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**DEAR INSOLVENCY PRACTITIONER**  
**Issue 102 – May 2020**

Message from the Insolvency Service

Dear Reader

Please find enclosed the latest updates from the Insolvency Service on the steps being taken during the COVID-19 pandemic.

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## **18) COVID-19: Individual Voluntary Arrangement (IVA) Protocol guidance**

The IVA Standing Committee published guidance to support the IVA Protocol in view of the COVID-19 pandemic on 20 April 2020.

The guidance is a tool for supervisors to use if the terms of the IVA require further flexibility in the current circumstances. The guidance does not form part of the IVA terms and has not been legally incorporated into existing IVAs. The Recognised Professional Bodies (RPBs) fully support the guidance and, as such, are content for supervisors to use it.

One of the intentions of the guidance is to avoid the need to hold mass variations at cost to the estate. Supervisors are reminded to check whether the guidance already covers the changes they require before putting any draft variations to creditors.

When a supervisor determines that use of the guidance may be required based on the consumer's circumstances, they should ensure that they document that decision and the reasons why it has been made. The consumer must always consent to the use of specific terms in the guidance, except as noted below, usually by approaching the supervisor to request it.

The supervisor should consider, and document, if they have 75% by value support of the creditors who have already signed up to the guidance by way of public statement. If they do not, then the relevant creditors who do not fall under the statement should be contacted to confirm if they are willing to agree. If that agreement cannot be obtained the supervisor should revert to the terms of the IVA. They should follow the necessary provisions to use any discretion that is already available to the supervisor under the terms of the IVA or obtain agreement from the creditors to any changes.

Paragraph 1.12 of the guidance about not realising a consumer's home equity during the pandemic is the only term which assumes IVAs will not proceed as they were drafted (if the consumer has a property) and that a consumer would need to agree to proceed during the pandemic. The insolvency practitioner should retain a record of the consumer's agreement.

The supervisor should make sure that the consumer is aware of the guidance when they reach the stage at which they would be expected to release the net worth in their property. The supervisor should document the consumer's intended route forward, including how and when it was explained to the consumer that additional payments would be required in lieu of equity release.

The RPBs will consider any use of discretion in the context of the terms of the IVA, the law, the guidance and Protocol principles, and applicable professional standards (Statements of Insolvency Practice and the Code of Ethics) and will expect to see a record of how the supervisor arrived at any decision.

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