

## **EVALUATION OF INDIVIDUAL VOLUNTARY ARRANGEMENTS - INTERIM EVALUATION REPORT**

### **Section 1 - Purpose of the paper**

1. To provide details of the on-going evaluation work being undertaken in respect of the individual voluntary arrangement (IVA) provisions of the Enterprise Act 2002 (EA).

### **Section 2 – Background and Purpose of Evaluation**

2. On 1 April 2004, new insolvency legislation came into force contained in the Enterprise Act 2002. The new legislation introduced changes to the IVA provisions whereby the Official Receiver can act as nominee and supervisor of post-bankruptcy IVAs, to be known as 'fast-track voluntary arrangements' (FTVAs). Additionally, it is now mandatory for the court to annul the bankruptcy order on the application of the bankrupt or Official Receiver.

3. The objectives of the IVA provisions contained in the Enterprise Act 2002 are:

- To support the 'fresh start' of a bankrupt by:
  - Providing an accessible alternative to bankruptcy; and
  - Ensuring that annulment of the bankruptcy order is obtained once an IVA is approved; and
- To improve returns to creditors.

4. The principal aim of the evaluation is to provide a comprehensive assessment of whether, to what extent and how the provisions relating to IVAs meet these policy objectives. The evaluation also provides information and data that can be used to inform future policy decisions.

5. The Insolvency Service made a commitment to the Government to undertake an evaluation of the Enterprise Act 2002 within 3 years of commencement of the various provisions. The IVA provisions commenced on 1 April 2004 and therefore, the evaluation is due to be completed by 31 March 2007. This is an interim report to summarise the evaluation work and findings to date.

### **Section 3 – Approach**

6. The evaluation uses both quantitative and qualitative evaluation methods, including:
- Analysis of data on individual insolvency cases held on The Insolvency Service's internal Information Technology system
  - Sampling and review of files on individual insolvency cases to supplement information from other sources
  - Meetings with professionals within the insolvency sector to seek their views regarding the appropriateness and impact of insolvency legislation
  - Structured questionnaires and interviews with bankrupts, creditors, and other members of the public to obtain their views and experience of the impact of insolvency legislation and to obtain feedback on the wider issues associated with bankruptcy

7. In order to ascertain the impact of the Enterprise Act 2002 provisions, benchmark information was obtained regarding the operation and effect of the existing legislation, i.e. before the implementation of the Enterprise Act 2002 provisions.

8. A copy of the evaluation planning paper is contained at [appendix 1](#).

#### **Section 4 – Work Carried Out to Date**

9. Only benchmarking information has been obtained to date.

#### **Objective 1: To support the ‘fresh start’ of a bankrupt by providing an accessible alternative to bankruptcy**

10. The objective relates to the introduction of FTVAs as an alternative to bankruptcy. The evaluation looks at the level of FTVAs, the time and costs involved in FTVAs, the FTVA failure rate, the FTVA debtor profile, and customer satisfaction with the FTVA provisions.

11. The benchmark information mainly relates to post-bankruptcy IVAs administered by insolvency practitioners (IPs), which prior to the EA, was the only option available to bankrupts who wanted to enter into an IVA after the making of a bankruptcy order.

12. Full details of the benchmarking information obtained in respect of this objective is contained at [appendix 2](#).

#### **Objective 2: To support the ‘fresh start’ of a bankrupt ensuring that annulment of the bankruptcy order is obtained once an IVA is approved**

13. The objective relates to the benefit to a bankrupt of an annulment and the consequent lifting of bankruptcy restrictions. The evaluation looks at the level and timeliness of annulments following approval of a post-bankruptcy IVA, the working practices of an OR as regards annulments following approval of a post-bankruptcy IVA and credit agency and lender policies as regards annulments and IVAs.

14. Full details of the benchmarking information obtained in respect of this objective is contained at [appendix 3](#).

#### **Objective 3: To improve returns to creditors**

15. The objective relates to the lower costs involved in FTVAs (compared to post-bankruptcy IVAs where an insolvency practitioner acts as nominee/supervisor) and the overall aim to increase the number of post-bankruptcy IVAs. The evaluation looks at the level and timeliness of returns to creditors and the impact of FTVA on post-bankruptcy IVAs.

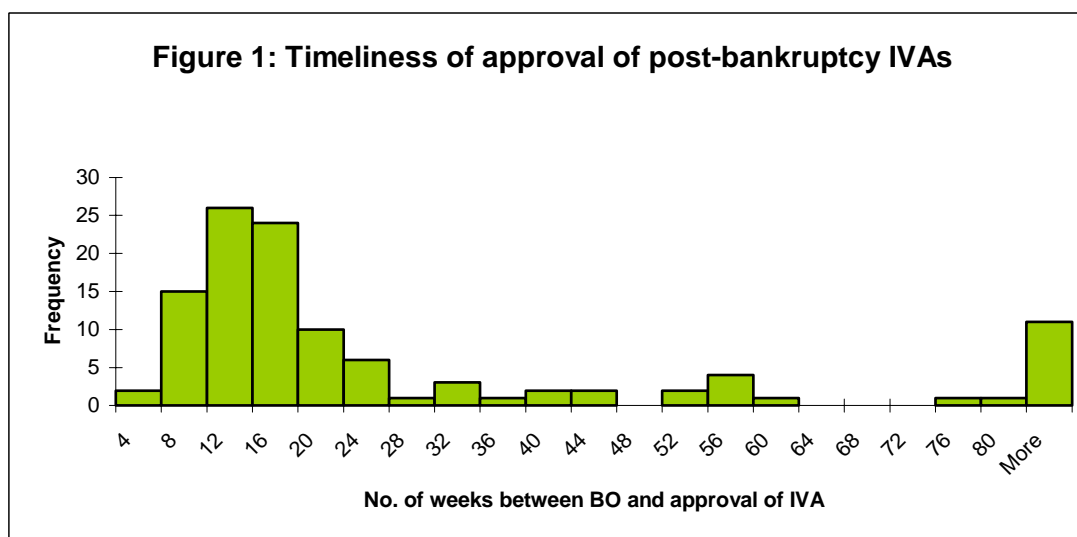
16. No benchmark information is available at this time.

## **Section 5 - Preliminary conclusions and recommendations**

17. From the current benchmarking information available (mainly from the case sampling exercise of post-bankruptcy IVAs obtained in the year ended 31 March 2002), the following observations can be made:

### **Objective 1: To support the ‘fresh start’ of a bankrupt by providing an accessible alternative to bankruptcy**

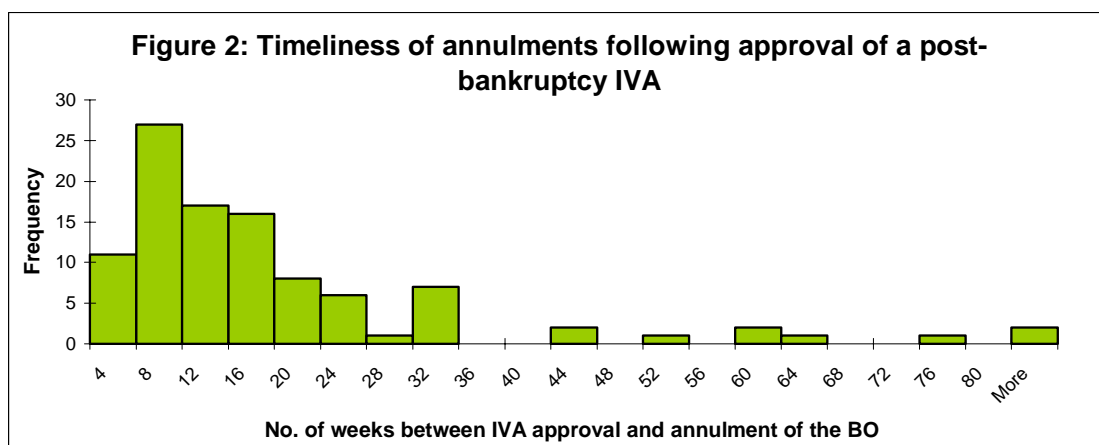
- Less than 3% of IVAs are entered into post-bankruptcy.
- Post-bankruptcy IVAs are entered into in less than 1% of bankruptcy cases.
- The time taken between the making of a bankruptcy order and the approval of a post-bankruptcy IVA ranges from around 4 weeks to over 400 weeks.
- The majority (58%) of post-bankruptcy IVAs are entered into between 4 and 16 weeks after the bankruptcy order (BO) (see figure 1).



- The average time between the making of a bankruptcy order and approval of a post-bankruptcy IVA is around 15 weeks.
- The failure rate of post-bankruptcy IVAs is around 27%.

### **Objective 2: To support the ‘fresh start’ of a bankrupt ensuring that annulment of the bankruptcy order is obtained once an IVA is approved**

- Around 90% of post-bankruptcy IVAs lead to annulment of the bankruptcy order.
- The time taken between the approval of an IVA and annulment of the bankruptcy order ranges from 1 day to 122 weeks.
- The majority (59%) of annulments obtained following the approval of a post-bankruptcy IVA are obtained between 4 and 16 weeks (see figure 2).
- The average time between the approval of a post-bankruptcy IVA and annulment of the bankruptcy order is around 11 weeks.



18. No changes to the evaluation planning paper are recommended at this time.

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March 2005