularly part of the underlying cause of the mortgage debt and its accumulation. Incentives are required for both creditors and debtors in order to have both parties involved in a holistic process, taking in the suite of debts and the overall situation of the person in debt. A holistic approach to the Bill applies to Government also. A ‘whole of Government’ approach, drawing together the multiple statutory players, is required. This should help ensure that the legislation does not impose unintended impacts or unforeseen consequences. It will also assist the Bill to respond to over-indebtedness and financial exclusion simultaneously.

4. Indebtedness and Low Income
Our experience from our volunteers’ work at local branch (Conference) level bears out research that illustrates that many households face income pressures at various points in time, and often at very short notice due to unexpected incidents of varying severity. A particular study complies with our experience that of those in debt, most people have neither the assets nor the savings which would otherwise have been used to shore up their exposure to debt. Where they did, the savings of that group of debtors may have already been used up due to the pressures of a low income.\(^1\) In addition, our work with households across Ireland bears out the key relationship between the twin scourges of indebtedness and a lack of income. We take this to mean that many of the households due to access the arrangements as proposed in the draft legislation live on inadequate incomes and face

considerable household budgeting pressure.² It is unclear to us what procedures are to be put in place for those who cannot continue with the arrangements as set out in the Bill, in terms of processes such as bankruptcy and recourse to MABS.


The report ‘A Minimum Income Standard for Ireland’ undertaken by TCD’s Policy Institute and our sister organisation the Vincentian Partnership for Social Justice, establishes clear parameters for income retention. The non-housing, childcare and secondary benefits needed for various household types and scenarios are identified in order to establish income levels enabling people to ‘participate in a meaningful way in society’ (Law Reform Commission, 2010). This Minimum Income Standard document offers a framework for setting out those standards required for a household in debt. As a result it will also set out what is left for creditors in a given week or month, bringing greater clarity and transparency for both parties. This matrix serves to assist Head 132 of the draft bill with a way of dealing with this currently floating, or less clear, part of the Bill. It should explicitly state that an essential minimum income, of a level allowing the person(s) to live with dignity, is to be retained by the debtor and their household in order to enable them to meaningfully participate in society and the life of their community.

6. The Bill and Financial Inclusion

SVP seeks reassurances that the Bill will enable people to be completely financially included once they have successfully come to the end of their settlement or arrangement period. At the completion of this time period the person in question should be able to access services to enable them to bank, save, borrow and insure themselves adequately and the new legislation must facilitate this. As such the Bill needs to have regard to the current Government commitments on the rolling out of more financially inclusive products and services including a basic payments account. The Bill appears to be disconnected from the National Financial Inclusion Strategy in this area, so the legislation and financial inclusion work need to align. At the very least, the bill should not directly or indirectly lead to further financial exclusion or lesser access to basic transaction and payment functionality in personal financial services as a result of a debtor having recourse to the personal insolvency arrangements as envisaged by the Bill.

7. Personal Debt, Energy Affordability and Access to Utilities

In 2010 the SVP spent €8.8 Million on energy costs for households, mostly in the networked (Gas and Electricity) sectors. SVP works with people on a daily basis to reschedule energy arrears with their provider and to procure oil and solid fuels for struggling people and families. At a national policy level SVP liaises regularly with all the utilities and leads NGO efforts with regard to Government’s own Affordable Energy Strategy. The Bill must recognise the roll of the Commission for Energy Regulation (CER) and the need for CER to be informed and consulted to ensure that people with debts including energy arrears, and those at risk of accumulating such arrears, access an on-going supply of energy. Equally crucial, the Department of Environment’s current work regarding water metering and charges needs to be factored into the bill as water charges, and therefore arrears, are a distinct prospect in the near future. A continuous supply of domestic water needs to be safeguarded in the same way as we are setting out for energy. The same principal applies for household waste charges.

8. Social Housing Options and Local Authority Mortgages

As an approved housing body and an organisation making thousands of visits to financially struggling households every week, SVP is concerned that the new legislation may lead to lending institutions more aggressively pursuing households in mortgage arrears. In order to protect mortgage debtors in

this situation, clearly defined yet flexible social housing responses need to be established and offered at the same point as the insolvency provisions are enacted. Secondly, there is a marked rise in the incidence of local authority mortgage arrears, and also local authority social rent arrears. It is important that local authority mortgage arrears be named and incorporated into the arrangements of the Bill.

The Personal Insolvency Bill requires an independent arbitrator for debts, outside of the courts system. Our reasoning is that the debtors we and similar organisations such as MABS work with do not tend to have the level of resources required to go to the courts. In any event, some lenders may not co-operate in the courts process and this necessitates such an independent arbitrator. This function could be housed within the insolvency office, and must be able to offer an independent review process to counter any unjust application of a veto by the creditor. At the local level, complementing a national independent arbitrator, Money Advice and Budgeting Services (MABS) need to be enhanced to enable the service to assist two key groups: Households who decide to pursue the personal insolvency arrangements envisaged in the Bill, and households who choose not to apply this approach.

10. Other legislative considerations
There are other important considerations of the Bill for SVP. Firstly, lenders and borrowers should enter into a voluntary system of mediation prior to using statutory processes, alike the pre-action protocol as set out in the Final Report of the Law Reform Commission in 2010. Secondly, thresholds as they are presently envisaged require to be changed. This is in order to guarantee that people in debt (below €20,000), and with a level of repayment capacity, are offered the choice of availing of Debt Settlement Arrangements. Lastly, we believe that in order to rehabilitate people and facilitate their ability to move on and contribute to society, three years of bankruptcy is sufficient. Three years with the prospect of an additional five years of an income payments order should only be enforced in exceptional situations and the rationale clearly set out.

11. Information, Monitoring, Evaluation
In terms of judging the success of the legislation, and ways of improving it, there will need to be appropriate ways to track the experience of people subject to the various debt orders, and the extent to which these orders are successful. In this regard the Irish legislation has an important opportunity to embed an evaluative and person-centred process at its inception, compared to the UK Model. The UK arrangements fail to capture both the social and demographic nature of debtors on the various arrangements. Nor do they indicate the financial circumstances of the debtor or their perceptions of the impact of the legislation on their lives. As such we are calling for the Bill to monitor and evaluate the numerous debt related processes within the legislation on a continual basis, incorporating analyses of personal debt.

12. Conclusion
The implementation of the Bill requires the development of a framework to enable the planning, execution and information gathering of various strands of work. As both Justice and Equality are the remits of the Department, we ask that these principles are enshrined in the Bill with regard to lower income households with least resources and often least external sources of support or levers of influence to assist their debt situation. Obviously this needs to be balanced with the exposure to creditors, the tax payer, and Government resources for existing income supports and public services for the wider general public, in particular low income households with neither significant debts nor assets. The bill must fundamentally aim to prevent, cure and rehabilitate people in debt and its success will be judged on this basis.