



An Roinn Airgeadais
Department of Finance

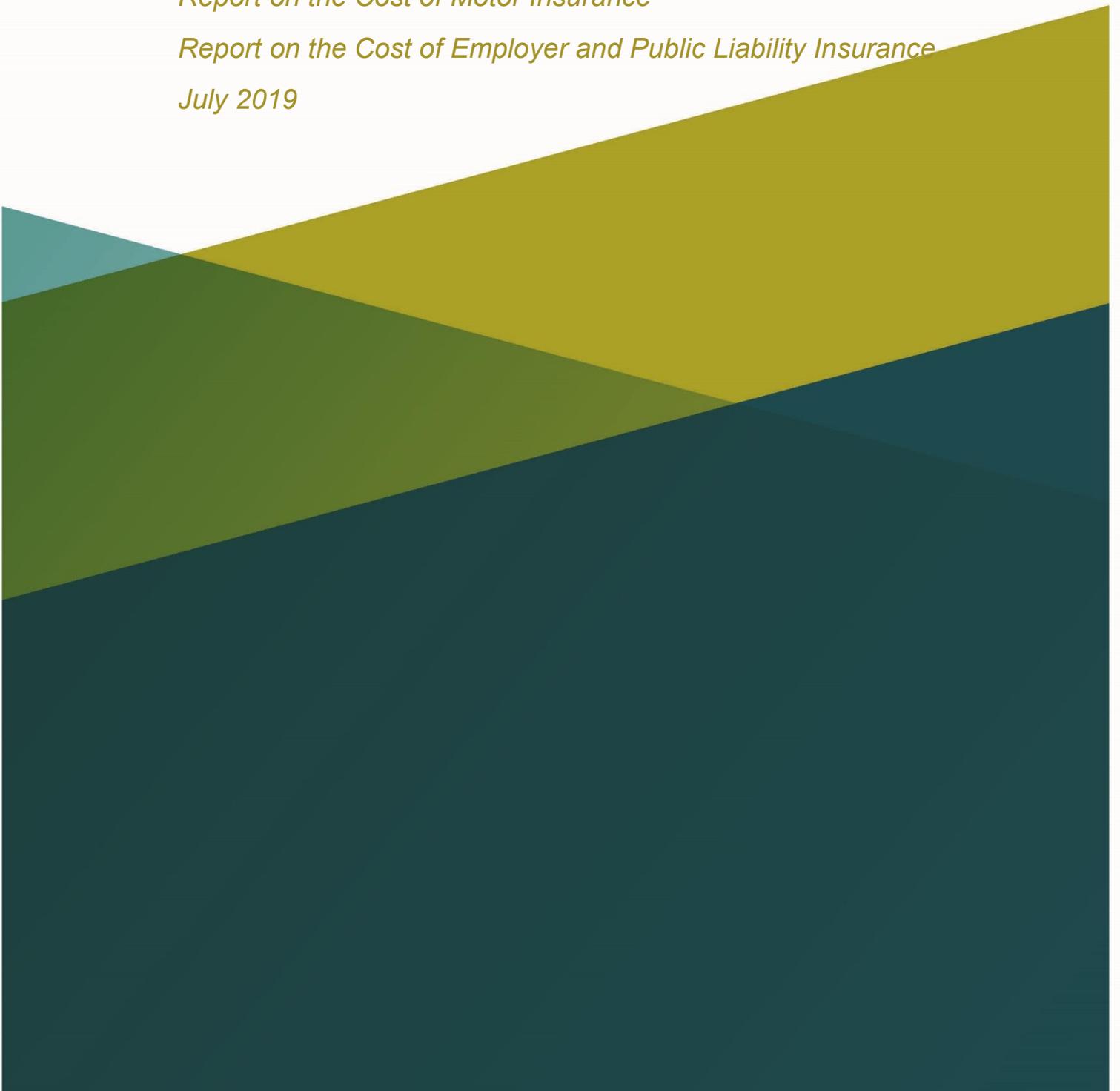
Ninth Progress Update

Cost of Insurance Working Group

Report on the Cost of Motor Insurance

Report on the Cost of Employer and Public Liability Insurance

July 2019



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Foreword by Minister of State



This is the ninth quarterly report on the progress of the Cost of Insurance Working Group (CIWG) project.

On an overall basis, the position in relation to the implementation of the Motor Report is positive. 31 of the 33 recommendations, or 69 of the 71 actions, have either been completed, are categorised as “ongoing” and in which work is continuing, or have been concluded insofar as the direct involvement of the Cost of Insurance Working Group is concerned¹.

I believe the work and influence of the Cost of Insurance Working Group is having a significant impact with regard to private motor insurance - CSO figures from June 2019 show that the price of motor insurance is now 24.5% lower than the July 2016 peak. What this means is that your average motor insurance policy is becoming cheaper on renewal. However, there will always be exceptions to this because of the nature of a particular risk being covered, for instance if a person spends a lot of time on the road because of the nature of their profession. Such variations in pricing have always occurred and will continue to do so into the future. That said however, I believe further reductions are necessary and I am confident this will happen with the continuing implementation of the Working Group’s recommendations.

I would now like to highlight what I consider the most significant developments in the insurance reform agenda that have been achieved since our last Progress Update and which were deemed to be necessary by many of the stakeholders the CIWG consulted with, including the insurance industry. Firstly, the National Claims Information Database has been established and the Central Bank of Ireland has commenced collecting the information necessary to produce its first report later this year. Secondly, the *Personal Injuries Assessment Board (Amendment) Act 2019 (No. 3 of 2019)* commenced in April. This Act will strengthen the functioning of PIAB in a number of ways, including dealing with issues of non-attendance at medicals and failure to provide details of special damages or loss of earnings. Thirdly, new laws amending the Civil Liability and Courts Act 2004 took effect to make it easier for insurers or businesses to challenge cases where fraud or exaggeration is suspected.

Another positive development has been the commitment by An Garda Síochána to tackle the issue of insurance fraud. Garda Commissioner Drew Harris has made the decision for operational reasons that a divisional focus is preferable to the establishment of a centralised insurance investigation unit. I understand that this approach is aligned with a general

¹ As with the Eighth Progress Report, a decision was taken in respect of a number of linked recommendations addressed to the Minister of Transport, Tourism and Sport regarding the expedition of two large-scale, long-term, multi-agency projects, the origin of which predates the existence of the Working Group and are ultimately dependent on factors lying outside its direct control. It is important to note that these projects will continue to be implemented; however, the timescale for completion is likely to be sometime in 2021.

divisional-focused Garda model and that the Garda National Economic Crime Bureau (GNECB) will guide divisions and provide training in the investigation of insurance fraud. I believe it is important to accept the expert view of the Garda Commissioner in this matter and I am confident that this marks a key turning point in how insurance fraud will be investigated by An Garda Síochana in the future. There has also been recent success under *Operation Coatee*, which targets insurance-related criminality.

While good progress has been made on the implementation of the Employer/Public Liability Report (13 of the 14 recommendations, 27 of the 28 actions due by the end of Q2 2019 have been completed, are “ongoing” or completed insofar as the Working Group is concerned), I acknowledge that there is still much work to do particularly in relation to the cost and availability of such insurance for small businesses, and voluntary/community groups. In particular, I am of the view that the single most essential challenge which must be overcome if there is to be a sustainable reduction in insurance costs is to bring the levels of personal injury damages awarded in this country more in line with those awarded in other jurisdictions. In order to implement the Personal Injuries Commission’s recommendations related to the future Judicial Council being tasked with developing new Personal Injuries Guidelines, the Government made amendments to the Judicial Council Bill to facilitate such a process. I have worked closely with the Minister for Justice and Equality, Mr Charlie Flanagan TD to progress the Bill through the Houses of the Oireachtas as a matter of priority. I am therefore pleased that the Bill has been passed by both Houses of the Oireachtas on 9 July, and I expect it will be signed into law by the President shortly.

Of course, it was only possible to pass this Bill in this legislative session as a result of the support and cooperation of colleagues in the Houses of the Oireachtas, and I am grateful for their very positive response. I believe that the passage of this Bill has demonstrated a strong resolve among all Members of the Oireachtas to do everything possible to try and bring award levels in this country, particularly for soft tissue injuries more in line with those in England and Wales and thus help alleviate the pressure faced by small business and voluntary groups in relation to insurance premiums. In keeping with this spirit, I would like to express my support for a number of Private Member Bills introduced that have an important bearing on insurance, including the *Perjury and Related Offences Bill 2018*, the *Consumer Insurance Contracts Bill 2017* and the *Civil Liability and Courts (Amendment) Bill 2019*, and it is my intention to work constructively with those Members on considering how to progress these pieces of legislation.

Now that the Bill has been passed, it will be a matter for the Judiciary to put in place the Judicial Council and to establish the Personal Injuries Guidelines Committee. While the Government cannot interfere in their deliberations, I would hope that the Judiciary will recognise the importance of this issue and prioritise it accordingly by targeting an end of year completion date for an initial set of guidelines, which take account of the PIC’s benchmarking report. I acknowledge that this may be an ambitious timeline but I believe that because of the urgency of the situation, every effort should be made to try and achieve this objective. I am

hopeful that the creation of personal injury damage guidelines by the Judiciary can result in the lowering of award levels. If this were to happen, I would expect the insurance industry to take account of such reductions in its pricing.

Michael D'Arcy, T.D.

Minister of State for Financial Services and Insurance

1 Report on the Cost of Motor Insurance

Overview of Progress on all Recommendations

OBJECTIVE 1 – PROTECTING THE CONSUMER

Rec. 1 **INSURERS TO SET OUT REASONS FOR LARGE INCREASES IN PREMIUMS TO CONSUMERS**

Recommendation COMPLETED

A protocol was agreed in Q2 2017 between Insurance Ireland and the Department of Finance (DoF) which aims to explain how a premium is calculated and provides a list of reasons for large increases in premiums, while consumers are also furnished with the contact details of their insurance provider in order to enable them to receive more specific information if they do not believe any of the listed reasons apply to their situation.

The main reason why a bespoke document cannot be provided is because the complexity of the interaction between the customer-facing systems and the underwriting systems in all modern insurance companies would make it very difficult to delineate specific reasons for an individual premium increase. Insurers have indicated that if they were to try and link these systems in order to address this issue, it would require very significant IT infrastructural changes at considerable cost, which would result in higher premiums. In addition, the Cost of Insurance Working Group (CIWG) believes that such an onerous requirement could result in the unintended consequence of discouraging new entrants to the market.

The content of the protocol has been available on the websites of the major motor insurance providers since it was agreed but, following a review by the DoF, Insurance Ireland communicated DoF's views in relation to the positioning of the text on their websites and across all their customer contact channels. They understand that insurers have taken the necessary steps to ensure this information is available to customers across all contact channels.

The CIWG is satisfied that the information above being provided to impacted policyholders satisfies the essence of Recommendation 1 and there is no need for legislation, as originally stipulated in Action Point 2. In addition, when viewed in conjunction with the new requirements for insurers set out in Recommendations 2 and 3, the CIWG believes that the changes being brought about through S.I. 577 of 2018², once implemented, will exceed the intent of this Recommendation as the information required to be provided to the policyholder will be bespoke. The CIWG understands that insurers are currently undertaking IT changes to facilitate the provision of this information to customers.

² Non-Life Insurance (Provision of Information)(Renewal of Policy Insurance) (Amendment) Regulation 2018

Rec. 2 INSURERS TO PROVIDE ADDITIONAL INFORMATION ON THE PREMIUM BREAKDOWN TO CONSUMERS

Recommendation COMPLETED

The Central Bank of Ireland (CBI) published the *Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) (Amendment) Regulations 2018* on 21 December 2018.

These amended Regulations were produced following analysis of submissions to the two relevant CBI Consultation Papers (CP114 & CP124) and will come into effect on 1 November 2019. The enhanced measures within the amended Regulations are:

- Insurers will be required to provide the total premium for each policy option available for the customer in renewal notices (i.e. comprehensive; third party, fire and theft cover; third party only, if it is offered by the insurer);
- Extension of the renewal notification period from 15 working days to 20 working days for motor insurance and all other non-life insurance classes covered under S.I. No.74; and
- Insurers will be required to provide the amount of the insurance premium paid in the previous year for private motor insurance renewals or, where any mid-term adjustments were made to the policy during the year, an annualised premium figure.

Rec. 3 EXTEND THE RENEWAL NOTIFICATION PERIOD FROM 15 TO 20 WORKING DAYS

Recommendation COMPLETED

The Central Bank of Ireland (CBI) published the *Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) (Amendment) Regulations 2018* on 21 December 2018.

As detailed under Recommendation 2, the enhanced measures within the amended Regulations, which will come into effect on 1 November 2019, include the extension of the renewal notification period from 15 working days to 20 working days for motor insurance and all other non-life insurance classes covered under S.I. No.74.

Rec. 4 TRANSPOSE THE INSURANCE DISTRIBUTION DIRECTIVE

Recommendation COMPLETED

The *European Union (Insurance Distribution) Regulations 2018* (S.I. No. 229 of 2018), were signed by the Minister for Finance on 27 June 2018 in order to fulfil Ireland's requirement to transpose the Insurance Distribution Directive (IDD) into national law prior to the EU deadline of 1 July 2018.

IDD establishes requirements in respect of insurance and reinsurance distribution in the EU. IDD aims to further enhance consumer protection and ensure a level playing field by extending the scope of the Directive to include all sales of insurance products. Insurance distributors have had to comply with the requirements since 1 October 2018.

Rec. 5 SUPPORT EFFORTS TO IMPROVE CROSS-BORDER INSURANCE PROVISION AT EU LEVEL

Recommendation COMPLETED (CIWG) / ONGOING (DoF)

As part of its normal business, the Department of Finance (DoF) monitors developments at EU level, including consulting with relevant EU institutions through the Permanent Representation of Ireland to the EU. The Department will continue to have in mind the recommendations of the CIWG in its consultations and interactions with EU institutions, including on the upcoming Solvency II Review and the ongoing negotiations on the Motor Insurance Directive, which are led by the Department of Transport, Sports and Tourism.

Rec. 6 PROTOCOL TO ENSURE A GREATER CONSISTENCY OF TREATMENT FOR RETURNING EMIGRANTS

Recommendation COMPLETED

A protocol was agreed in Q2 2017 between Insurance Ireland and the Department of Finance (DoF) which commits insurance companies to accept claims-free driving experience in another country, subject to appropriate verifiable documentation being provided, when an individual has previous driving experience in Ireland.

The guiding principle of the protocol is to ensure that a returning emigrant is not treated differently to any other driver, subject to verification of their continued driving experience and the normal acceptance criteria of the company. Thus, a returning emigrant will not be disadvantaged from spending that time abroad. Furthermore, under the protocol, insurance companies will not distinguish between countries on the basis of which side of the road driving takes place therein.

Insurance Ireland submitted a report on the implementation of this recommendation to the DoF in December 2017. This report confirmed that Insurance Ireland members have agreed to publish the wording of the agreed protocol on their company websites and other forms of social media, in addition to providing training for staff who can work through issues with emigrants before they leave, whilst they are out of the country and when they return to Ireland. The stated intention is “to resolve any issues well before they arise and for the consumer to be aware of the considerations when moving abroad”. The wording of the agreed protocol is also available on the Insurance Ireland website. However, following a review by the DoF, insurers have been asked to ensure this information is displayed more prominently on their websites to ensure that it is accessible and visible for consumers. The DoF continues to monitor this situation.

The DoF also notes from recent information provided by Insurance Ireland with regard to the Declined Cases Agreement that the number of declined cases accredited to consumers being unable to meet the acceptance criteria due to having been abroad has steadily declined since the rolling out of the protocol. It is expected that these figures will continue to fall through 2019.

The CIWG also notes that the Minister for the Diaspora and International Development, Mr Ciarán Cannon TD, has undertaken some further work in this area, through the Interdepartmental Committee on the Irish Abroad. This has included highlighting each individual motor insurance operator’s overall policy in respect of returning emigrants. The insurers which responded positively in relation to providing cover for this category are listed on the Department of Foreign Affairs and Trade website. These insurers have also indicated that they do, in one way or another, take into account claims-free driving experience earned abroad.

Rec. 7 THE DECLINED CASES AGREEMENT TO BE SUBJECT TO ONGOING REVIEW TO ENSURE TRANSPARENCY

Recommendation COMPLETED

Insurance Ireland submitted the first annual report on the operation of the Declined Cases Agreement (DCA) to the Department of Finance (DoF) in July 2017. It submitted the second report, for 2017 and 2018 calendar years, in May 2019. These reports have provided data on the numbers of consumers availing of the DCA, and a breakdown of the figures according to the category of driver. The CIWG notes that the number of consumers that required to use the declined cases agreement has continued to fall since its peak in 2016. In this regard, the total number of applications in 2018 was 1,147, which is down from 1,423 in 2017, and represents a drop of approximately 41% on the number of cases in 2016 (1,941).

In addition, in the first DCA report, Insurance Ireland called for a review of elements of the Agreement. As a result, the DoF hosted two workshops to review the operation and information flow between those organisations that play a role in the operation of the DCA. A method to alleviate some specific administrative issues raised by Insurance Ireland was agreed at the most recent workshop in October 2018.

It is anticipated that further workshops will take place through 2019 and focus on broader issues linked to the review of the operation of the Agreement overall.

Rec. 8 PROTOCOL FOR POLICYHOLDERS TO BE NOTIFIED OF CLAIMS MADE AGAINST THEM BEFORE SETTLEMENT

Recommendation ONGOING

It has ultimately not been possible for the Department of Finance (DoF) to reach an agreement with Insurance Ireland on a protocol which would involve the relevant policyholder being informed as soon as possible after both a claim is lodged and a claim is settled, and for the policyholder's views to be taken into consideration. Therefore, the only feasible solution to achieving the essence of Recommendation 8 at this stage is through primary legislation and the DoF has received approval from Government to do so through an amendment to the Consumer Insurance Contracts Private Members' Bill. The relevant amendments will be proposed at Committee Stage of the Bill, due to take place in July.

Rec. 9 INSURANCE IRELAND TO ESTABLISH A FORUM FOR CONSUMER AND BUSINESS ISSUES

Recommendation COMPLETED

Insurance Ireland set up the forum in March 2017 and hosted two meetings in the subsequent 12-month period. However, it has indicated that it approached a number of business and consumer organisations with a view to holding a further series of forums, but ultimately its attempts have proven to be unsuccessful. Insurance Ireland is of the view that there is a lack of interest amongst such groups for any such engagement, but also states that it continues to meet with stakeholders on an ongoing basis and remains committed to doing so. The CIWG acknowledges this position but believes that specific niche engagement, particularly in the area of business insurance, should still be feasible and would encourage Insurance Ireland to continue seriously pursuing such a possibility. For its part, Insurance Ireland points out that it meets advocacy groups on an ongoing basis and they have a number of one-to-one meetings planned for the coming months to discuss insurance related topics in this regard. Ultimately, this is a matter for Insurance Ireland to reflect upon and from the perspective of the CIWG, this recommendation is considered as having been completed.

Rec. 10 **ADVISORY COMMITTEE ON SMALL PUBLIC SERVICE VEHICLES TO EXPLORE SOLUTIONS FOR DRIVERS IN THE SECTOR WITH INSURANCE IRELAND**

Recommendation COMPLETED

As noted in the primary report, the CIWG believes that the issues raised by the taxi sector were in the main similar to those affecting consumers generally, notwithstanding that there are risks that are specific to the sector and therefore the implementation of the recommendations overall should have a positive impact on the average taxi driver. However, there were other insurance related issues impacting the cost of insurance which were as a result of a change to the Taxi Regulation Act. Therefore it was felt that the Advisory Committee on Small Public Service Vehicles, commonly known as the Taxi Advisory Committee (TAC), was best suited to consider these matters including engaging with the insurance industry to explore solutions, as well as discuss other general insurance issues, that may arise from time to time.

In that regard, Insurance Ireland met the TAC in May 2017 and the TAC submitted its required report in relation to this meeting to the Minister for Transport, Tourism and Sport in June 2017. Since then, no further meetings have taken place between the TAC and Insurance Ireland. However, the TAC has advised it is keeping itself informed of developments in the area, particularly through the industry representatives on the Committee, while future meetings with Insurance Ireland are part of the TAC strategy. The CIWG understands that the Board of the TAC is currently interviewing for new members. The CIWG looks forward to further engagements between the TAC and the insurance industry.

In addition, it is worth reflecting in this report that the DoF understands, from its ongoing engagement with Insurance Ireland, that there has been some increase in market capacity in relation to the provision of motor insurance for taxi drivers recently, and that at least one insurer is attempting to link the use of telematics technology with products offered to the taxi business.

OBJECTIVE 2 – IMPROVING DATA AVAILABILITY

Rec. 11 ESTABLISH A NATIONAL CLAIMS INFORMATION DATABASE

Recommendation COMPLETED

The *Central Bank (National Claims Information Database) Bill 2018* completed all stages in the Oireachtas on 20 December 2018 and the Act was commenced on 28 January 2019. The *Central Bank (National Claims Information Database) Regulations* (S.I. 174/2019) subsequently came into operation on 26 April 2019. These regulations specify that private motor insurance is the initial class of insurance in scope of the Database, and define what constitutes a risk in the State, and were the last step required by the legislation regarding the operationalisation of the Database.

The Central Bank of Ireland commenced collecting the relevant data on 30 April 2019. After completing data validation and analysis, the Bank expects to publish its first report in the second half of 2019.

Rec. 12 QUARTERLY PUBLICATION OF KEY AGGREGATED METRICS ON CLAIMS COSTS AND TRENDS WITHIN THE MARKET

Recommendation COMPLETED

Two *Motor Insurance Key Information Reports* have been published, the first in July 2017 and the second in May 2018.

The establishment of the National Claims Information Database renders further publication of these reports as unnecessary.

Rec. 13 CONSIDER THE FEASIBILITY OF A LONGER TERM CLAIM-BY-CLAIM REGISTER

Recommendation COMPLETED

The Department of Finance (DoF) published the relevant report in September 2018 and its conclusion was that a claim-by-claim register is not feasible in light of a number of issues identified with the establishment, cost and administration of such a register, in the absence of any defined purpose above and beyond the National Claims Information Database and the proposed Insurance Fraud Database.

OBJECTIVE 3 – IMPROVING THE PERSONAL INJURIES CLAIMS ENVIRONMENT

Rec. 14 ESTABLISH A PERSONAL INJURIES COMMISSION

Recommendation COMPLETED

The Personal Injuries Commission (PIC) published its two mandated reports in December 2017 and September 2018, respectively.

Progress on the implementation of the total of 14 recommendations across the two PIC reports is detailed separately in Part 3 of this Update.

OBJECTIVE 4 – REDUCING COSTS IN THE CLAIMS PROCESS

Rec. 15 ASSESS, WITHIN THE CURRENT REVIEW OF PIAB LEGISLATION, CASES OF NON-COOPERATION SUCH AS NON-ATTENDANCE AT MEDICALS AND REFUSAL TO PROVIDE DETAILS OF SPECIAL DAMAGES

Recommendation COMPLETED

The *Personal Injuries Assessment Board (Amendment) Act 2019 (No. 3 of 2019)* has been enacted and commenced.

The purpose of the Act is to strengthen PIAB in terms of operational issues – such as non-attendance at medicals and failure to provide details of special damages or loss of earnings – to ensure greater compliance with the PIAB process and encourage more claims to be settled through the PIAB model.

Rec. 16 ASCERTAIN AND SET OUT THE MEASURES NECESSARY TO IMPLEMENT PRE-ACTION PROTOCOLS FOR PERSONAL INJURY CASES

Recommendation DELAYED

While draft Heads to extend the use of Pre-Action Protocols (PAPs) to personal injury cases have not been published, the Department of Justice and Equality (DJE) has presented a note for information to the CIWG which incorporates draft Heads. The reason for the delay in finalising them is that the DJE has advised that draft regulations on PAPs for medical negligence actions remain under discussion between them and the Office of the Parliamentary Counsel. It is hoped that they will come into operation shortly. Their finalisation will inform the work on the PAP for personal injuries actions.

Rec. 17

FULLY ASSESS VIABLE OPTIONS FOR REFERRING REJECTED PIAB ASSESSMENTS TO JUDICIAL PROCESS ON APPEAL BASIS SO THAT FACTS ESTABLISHED IN PIAB PROCESS DO NOT REQUIRE TO BE RE-ESTABLISHED

Recommendation COMPLETED

The proposal for a judicial appeal/review style system to be established was examined but the conclusion reached was that it would simply just introduce another legal layer with associated additional costs as it would not prevent a person from taking a *de novo* case if they were unhappy with the outcome of the appeal/review.

The CIWG believes, however, that the implementation of Recommendation 15 to address cases of non-cooperation with the Personal Injuries Assessment Board (PIAB), such as non-attendance at medicals and refusal to provide details of special damages, through the *Personal Injuries Assessment Board (Amendment) Act 2019 (No. 3 of 2019)* should assist in strengthening the overall role of PIAB in the assessment of damages. In addition, the introduction of a Pre-Action Protocol for personal injury cases, as per Recommendation 16, should assist in narrowing down the issues in dispute in order to make any subsequent court procedure, if it occurs, more efficient and cost-effective.

Rec. 18

EXPLORE WITH THE JUDICIARY HOW FUTURE REVIEWS OF THE BOOK OF QUANTUM / GUIDELINES MIGHT INVOLVE APPROPRIATE JUDICIAL INVOLVEMENT IN ITS COMPILATION OR ADOPTION

Recommendation COMPLETED

This recommendation has been superseded by the recommendations of the Personal Injuries Commission (PIC), which highlighted the significant differential between award levels in Ireland and other jurisdictions, and has made a number of recommendations to address this issue, in particular the establishment of a Judicial Council to compile guidelines for appropriate general damages for various types of personal injury. In this regard, relevant amendments were agreed to the Judicial Council Bill at Report Stage in the Seanad on 20 June, which will provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for various types of personal injury which will fall to be adopted by the Judicial Council. These amendments also revoke the relevant Sections in the PIAB Act with regard to the Book of Quantum. The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

For its part, PIAB continues to stand ready to assist in the compilation of any guidelines by the Judicial Council. In this regard, PIAB have a considerable amount of data relating to personal injury claims that they have assessed and will engage as required.

Rec. 19 EXAMINE THE FREQUENCY OF FUTURE BOOK OF QUANTUM UPDATES IN TERMS OF ANY FUTURE CHANGES TO ITS PRODUCTION

Recommendation COMPLETED

The Personal Injuries Assessment Board (Amendment) Act 2019 (No. 3 of 2019) has been enacted and commenced. Notwithstanding this, the new requirement has effectively been superseded by the Personal Injuries Commission (PIC) recommendations, relating to the establishment of the Judicial Council. In this regard, relevant amendments were agreed to the Judicial Council Bill at Report Stage in the Seanad on 20 June, which will provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for various types of personal injury which will fall to be adopted by the Judicial Council. These amendments, inter alia, will mandate the Personal Injuries Guidelines Committee to review the personal injuries guidelines within 3 years of the first guidelines being adopted by the Council and at least once thereafter every 3 years thereafter. The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

Rec. 20 INTRODUCE MORE GRANULARITY INTO THE BOOK OF QUANTUM

Recommendation COMPLETED

As is the position in respect of Recommendation 18, this recommendation has been superseded by the Personal Injuries Commission recommendation relating to the establishment of the Judicial Council. In this regard, relevant amendments were agreed to the Judicial Council Bill at Report Stage in the Seanad on 20 June, which will provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for various types of personal injury which will fall to be adopted by the Judicial Council. The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

Rec. 21 IMPLEMENT THE REVIEW OF THE FRAMEWORK FOR MOTOR INSURANCE COMPENSATION IN IRELAND RECOMMENDATIONS

Recommendation COMPLETED

The *Insurance (Amendment) Act 2018* was enacted in July 2018 and the Commencement Order to establish the Motor Insurers Insolvency Compensation Fund was established with effect from 1 December 2018. The DoF expects to submit a report on the operation of this Act by the end of July 2019, as is required.

The purpose of the Act was to amend certain provisions of the *Insurance Act 1964*, as amended, to clarify the role of the Insurance Compensation Fund, to implement the recommendations of the 2016 *Review of the Framework for Motor Insurance Compensation in Ireland*, and to provide the legal basis for the full compensation of Setanta third party claimants.

Rec. 22 EXAMINE THE IMPACT OF LEGAL AND OTHER FEES ON PERSONAL INJURY AWARDS

Recommendation CONCLUDED (CIWG) / ONGOING (DJE)

The implementation of this recommendation was contingent on the establishment of the Office of the Legal Costs Adjudicators (OLCA), as provided for under the *Legal Services Regulation Act 2015*. The establishment of the OLCA is on target to take place at the end of Q2 2019. This includes a number of supporting legislative amendments that are, of course, also subject to approval by the Oireachtas. The CIWG understands that a period of at least one or two years from the time this new body becomes operational will be required before an appropriate level of data is available to commence a meaningful review.

Once established, the OLCA will maintain a register of determinations in relation to applications for adjudication of legal costs which will be available for inspection without payment and on a website of the Courts Service. A steering group to migrate from the current Office of the Taxing Master to the OLCA has been formed and the underlying data requirements are being built into the set-up process.

Efforts were undertaken to produce a useable data set on an interim basis, based on a sample of manual files from the Office of the Taxing Master and other data provided by the insurance industry; however, it ultimately did not prove to be possible to reach definitive or reliable conclusions from such data sources.

Rec. 23 REVIEW THE IMPACT OF THE CHANGES TO THE COURT JURISDICTIONAL LIMITS AS THEY EVOLVE

Recommendation COMPLETED

On 5 June 2019, the Department of Justice and Equality (DJE) submitted an updated report which has been further refined and enhanced in the light of the consideration by the CIWG of an initial draft. The DJE Report is being published with this Update Report.

While it is difficult to reach definitive conclusions from the Report with regard to the full impact of the jurisdictional limits on the cost of insurance, the CIWG notes that there has been a shift in the number of cases from the High Court to the lower courts, and that the policy aim regarding lowering legal costs may well have been achieved in this regard. However, there also appears at Circuit Court level to be a drift, during the period 2015-2017, away from awards at the lowest band of its jurisdiction towards the upper end. The Report observes that this may be giving rise to increases in the levels at which claims are being settled pre-court.

At the same time, the CIWG would note that PIAB figures show there has been a parallel gradual decrease in PIAB award acceptance rates in the years that have followed the 2014 changes in the court jurisdictional limits. This suggests that, if there are increases in the levels at which claims are being settled pre-court, these settlement levels are most likely being agreed directly between parties after leaving the PIAB process without the need for a Court determination. However, the CIWG believes it is difficult to verify that these settlement levels have actually increased as there is an absence of this type of settlement information. Such information will only begin to become available through the National Claims Information Database. In addition, the CIWG would note that the apparent drift in Circuit Court award levels might in time be ameliorated by the setting of appropriate award levels arising from the new functions being introduced in this regard under the Judicial Council Bill. The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly. The CIWG will not, therefore, be making any recommendations with regard to the court jurisdictional limits at this time.

Rec. 24 EXAMINE THE SETTING OF THE DISCOUNT RATE (IN PERSONAL INJURY LUMP SUM AWARDS), WITHOUT PREJUDICE TO THE OUTCOME OF RELEVANT PROCEEDINGS, AND TO BE REVIEWED AT REGULAR INTERVALS

Recommendation ONGOING

In accordance with Action Point 50, the Department of Justice and Equality (DJE) is continuing its ongoing review of the setting of the discount rate for personal injury lump sum awards, in consultation with the Department of Finance (DoF) and the State Claims Agency (SCA). In particular, the draft terms of a public consultation have been prepared and are currently being considered by the DJE, again in consultation with the DoF and the SCA.

Account is being taken of the judgments in the case of *Gill Russell v HSE*, where the Court of Appeal upheld the determination of the High Court that the discount rate of 3% then being applied by the courts to personal injury lump sum awards was too high for cases involving significant long-term care needs. Officials from the DoF and the SCA have engaged with counterparts from HM Treasury to discuss their experiences of reviewing and setting the discount rate in the UK. The SCA has also carried out some analysis on this subject. Plus, the UK has published the results of a consultation review exercise on how the discount rate should be set in future.

Consideration is being given to the UK developments and their applicability in an Irish context. A key outcome of this process will be whether regulations should be brought forward to set the discount rate and if so at what rate should they be set. An important point to note is that should a decision be made to set the discount rate, the legislation provides that the Courts can overrule this rate and set one which is lower or higher rate if they think it appropriate in an individual case.

OBJECTIVE 5 – REDUCING INSURANCE FRAUD AND UNINSURED DRIVING

Rec. 25 **ESTABLISH A FULLY FUNCTIONING INTEGRATED INSURANCE FRAUD DATABASE FOR INDUSTRY TO DETECT PATTERNS OF FRAUD**

Recommendation DELAYED

The Insurance Fraud Database Working Group, chaired by the Crime Division of the Department of Justice and Equality (DJE), is continuing to meet in order to establish an appropriate mechanism whereby insurance companies can share information to assist in the combatting of fraud. However, data protection-related issues have dominated the Group's deliberations and ultimately have made it impossible to establish the database by the end of 2018, as had been scheduled.

The Group is comprised of representatives from Insurance Ireland, the Motor Insurers' Bureau of Ireland, the Garda National Economic Crime Bureau and the Civil and Criminal Law Reform Divisions of the DJE. The group engaged in discussions with the Office of the Attorney General, the Office of the Data Protection Commissioner (ODPC) and the respective UK bodies dealing with insurance fraud (the Insurance Fraud Enforcement Department and the Insurance Fraud Bureau) and has completed a report which includes the recommended agreed parameters of the database, who is to be responsible, how it will be funded, and who will have access.

The application of the General Data Protection Regulation (GDPR) and the related Data Protection Bill will have a significant impact on any new data sharing arrangements between industry members and between the industry and An Garda Síochána. As such, the establishment of any new data sharing structures will require careful consideration against the changes to the legislative landscape. More generally, a critical balance will also be sought to ensure that data sharing between insurers is maximised while, at the same time, the data rights of the public are protected. Any changes, therefore, must be proportional to their effect.

The report of the Group was submitted to the Office of the Attorney General and the ODPC and in response, the ODPC strongly endorsed the Group's view that a detailed Data Protection Impact Assessment (DPIA) is required in order to answer outstanding concerns regarding the potential addition of new datasets to the existing Insurance Link database, and the increased sharing of data. The ODPC recommends that further work needs to be completed to detail the evidential requirements for the creation of a new database or the enhancement of the existing Insurance Link database. The benefits of such a database should be assessed against the potential harm or detriments that could occur to individuals and their fundamental rights. The Office of the Attorney General has considered the Group's report and further consultation will take place following the conclusion of the outstanding data protection matters.

Insurance Ireland has completed a DPIA in relation to matters such as the information currently held on Insurance Link, and the specific additional data it is proposed will be shared, plus the additional circumstances under which the data will be shared.

Q2 2019 UPDATE

The Working Group met most recently in June 2019 to further discuss the establishment of the proposed database, following consideration of data protection issues over the past year. This consideration included preliminary consultations with the ODPC, followed by more detailed consultations with DJE's Data Protection Support and Compliance Office (DPSCO) in the context of Insurance Ireland's DPIA on its Insurance Link database. The Working Group agreed that DJE would submit Insurance Ireland's DPIA on Insurance Link to the ODPC on behalf of Insurance

Ireland. This was submitted to the ODPC in accordance with Article 36 of the GDPR by DJE on 14 June 2019.

Engagement will continue with the insurance industry to see if it is possible to develop an enhanced version of the existing industry database, with the management of the database to be with an independent, not-for-profit body. This approach will provide for complete and open access to the data held on the database for all market participants. Subject to consultation with the DPC, the next phase towards implementation of this recommendation will require the identification of such an appropriate independent body to manage the database. The CIWG will continue to closely monitor progress in relation to this recommendation.

Rec. 26 EXPLORE POTENTIAL FOR FURTHER COOPERATION BETWEEN THE INSURANCE SECTOR AND AN GARDA SÍOCHÁNA IN RELATION TO INSURANCE FRAUD INVESTIGATION

Recommendation COMPLETED

Following full consideration of a proposal that the insurance industry fund a dedicated insurance fraud unit within An Garda Síochána (AGS) and how best to distribute resources, Garda Commissioner Drew Harris, has now decided that there should instead be a stronger focus by AGS at Divisional level on insurance fraud. This approach, which is aligned with the divisional-focused Garda model will be aimed at tackling such fraud on the ground all over the country. It is the intention of the Commissioner that the Garda National Economic Crime Bureau (GNECB) will guide Divisions and provide training in support of their investigation of insurance fraud.

The Commissioner remains open to the consideration of other industry-funded proposals which could assist AGS in the fight against insurance fraud; for example, ICT projects and/or the appointment of specialised analysts. The Department of Justice and Equality is currently engaging with AGS to this end, exploring these options and any other potential avenues for cooperation with the insurance sector. To that end, Minister of State D'Arcy has requested that a report, on specific proposals for potential insurance industry funding, be furnished to him.

It should be reiterated that an industry-funded Garda unit was a single mechanism proposed as a potential means by which to implement the intent behind this recommendation, the wording of which calls for AGS to explore the potential for further cooperation between it and the insurance sector in relation to insurance fraud investigation. In this regard, much constructive engagement has taken place through the Fraud Roundtable, which had been formed primarily to implement Recommendation 13 of the *Report on the Cost of Employer and Public Liability Insurance*. A particularly positive 'spin-off' development from the Roundtable has been that the GNECB and Insurance Ireland's Anti-Fraud Forum – which is drawn from the fraud sections of the major individual insurers – have committed to meet on a regular basis in order to discuss and act upon current and ongoing general issues which arise in the area of insurance fraud.

Rec. 27 REVIEW OF SECTION 30 OF THE CIVIL LIABILITY AND COURTS ACT 2004

Recommendation COMPLETED

The Department of Justice and Equality submitted a report to the CIWG in February 2019 following its review of section 30 of the *Civil Liability and Courts Act 2004*, which provides for the Courts Service to establish and maintain a register of personal injury actions. The main conclusion within the report is that the Courts Service believes that it is not in a position to proceed with the setting up of a register at this time for a number of reasons including data protection concerns, technical/resources considerations, and the lack of perceived benefits from developing a register only including Court actions.

Rec. 28 ESTABLISH A FULLY FUNCTIONING DATABASE TO IDENTIFY UNINSURED DRIVERS COMPELLING INSURANCE COMPANIES TO PROVIDE THE DRIVER NUMBER

Recommendation CONCLUDED (CIWG) / ONGOING (DTTAS)

This is one of four Department of Transport, Tourism and Sport (DTTAS)-led recommendations (Recommendations 28-31) in respect of which work has concluded in so far as the explicit involvement of the CIWG is concerned. Two of the recommendations are related to ongoing large-scale, long-term, multi-agency projects – namely, the Motor Third Party Liability (MTPL) database and the Master Licence Record – the origin of which predates the existence of the CIWG. A deadline of Q4 2018 for the completion of both projects was provided at the outset but from very early on following the publication of the Motor Report, the timelines for implementation were reset by the DTTAS. The CIWG, unlike in respect of other recommendations in the Motor Report, has not been in a position to influence the natural pace of progress of these projects, dependent as they are on factors which ultimately lie outside its direct control. Nevertheless, any further significant developments in relation to this recommendation will be reported in Progress Updates, if applicable.

The DTTAS has confirmed that Phase 2 of the MTPL Project – which is concerned with establishing a database to identify uninsured drivers – will not be fully delivered until the end of 2021.

The DTTAS has indicated that the key reasons for this delay are:

- Delivery has now been significantly expanded to cover details on all private, commercial and fleet motor vehicles;
- Delivery of the capability to capture and validate Driver Number details will require both an initial industry-wide start date for the collection of data for new policies and an extended period to allow for Driver Number details to be collected on renewals;
- Before insurance companies can start requiring customers to supply both their Driver Number details and those of their named drivers on the policy, amendments to the Road Traffic Acts will need to be in place; and,
- Mechanisms will have to be developed and agreed between the DTTAS and all insurers in order for them to gain access to the National Vehicle and Driver File (NVDF) to validate Driver Numbers.

The MTPL Project Board has now structured the delivery of Phase 2 into four sub-phases, namely:

1. Delivery of all information currently covered by section 78A of the *Road Traffic Act 2016* for both private and commercial vehicles, by the end of 2018
2. Delivery of Driver Number capture and validation capability, by the end of 2019
3. Delivery of motor fleet information, by the end of 2020

4. Delivery of Driver Numbers for all drivers (following the completion of the required renewal cycles) by the end of 2021.

Q2 2019 Update

It is now proposed to commence section 78A of the *Road Traffic Act 1961* later in 2019, at a date yet to be agreed by the MTPL Project Board. This will depend on resolution of a number of legal and technical issues. In addition, the CIWG understands that capturing the Driver Number will require a further legislative amendment, to be addressed in the forthcoming *Road Traffic (Miscellaneous Provisions) Bill*, which DTTAS hopes to publish in Autumn of 2019.

Rec. 29 DEVELOP A PROTOCOL TO PROVIDE THAT INDUSTRY USE THE DRIVER NUMBER TO CHECK DRIVER DETAILS ON THE NATIONAL VEHICLE AND DRIVER FILE

Recommendation CONCLUDED (CIWG) / ONGOING (DTTAS)

This is one of four Department of Transport, Tourism and Sport (DTTAS)-led recommendations (Recommendations 28-31) in respect of which work has concluded in so far as the explicit involvement of the CIWG is concerned. Further detail on this is provided in the text in italics under Recommendation 28.

The DTTAS has confirmed that its National Vehicle and Driver File (NVDF) Unit will examine how this protocol can be put in place once arrangements are in place for all insurance companies to collect the Driver Number (as per Recommendation 28).

Rec. 30 EXPEDITE THE DEVELOPMENT OF THE MASTER LICENCE RECORD

Recommendation CONCLUDED (CIWG) / ONGOING (DTTAS)

This is one of four Department of Transport, Tourism and Sport (DTTAS)-led recommendations (Recommendations 28-31) in respect of which work has concluded in so far as the explicit involvement of the CIWG is concerned. Further detail on this is provided in the text in italics under Recommendation 28.

The DTTAS has confirmed that the Master Licence Record (MLR) project – a multi-annual programme of activity which was signed off by the Minister of Transport, Tourism and Sport and the Minister for Justice and Equality based on a set budget and timescale for delivery – has fallen behind schedule and is not likely to be in place until 2020 at the earliest. The CIWG is however continuing to monitor this recommendation in the context of the revised timeline for its expected completion.

Q2 2019 Update

The CIWG understands that the first phase of the MLR matching project is complete. This phase involved associating vehicle owner records with driver records by matching on name and address details. Roughly 18% of active vehicle records have been successfully matched with driver records. This matching process runs every week, after which a file containing the vehicle-driver associations is sent to An Garda Síochána for use in the Fixed Charge Processing System. Further progress of the MLR project is dependent on the necessary legislation, which is included in the *Road Traffic (Miscellaneous Provisions) Bill 2019*. DTTAS has informed the CIWG that it hopes to publish this Bill in Autumn of 2019.

OBJECTIVE 6 – PROTECTING ROAD SAFETY AND REDUCING COLLISIONS

Rec. 31 **PROTOCOL IN REGARD TO INSURANCE COMPANIES REQUIRING PROOF OF NCT/CRW**

Recommendation CONCLUDED (CIWG) / ONGOING (DTTAS)

This is one of four Department of Transport, Tourism and Sport (DTTAS)-led recommendations (Recommendations 28-31) in respect of which work has concluded in so far as the explicit involvement of the CIWG is concerned. Further detail on this is provided in the text in italics under Recommendation 28.

The DTTAS has confirmed that work on this recommendation cannot be undertaken until the Master Licence Record (MLR) has been fully established.

The DTTAS has also stated that the MLR business case does not cater for any NCT/CRW elements and this requirement is not part of the project; that if this requirement is to be added to the scope of work for the National Vehicle and Driver File (NVDF) then a protocol would need to be agreed with the insurance industry in relation to this, and a detailed and costed design would require approval from a resource and budget perspective.

Rec. 32 **REQUIRE THE INSURANCE INDUSTRY TO PROMOTE COMPLIANCE WITH ROAD SAFETY LEGISLATION**

Recommendation COMPLETED (CIWG) / ONGOING (DTTAS)

Insurance Ireland and the Department of Transport, Tourism and Sport (DTTAS) have agreed a protocol which will ensure that the appropriate wording provided by the Road Safety Authority (RSA) promoting compliance is now included in policy documents and other mechanisms to enhance the role of insurance companies in this area – pursuant to the relevant recommendation of the Road Safety Strategy 2013-2020.

While the CIWG considers that the agreement of a protocol means that the recommendation has been completed from the perspective of the CIWG, it understands that the discussions that have taken place between the RSA and Insurance Ireland on how this protocol will be implemented have yet to be concluded. The CIWG therefore intends to follow up further with the RSA and Insurance Ireland directly with a view to these discussions being concluded as soon as possible.

Rec. 33 **SUPPORT THE USE OF TECHNOLOGY TO BENEFIT CONSUMERS**

Recommendation COMPLETED

Insurance Ireland submitted two reports on the use of telematics to the Department of Finance, the first in December 2017 and the other, concentrating on fraud-related matters, in February 2019.

The contents of the second report are currently under consideration by the Cost of Insurance Working Group.

Action Plan Monitoring Dashboard

OBJECTIVE 1: PROTECTING THE CONSUMER

Rec.	Action	Title	Deadline	Current Position
1	INSURERS TO SET OUT REASONS FOR LARGE INCREASES IN PREMIUMS TO CONSUMERS			
	1	Develop a protocol with Insurance Ireland to facilitate the communication of the reasons for large increases in premiums to consumers	Q2 2017	COMPLETED
	2	Develop legislation to underpin the protocol	Q4 2017	COMPLETED
2	INSURERS TO PROVIDE ADDITIONAL INFORMATION ON THE PREMIUM BREAKDOWN TO CONSUMERS			
	3	Central Bank of Ireland to undertake consultation	Q4 2017	COMPLETED
	4	Central Bank of Ireland to amend legislation	Q2 2018	COMPLETED
3	EXTEND THE CURRENT RENEWAL NOTIFICATION PERIOD FROM 15 TO 20 WORKING DAYS			
	5	Central Bank of Ireland to undertake consultation	Q4 2017	COMPLETED
	6	Central Bank of Ireland to amend legislation	Q2 2018	COMPLETED
4	TRANSPOSE THE INSURANCE DISTRIBUTION DIRECTIVE			
	7	Department of Finance to transpose the Insurance Distribution Directive	Q1 2018	COMPLETED
5	SUPPORT EFFORTS TO IMPROVE CROSS-BORDER INSURANCE PROVISION AT EU LEVEL			
	8	Monitor EU developments	Ongoing	COMPLETED (CIWG) / ONGOING (DoF)
	9	Make representations as necessary with EU Commission and EU Parliamentarians	Ongoing	COMPLETED (CIWG) / ONGOING (DoF)

Rec.	Action	Title	Deadline	Current Position
6	PROTOCOL TO ENSURE A GREATER CONSISTENCY OF TREATMENT FOR RETURNING EMIGRANTS			
	10	Insurance Ireland to put in place a standard information protocol for consumers	Q4 2017	COMPLETED
	11	Insurers to implement policies to take full account of left-hand driving experience from abroad when a person has previous driving experience in Ireland	Q2 2017	COMPLETED
	12	Insurers to implement policies to take appropriate account of right-hand driving experience from abroad when a person has previous driving experience in Ireland	Q4 2017	COMPLETED
7	THE DECLINED CASES AGREEMENT TO BE SUBJECT TO ONGOING REVIEW TO ENSURE TRANSPARENCY			
	13	Insurance Ireland to submit report to Department of Finance on its implementation of Action Points 10, 11 & 12	Q2 2017 Q4 2017	COMPLETED COMPLETED
	14	Insurance Ireland to provide information on its website	Q1 2017	COMPLETED
8	PROTOCOL FOR POLICYHOLDERS TO BE NOTIFIED OF CLAIMS MADE AGAINST THEM BEFORE SETTLEMENT			
	15	Insurance Ireland to submit report to Department of Finance annually	Q2 2017	COMPLETED
8	PROTOCOL FOR POLICYHOLDERS TO BE NOTIFIED OF CLAIMS MADE AGAINST THEM BEFORE SETTLEMENT			
	16	Insurance Ireland to consult with the Department of Finance in relation to the development of a general protocol	Q3 2017	COMPLETED
9	INSURANCE IRELAND TO ESTABLISH A FORUM FOR CONSUMER AND BUSINESS ISSUES			
	17	Insurance Ireland to put in place a general protocol	Q4 2017	ONGOING
	18	Forum to be established by Insurance Ireland for consumer and business issues	Q1 2017	COMPLETED
10	ADVISORY COMMITTEE ON SMALL PUBLIC SERVICE VEHICLES TO ENTER REGULAR DISCUSSIONS WITH INSURANCE IRELAND TO EXPLORE SOLUTIONS FOR DRIVERS IN THE SECTOR			
	19	Forum to meet twice yearly	Ongoing	COMPLETED
10	ADVISORY COMMITTEE ON SMALL PUBLIC SERVICE VEHICLES TO ENTER REGULAR DISCUSSIONS WITH INSURANCE IRELAND TO EXPLORE SOLUTIONS FOR DRIVERS IN THE SECTOR			
	20	Advisory Committee on Small Public Service Vehicles to meet with Insurance Ireland	Q1 2017	COMPLETED
	21	Advisory Committee on Small Public Service Vehicles to report to the Minister for Transport, Tourism and Sport	Q2 2017	COMPLETED

OBJECTIVE 2: IMPROVING DATA AVAILABILITY

Rec.	Action	Title	Deadline	Current Position
11	ESTABLISH A NATIONAL CLAIMS INFORMATION DATABASE			
	22	Specify the key aggregated metrics for immediate publication and commence the development of a national claims information database	Q1 2017	COMPLETED
	23	Legislation in place for a national claims information database	Q4 2017	COMPLETED
	24	National claims information database established	Q2 2018	COMPLETED
12	QUARTERLY PUBLICATION OF KEY AGGREGATED METRICS ON CLAIMS COSTS AND TRENDS WITHIN THE MARKET			
	25	Key aggregated metrics template to issue to insurance undertakings for completion and submission	Q1 2017	COMPLETED
	26	Collation and analysis of submissions received from insurance undertakings	Q2 2017	COMPLETED
	27	Quarterly publication of key aggregated metrics commenced	Q2 2017	COMPLETED
13	CONSIDER THE FEASIBILITY OF A LONGER TERM CLAIM-BY-CLAIM REGISTER			
	28	Establish sub-group to consider feasibility of a longer term claim-by-claim register	Q1 2018	COMPLETED
	29	Report on claim-by-claim register delivered	Q3 2018	COMPLETED

OBJECTIVE 3: IMPROVING THE PERSONAL INJURIES CLAIMS ENVIRONMENT

Rec.	Action	Title	Deadline	Current Position
14	ESTABLISH A PERSONAL INJURIES COMMISSION			
	30	Establish a Personal Injuries Commission (PIC)	Q1 2017	COMPLETED
	31	PIC to investigate processes in other jurisdictions and make recommendations which could enhance the claims process in Ireland	Q4 2017	COMPLETED
	32	PIC to benchmark international PI awards with those in Ireland and report on alternative compensation and resolution models	Q1 2018	COMPLETED
	33	PIC to deliver its third report	Q2 2018	COMPLETED

OBJECTIVE 4: REDUCING THE COSTS IN THE CLAIMS PROCESS

Rec.	Action	Title	Deadline	Current Position
15	ASSESS, WITHIN THE CURRENT REVIEW OF PIAB LEGISLATION, CASES OF NON-COOPERATION SUCH AS NON-ATTENDANCE AT MEDICALS AND REFUSAL TO PROVIDE DETAILS OF SPECIAL DAMAGES			
	34	Review cases of non-attendance at medicals and refusal to provide details of special damages	Q2 2017	COMPLETED
	35	Publish Heads of Bill to enhance the powers of PIAB	Q2 2017	COMPLETED
16	ASCERTAIN AND SET OUT THE MEASURES NECESSARY TO IMPLEMENT PRE-ACTION PROTOCOLS FOR PERSONAL INJURY CASES			
	36	Ascertain and set out the necessary measures to implement Pre-Action Protocols in personal injury cases	Q3 2017	COMPLETED
	37	Publish Heads of Bill to extend Pre-Action Protocols to personal injury cases	Q4 2017	DELAYED
17	FULLY ASSESS VIABLE OPTIONS FOR REFERRING REJECTED PIAB ASSESSMENTS TO JUDICIAL PROCESS ON APPEAL BASIS SO THAT FACTS ESTABLISHED IN PIAB PROCESS DO NOT REQUIRE TO BE RE-ESTABLISHED			
	38	Review potential legal and constitutional constraints to the appeal style system	Q4 2017	COMPLETED
18	EXPLORE WITH JUDICIARY HOW FUTURE REVIEWS OF THE BOOK OF QUANTUM / GUIDELINES MIGHT INVOLVE APPROPRIATE JUDICIAL INVOLVEMENT IN ITS COMPILATION OR ADOPTION			
	39	Consultation with the Judiciary	Ongoing	COMPLETED
19	EXAMINE THE FREQUENCY OF FUTURE BOOK OF QUANTUM UPDATES IN TERMS OF ANY FUTURE CHANGES TO ITS PRODUCTION			
	40	Implement the outcome of the PIAB legislative review	Q2 2017	COMPLETED
20	INTRODUCE MORE GRANULARITY INTO THE BOOK OF QUANTUM			
	41	Consult with the PIC and implement any recommendations arising from its report	Ongoing	COMPLETED
	42	Enhance the Book of Quantum upon each publication	Ongoing	COMPLETED

Rec.	Action	Title	Deadline	Current Position
21	IMPLEMENT THE REVIEW OF THE FRAMEWORK FOR MOTOR INSURANCE COMPENSATION IN IRELAND RECOMMENDATIONS			
	43	Continue to implement the recommendations of the Review	Ongoing	COMPLETED
	44	Government approval of Heads of Bill to amend the Insurance Act 1964	Q2 2017	COMPLETED
22	EXAMINE THE IMPACT OF LEGAL AND OTHER FEES ON PERSONAL INJURY AWARDS			
	45	Establishment of reliable set of data and commence review	Q1 2017	CONCLUDED (CIWG) / ONGOING (DJE)
	46	Report to be submitted to the Cost of Insurance Working Group	Q2 2018	CONCLUDED (CIWG) / ONGOING (DJE)
23	REVIEW THE IMPACT OF THE CHANGES TO THE COURT JURISDICTIONAL LIMITS AS THEY EVOLVE			
	47	Review to be commenced	Q1 2017	COMPLETED
	48	Report to be submitted to the Cost of Insurance Working Group	Q2 2018	COMPLETED
24	EXAMINE THE SETTING OF THE DISCOUNT RATE (IN PERSONAL INJURY LUMP SUM AWARDS), WITHOUT PREJUDICE TO THE OUTCOME OF RELEVANT PROCEEDINGS, AND TO BE REVIEWED AT REGULAR INTERVALS			
	49	Review to be commenced	Q1 2017	COMPLETED
	50	Report to be submitted to the Cost of Insurance Working Group	Ongoing	ONGOING

OBJECTIVE 5: REDUCING INSURANCE FRAUD AND UNINSURED DRIVING

Rec.	Action	Title	Deadline	Current Position
25	ESTABLISH A FULLY FUNCTIONING INTEGRATED INSURANCE FRAUD DATABASE FOR INDUSTRY TO DETECT PATTERNS OF FRAUD			
	51	Determine the parameters of the database to be established; who is to be responsible, how it will be funded, and who will have access	Q2 2017	COMPLETED
	52	Liaise with industry and An Garda Síochána to determine what type of data will be input into the database	Q2 2017	COMPLETED
	53	Liaise with the Data Protection Commissioner in relation to data sharing provisions	Q2 2017	COMPLETED
	54	Prepare criminal justice legislation if required and implement the database	Q2 2018 Q4 2018	DELAYED DELAYED
26	EXPLORE THE POTENTIAL FOR FURTHER COOPERATION BETWEEN THE INSURANCE SECTOR AND AN GARDA SÍOCHÁNA IN RELATION TO INSURANCE FRAUD INVESTIGATION			
	55	Determine mechanism for further cooperation	Q2 2017	COMPLETED
	56	Approval of the Garda Commissioner for the mechanism chosen	Q3 2017	COMPLETED
	57	Approval of the Minister for Justice and Equality for the mechanism chosen	Q3 2017	COMPLETED
	58	Liaise with industry	Ongoing	ONGOING
27	REVIEW OF SECTION 30 OF THE CIVIL LIABILITY AND COURTS ACT 2004			
	59	Review to be commenced to determine necessary amendments, if any	Q4 2017	COMPLETED
	60	Report to be submitted to the Cost of Insurance Working Group	Q1 2018	COMPLETED
28	ESTABLISH A FULLY FUNCTIONING DATABASE TO IDENTIFY UNINSURED DRIVERS COMPELLING INSURANCE COMPANIES TO PROVIDE THE DRIVER NUMBER			
	61	Complete Phase 1 - Go Live (in relation to privately owned vehicles)	Q3 2017	CONCLUDED (CIWG) / ONGOING (DTTAS)
	62	Complete Phase 2 - include driver number and commence provision of Road Traffic Act 2016 requiring insurance companies to provide driver licence number	Q3 2018 Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)
	63	Establish protocol with the insurance industry to advise fleet customers that vehicles will not be covered by the fleet policy if not entered on the National Fleet Database	Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)

Rec.	Action	Title	Deadline	Current Position
29	DEVELOP A PROTOCOL TO PROVIDE THAT INDUSTRY USE THE DRIVER NUMBER TO CHECK DRIVER DETAILS ON THE NVDF (NATIONAL VEHICLE AND DRIVER FILE)			
	64	Establish a protocol with the insurance industry to provide that industry use the driver number to check and verify driver details on the NVDF	Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)
30	EXPEDITE THE DEVELOPMENT OF THE MASTER LICENCE RECORD			
	65	NVDF to submit detailed project plan to the Minister for Transport, Tourism and Sport who will provide a report to the Cost of Insurance Working Group	Q2 2017	CONCLUDED (CIWG) / ONGOING (DTTAS)
	66	Department of Transport, Tourism and Sport to expedite the implementation of the Master Licence Record	Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)

OBJECTIVE 6: PROMOTING ROAD SAFETY AND REDUCING COLLISIONS

Rec.	Action	Title	Deadline	Current Position
31	PROTOCOL IN REGARD TO INSURANCE COMPANIES REQUIRING PROOF OF NCT/CRW			
	67	Expedite the Master Licence Record - this will provide insurers with the facility to check the NVDF for proof of NCT/CRW	Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)
	68	Insurance Ireland to put in place a general protocol in regard to insurance companies requiring proof of NCT/CRW	Q4 2018	CONCLUDED (CIWG) / ONGOING (DTTAS)
32	REQUIRE THE INSURANCE INDUSTRY TO PROMOTE COMPLIANCE WITH ROAD SAFETY LEGISLATION			
	69	Develop a protocol for the insurance industry to promote compliance with road safety legislation	Q1 2017	COMPLETED (CIWG) / ONGOING (DTTAS)
	70	Wording to be provided by Department of Transport, Tourism and Sport for inclusion in policy documents	Q2 2017	COMPLETED (CIWG) / ONGOING (DTTAS)
33	SUPPORT THE USE OF TECHNOLOGY TO BENEFIT CONSUMERS			
	71	Insurance Ireland to review the current use of telematics by industry and submit two reports to Cost of Insurance Working Group (one: <i>Road Safety</i> & one: <i>Fraud</i>)	Q4 2017 Q3 2018	COMPLETED COMPLETED

2 Report on the Cost of Employer and Public Liability Insurance

2.1 Progress Update: Q1 and Q2 2019 Actions

Action	Title	Q1/2 2019
5	Courts service to be requested to include this more granular data in future annual reports, commencing with the 2019 annual report (Q1 2019).	✓
17	On receipt of the report from PIAB, Department of Business, Enterprise and Innovation to review the operation of the six-month standstill period under Section 50 of the Personal Injuries Assessment Board Act 2003 (Q2 2019).	✓

The table above indicates that the two actions which were due to be completed in Q1 and Q2 2019 are considered to be completed. The updates provided below in respect of all recommendations supply more detail on the status of both.

PROGRESS UPDATE: OUTSTANDING ACTIONS FROM PREVIOUS QUARTERS

Action	Title	Q1/2 2019
7	Collation and analysis of submission received and publication of Key Information Report on employer and public liability insurance	●
19	Insurance Ireland and business organisations to agree a new set of guidelines in respect of notifying and engaging with policyholders regarding personal injury claims submitted against them	→
Key ✓ Action completed ● Action delayed → Action ongoing		

The table above indicates that both of the two actions which remain outstanding from previous quarters, however with respect to Action 19, given that a decision has been taken to pursue this through legislation, the action is now considered ongoing, rather than delayed. The updates provided below in respect of all recommendations supply more detail on the status of the two outstanding actions.

2.2 Progress Update: All Recommendations

OBJECTIVE 1 – INCREASING TRANSPARENCY

Rec. 1 **CSO TO CONSIDER FEASIBILITY OF COLLECTING PRICE INFORMATION ON THE COST OF INSURANCE TO BUSINESS**

Recommendation COMPLETED

The Central Statistics Office (CSO) submitted a draft report to the Department of Finance in December 2018 on the work undertaken on the feasibility study to date. It subsequently provided a final report to the CIWG in January 2019.

Through its meetings with industry experts, the insurance companies and other National Statistical Institutes (NSIs), the CSO identified seven potential methods of collecting price information on liability insurance. These data collection options were assessed against four criteria: (i) statistical quality, (ii) burden on respondents, (iii) meeting user needs, and (iv) cost. After analysing each of the options, the CSO has found that four options were unfeasible and two further options, while technically feasible, would be extremely difficult to implement in practice.

The method that the CSO will further examine is to use a commercially available technology solution to automatically price a high volume of representative profiles, i.e., customer profile such as an office-based company with 20 employees, good safety standards and no claims history, etc. The price quotations for these profiles can then be tracked over time to estimate the overall change in premiums.

The CSO has continued its research into this approach and is due to provide the CIWG with a final report and recommendation on feasibility by the end of September. If a decision is made by the CSO to implement the solution, then subject to resources, the CSO states it could potentially start data collection by end-December. If this were to happen, the first publication of the index would take place between 12 to 18 months after the initial data collection.

With the submission by the CSO of the feasibility study, the CIWG considers this recommendation to have been completed. Notwithstanding this, the CIWG will monitor and report on any future developments, including the final determination of the CSO, which is expected in September.

Rec. 2 **CENTRAL BANK TO EXAMINE MERITS AND FEASIBILITY OF COLLECTING EMPLOYER AND PUBLIC LIABILITY INSURANCE CLAIMS DATA IN THE NATIONAL CLAIMS INFORMATION DATABASE (NCID)**

Recommendation ONGOING

The Central Bank has initiated a project to study the merits and feasibility of expanding the scope of the NCID to include employer and public liability (EL/PL) insurance. It is currently engaging with external stakeholders, including industry and consumer representative groups, to confirm the key data requirements, and will also research the employer and public liability insurance environment in other jurisdictions, focussing on data availability. The Central Bank intends to produce its feasibility report by the end of 2019.

Rec. 3 COURTS SERVICE TO PUBLISH THE RESULTS OF PERSONAL INJURY CASES IN A MORE GRANULAR WAY IN ITS ANNUAL REPORTS

Recommendation COMPLETED

The Court Service has indicated to the Department of Justice and Equality that it will publish the results of personal injury cases in a more granular way in its annual report. Following further consultations with the Courts Service this will now commence with their 2019 Annual Report, to be published in July 2020, which will include the relevant results.

The Department of Justice and Equality is following up with the Courts Service regarding the level of granularity.

Rec. 4 DEPARTMENT OF FINANCE TO PUBLISH A KEY INFORMATION REPORT ON EMPLOYER AND PUBLIC LIABILITY INSURANCE CLAIMS

Recommendation DELAYED

The data sub-group developed the relevant template for a request to Insurance Ireland for certain key metrics to enable a report to be produced and published in Q4 2018. The data template was submitted to Insurance Ireland by Minister of State D'Arcy in May 2018. In it, he requested that the completed data submission be returned by the end of Q3 2018 to allow sufficient time for the production and publication of the report by the end of Q4 2018.

Insurance Ireland indicated that due to the volume and complexity of the data to be collected, it has been necessary for it to instigate a procurement process for a third party to assist with this exercise. This was completed and it stated it was liaising with its members and expected to start the data gathering process shortly. For these reasons, it indicated that it would not be possible for them to submit the market data within the required timeframe.

Q2 2019 UPDATE

The Department of Finance (DoF) is awaiting the transmission of the requested data from Insurance Ireland. It is understood that Insurance Ireland are continuing to consult with members in relation to the feasibility of this exercise and hope to be in a position to provide a substantive update on feasibility shortly. Accordingly, it will not be possible for the DoF to produce and publish this report until a data submission is compiled and transmitted by Insurance Ireland. While the DoF recognises that this exercise is complex and that Insurance Ireland has never compiled this level of data with regard to employer and public liability insurance before, and ultimately it is a voluntary exercise, it feels that this delay demonstrates the importance of the CBI's consideration of the potential for expanding the scope of the NCID to cover EL and PL business.

OBJECTIVE 2 – REVIEWING THE LEVEL OF DAMAGES IN PERSONAL INJURY CASES

Rec. 5 **LAW REFORM COMMISSION TO BE REQUESTED TO UNDERTAKE A DETAILED ANALYSIS OF THE POSSIBILITY OF DEVELOPING CONSTITUTIONALLY SOUND LEGISLATION TO DELIMIT OR CAP DAMAGES**

Recommendation COMPLETED

The Fifth Programme of Law Reform was approved by Government in March and subsequently published on 5 June 2019. The Programme includes the project to consider whether it would be constitutionally permissible and, if so, whether it would be desirable to legislate for statutory caps on general damages (damages for pain and suffering) in personal injury cases.

The CIWG understands that the project will take into account that the courts have, in a number of cases in recent years, laid down what have been described as “caps” or “tariffs” on general damages which take account of the injuries suffered by a plaintiff and, in some instances, the level of special damages awarded (for example, for loss of earnings and medical care costs). These caps or tariffs have been adjusted by the courts over the years, taking account of general economic conditions and medical costs inflation. The project will also take account of the proposal that the Judicial Council will include a Committee that could develop further guidance in this area. It is understood that the LRC has already commenced work on this and that it is a priority for it.

This recommendation is considered as having been completed. However the CIWG will continue to monitor and report on any significant developments.

OBJECTIVE 3 – IMPROVING THE PERSONAL INJURIES LITIGATION FRAMEWORK

Rec. 6 AMEND THE WORDING OF SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004 TO ENSURE DEFENDANTS ARE NOTIFIED OF A CLAIM HAVING BEEN LODGED AGAINST THEIR POLICY

Recommendation COMPLETED

The *Central Bank (National Claims Information Database) Act 2018* was commenced on 28 January 2019. Section 13(2) of the Act provides for the amendments to section 8 of the 2004 Act.

Rec. 7 RELEVANT COURT RULES COMMITTEE(S) TO CONSIDER AMENDMENT OF THE RULES OF COURT IN RESPECT OF SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004

Recommendation COMPLETED

The Rules of the Superior Courts and the Circuit Court Rules have been amended by the relevant rules committees to facilitate the operation of section 8 of the *Civil Liability and Courts Act 2004* as amended by section 13(2) of the *Central Bank (National Claims Information Database) Act 2018*. The Statutory Instruments concerned are S.I. No. 215 of 2019 and S.I. No. 216 of 2019 which provide that the amended rules come into operation on 19 June 2019.

In addition to the rules of court already made, draft District Court Rules have been prepared by the relevant rules committee and these draft rules are in the process of being made at present.

Rec. 8 ENSURE GREATER GENERAL AWARENESS OF NOTIFICATION OBLIGATIONS UNDER SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004

Recommendation COMPLETED

As a follow-up to the original correspondence referred to above, there has been further contact with the relevant bodies, a number of which replied outlining how they had increased awareness of this provision, including ISME, the Citizens Information Board, the Honorable Society of King's Inns, the Law Society of Ireland, the Council of the Bar of Ireland, and various local authorities. In respect of the latter, in particular, it was noted that it was necessary to strike a balance between better informing the general public and being seen as, in effect, inviting or encouraging the submission of the kind of personal injury claims which may not ordinarily be initiated.

Q2 2019 UPDATE

Following from the amendments made to section 8 of the 2004 Act, and the changes made to the rules of relevant courts, as outlined in Recommendation 7, the Department of Finance wrote again to Insurance Ireland, IBEC, ISME, the Citizens Information Board, and every individual local authority in the country, to advise of the relevant changes. In addition, as is standard procedure when new rules of court are created, the rules were circulated by the Department of Justice and Equality to interested stakeholders including representatives of the Law Society, Bar Council, and Kings Inns. The circulation email requests that all necessary action be taken as appropriate with regard to these rules. The Rules are also made available on the Courts Service website and www.IrishStatuteBook.ie.

Based on the above, this recommendation is considered as having been completed. However, the Cost of Insurance Working Group will continue to provide updates and monitor awareness as required.

Rec. 9

REVIEW OF THE OPERATION OF THE SIX-MONTH STANDSTILL PERIOD PROVIDED FOR UNDER SECTION 50 OF THE PERSONAL INJURIES ASSESSMENT BOARD ACT 2003

Recommendation COMPLETED

PIAB undertook an examination of the operation of Section 50 of the *Personal Injuries Assessment Board Act 2003* and submitted their findings to the Department of Business, Enterprise and Innovation (DBEI) in December 2018. Following an analysis of the PIAB findings, the data indicates that the majority of claimants proceed to litigation within four months of receipt of an authorisation by PIAB. This further implies that there are no significant delays in the initiation of proceedings after a PIAB authorisation has been issued. Therefore, the DBEI has advised the CIWG that there is no requirement for it to revisit the PIAB legislation in this regard.

Rec. 10

INSURANCE IRELAND AND BUSINESS ORGANISATIONS TO AGREE A SET OF GUIDELINES IN RESPECT OF NOTIFYING AND ENGAGING WITH POLICYHOLDERS REGARDING CLAIMS SUBMITTED AGAINST THEM

Recommendation ONGOING

The Department of Finance (DoF) has been involved in discussions with Insurance Ireland in relation to implementing this recommendation. However, Insurance Ireland is of the view that the 2004 guidelines agreed between IBEC and the Irish Insurance Federation have been superseded by the Consumer Protection Code.

Q2 2019 UPDATE

Without the agreement of industry on this matter, the only feasible solution to achieving the essence of this recommendation (along with Recommendation 8 of the *Report on the Cost of Motor Insurance*) is through primary legislation and the DoF has received approval from Government to do so through an amendment to the Consumer Insurance Contracts Private Members' Bill. The relevant amendments will be proposed at Committee Stage of the Bill, due to take place in July. These will only apply to smaller businesses, i.e., those falling within the scope of the Financial Services and Pensions Ombudsman legislation.

Rec. 11

AN GARDA SÍOCHÁNA TO COMMENCE PRODUCING STATISTICS ON COMPLAINTS AND INVESTIGATIONS RELATING TO FRAUD WITHIN THE PERSONAL INJURIES AREA

Recommendation COMPLETED

The Department of Justice and Equality (DJE) met with the Garda National Economic Crime Bureau (GNECB) on 14 March 2018 to ascertain what statistics are currently available and what steps are necessary to implement this recommendation.

GNECB noted that the proposed addition of a specific Insurance Fraud category to PULSE should allow for the production of statistics on complaints, investigations, prosecutions and convictions relating to insurance fraud.

Some technical issues which arose with the introduction of the new PULSE category were resolved and the collection of relevant statistics has commenced. In addition, significant training has been undertaken at the Garda Information Services Centre arising from the introduction of such a number of changes to PULSE.

In relation to the scale of insurance fraud reported to An Garda Síochána, the most recent figures available to the DJE show that, in the period 1 November 2018 (i.e. the

date on which the new statistical category of ‘insurance fraud’ came into being) to end May 2019, 50 incidents of insurance fraud were recorded on PULSE (This data is correct as at 6 June 2019, however data is operational and, therefore, subject to change). 50% of these incidents relate to staged collisions and 18% relate to forged documentation concerning no claims bonuses.

Based on the above, this recommendation is considered as having been completed. However, the Cost of Insurance Working Group will continue to seek updates on the statistics as they become available to inform discussions in relation to the area of fraud within personal injuries.

Rec. 12 THE COURTS SERVICE TO COMMENCE PRODUCING STATISTICS ON PROSECUTIONS AND CONVICTIONS RELATING TO FRAUD WITHIN THE PERSONAL INJURIES AREA

Recommendation COMPLETED

While the Department of Justice and Equality (DJE) initially consulted with the Courts Service in respect of this recommendation, it was noted at a meeting in April 2018 between the DJE, the Garda National Economic Crime Bureau (GNECB) and the Courts Service that the proposed addition of a specific Insurance Fraud category to the Pulse system should allow for the production of statistics on prosecutions and convictions relating to insurance fraud. Consequently, it was agreed that these statistics would be provided by An Garda Síochána rather than by the Courts Service, as had been originally envisaged.

The Courts Service has also brought a number of issues relating to the application of section 26 of the *Civil Liability and Courts Act 2004*, dealing with fraudulent actions in the personal injuries area, to the attention of the Circuit and District Court Directorate for consideration.

In relation to the scale of insurance fraud reported to An Garda Síochána, the most recent figures available to the DJE show that, in the period 1 November 2018 (i.e. the date on which the new statistical category of ‘insurance fraud’ came into being) to end May 2019, 50 incidents of insurance fraud were recorded on PULSE (This data is correct as at 6 June 2019, however data is operational and, therefore, subject to change). 50% of these incidents relate to staged collisions and 18% relate to forged documentation concerning no claims bonuses.

As this data will be collected from the Pulse system following the changes outlined under Recommendation 11, this recommendation is considered as having been completed. However, the Cost of Insurance Working Group will continue to seek updates on the statistics as they become available, to inform discussions in relation to the area of fraud within personal injuries.

Rec. 13 INSURANCE IRELAND, AN GARDA SÍOCHÁNA AND THE DPP TO AGREE A SET OF GUIDELINES IN RESPECT OF THE REPORTING OF SUSPECTED FRAUDULENT INSURANCE CLAIMS

Recommendation COMPLETED

The culmination of the work of the Fraud Roundtable – the membership of which included former President of the High Court, Nicholas Kearns, as well as representation from An Garda Síochána (AGS), the Department of Justice and Equality (DJE), the Department of Finance, the Office of the Director of Public Prosecutions (DPP), the Courts Service and Insurance Ireland – was the publication by AGS of the *Guidelines for the Reporting of Suspected Fraudulent Insurance Claims by Insurance Entities to An Garda Síochána* in October 2018. As well as being circulated internally within AGS, these are available on the Garda website, and

have been highlighted at internal training courses on fraud. In addition, a copy of the new Guidelines was also sent to relevant bodies which had been involved in the consultation process such as the Self-Insured Taskforce, Irish Public Bodies, Lloyd's Ireland and the State Claims Agency, as well as the Car Rental Council of Ireland. It is envisaged that the Guidelines will assist and provide support to these organisations, as well as insurance companies generally, when making allegations of insurance fraud to AGS.

A separate stream of work which emerged from the Fraud Roundtable related to an examination of the court process in circumstances where the court believes there to be an element of fraud or exaggeration in a personal injury claim which should be investigated by AGS. The Roundtable examined measures which could be taken to ensure that any such suspected fraud is sent for investigation to the appropriate personnel in AGS, and following that, if appropriate, to the DPP for prosecution. The DJE agreed to update the judiciary on these discussions and the new Guidelines.

Another development which emerged from the Fraud Roundtable has been the attendance of the Garda National Economic Crime Bureau at meetings held by Insurance Ireland's Anti-Fraud Forum. Both parties have found this engagement helpful and have stated that this enhanced cooperation will continue in the future. This positive development is an opportunity for greater communication and improved processes and it is hoped that it will lead to a better understanding on both sides of the issues arising in the investigation and reporting of fraud.

The DJE wrote to the Chief Justice on 5 December 2018 in relation to a number of issues related to insurance fraud and the CIWG project. Among other matters, this correspondence highlighted the publication of the new Guidelines and outlined the purpose of same.

The agreement of the Guidelines renders this recommendation as having been completed.

Rec. 14

AMENDMENT OF SECTION 14 OF THE CIVIL LIABILITY AND COURTS ACT 2004 TO IMPROVE THE USE AND EFFECTIVENESS OF THE PROVISION

Recommendation COMPLETED

The *Central Bank (National Claims Information Database) Act 2018* was commenced on 28 January 2019. Section 13(3) of the Act provides for the amendments to section 14 of the 2004 Act.

Rec. 15

DEPARTMENT OF JUSTICE AND EQUALITY TO CONSIDER PROPOSING AN AMENDMENT TO THE JUDICIAL COUNCIL BILL TO FACILITATE TRAINING AND INFORMATION SUPPORTS

Recommendation COMPLETED

The implementation of this Recommendation has been expanded upon since its inception to reflect the recommendations contained in the Second and Final Report of the Personal Injuries Commission.

In that regard, the Judicial Council Bill completed committee stage in the Seanad on 2 April 2019. At Committee Stage, the Seanad agreed to a Government amendment to the effect that the Judicial Studies Committee may provide, or assist in the provision of, education and training for judges on the assessment of damages in personal injury actions.

Following Committee Stage, the Government gave its approval on 21 May for the drafting and moving of amendments to the Bill that will address the recommendations contained in the Second and Final Report of the Personal Injuries Commission insofar as personal injuries guidelines are concerned. In this regard, relevant amendments were agreed to at Report Stage in the Seanad on 20 June. These amendments provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for various types of personal injury which will fall to be adopted by the Judicial Council. The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

Action Plan Monitoring Dashboard

OBJECTIVE 1: INCREASING TRANSPARENCY

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
1 CSO TO CONSIDER FEASIBILITY OF COLLECTING PRICE INFORMATION ON BUSINESS INSURANCE											
	1	CSO to commence feasibility study on data related to the cost of insurance to businesses	Q2 2018		✓						
	2	CSO to report to the Department of Finance with outcome of review and, if it considers such an index feasible, makes appropriate proposals	Q4 2018				✓				
2 CENTRAL BANK TO EXAMINE MERITS AND FEASIBILITY OF COLLECTING DATA FOR EMPLOYER AND PUBLIC LIABILITY INSURANCE CLAIMS IN THE NATIONAL CLAIMS INFORMATION DATABASE											
	3	Central Bank to produce a report on the merits and feasibility of collecting employer and public liability insurance claims in the National Claims Information Database	Q4 2019								●
3 COURTS SERVICE SHOULD PUBLISH THE RESULTS OF PERSONAL INJURY CASES IN A MORE GRANULAR WAY IN ITS ANNUAL REPORTS											
	4	Department of Justice and Equality to request the Courts Service to provide options for a new template for more granular data on personal injury awards	Q1 2018	✓							
	5	Courts Service to be requested to include this more granular data in future annual reports, commencing with the 2019 annual report	Q1 2019					✓			
4 DEPARTMENT OF FINANCE TO PUBLISH A KEY INFORMATION REPORT ON EMPLOYER AND PUBLIC LIABILITY INSURANCE CLAIMS											
	6	Key aggregated metrics template to issue to Insurance Ireland for completion and submission	Q2 2018		✓						
	7	Collation and analysis of submission received and publication of Key Information Report on employer and public liability insurance	Q4 2018				●	●	●		

OBJECTIVE 2: REVIEWING THE LEVEL OF DAMAGES IN PERSONAL INJURY CASES

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
5	LAW REFORM COMMISSION TO BE REQUESTED TO UNDERTAKE A DETAILED ANALYSIS OF THE POSSIBILITY OF DEVELOPING CONSTITUTIONALLY SOUND LEGISLATION TO DELIMIT OR CAP DAMAGES										
	8	Department of Justice and Equality to submit a proposal to the Law Reform Commission that a detailed analysis of the possibility of developing constitutionally sound legislation to cap damage award levels be undertaken	Q1 2018	✓							
	9	Department of Justice and Equality to consult with the Law Reform Commission as to the status of the project (if LRC has committed to exploring issue)	Q4 2018				✓				

OBJECTIVE 3: IMPROVING THE PERSONAL INJURIES LITIGATION ENVIRONMENT

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
6	AMEND THE WORDING OF SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004 TO ENSURE DEFENDANTS ARE NOTIFIED OF A CLAIM HAVING BEEN LODGED AGAINST THEIR POLICY										
	10	Department of Justice and Equality to draft the necessary amendments to Section 8 of the 2004 Act	Q2 2018		✓						
	11	Department of Justice and Equality to bring forward legislation proposing amendment to Section 8 of the 2004 Act	Q3 2018			✓					
7	RELEVANT COURT RULES COMMITTEE(S) TO CONSIDER AMENDMENT OF THE RULES OF COURT IN RESPECT OF SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004										
	12	Department of Justice and Equality to write to relevant Court Rules Committee requesting consideration of amendment of the Rules of Court relating to personal injury summonses to take account of Section 8	Q1 2018	✓							
	13	Department of Justice and Equality to follow up with the Courts Service and produce a report to the Working Group on the implementation of Action Point 12	Q3 2018			●	✓				

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
8	ENSURE GREATER GENERAL AWARENESS OF NOTIFICATION OBLIGATIONS UNDER SECTION 8 OF THE CIVIL LIABILITY AND COURTS ACT 2004										
	14	Relevant Department to engage with relevant bodies to draw their attention to Recommendation 8 and seek proposals to promote general awareness of Section 8 notification requirements	Q2 2018		✓						
	15	Relevant Department to follow up with relevant bodies to seek an indication of what procedures they have put in place	Q4 2018				✓				
9	REVIEW OF THE OPERATION OF THE SIX-MONTH STANDSTILL PERIOD PROVIDED FOR UNDER SECTION 50 OF THE PERSONAL INJURIES ASSESSMENT BOARD ACT 2003										
	16	PIAB to report to the Department of Business, Enterprise and Innovation on its findings on the basis of data received from various stakeholders in relation to the time period from the issuing of PIAB authorisations	Q4 2018				✓				
	17	On receipt of the report from PIAB, Department of Business, Enterprise and Innovation to review the operation of the six-month standstill period under Section 50 of the Personal injuries Assessment Board Act 2003	Q2 2019						✓		
10	INSURANCE IRELAND AND BUSINESS ORGANISATIONS TO AGREE A SET OF GUIDELINES IN RESPECT OF NOTIFYING AND ENGAGING WITH POLICYHOLDERS REGARDING CLAIMS SUBMITTED AGAINST THEM										
	18	Meeting to be convened by the Department of Finance to commence discussion on the development of guidelines in respect of notifying and engaging with policyholders regarding personal injury claims submitted against them	Q1 2018	✓							
	19	Agreement of new set of guidelines in respect of notifying and engaging with liability insurance policyholders regarding personal injury claims submitted against them	Q4 2018				●	→	→		

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
11 AN GARDA SÍOCHÁNA TO COMMENCE PRODUCING STATISTICS ON COMPLAINTS AND INVESTIGATIONS RELATING TO FRAUD WITHIN THE PERSONAL INJURIES AREA											
	20	Department of Justice and Equality to consult with An Garda Síochána in respect of the request to produce relevant statistics on complaints and investigations related to fraud within the personal injuries area	Q1 2018	✓							
	21	Department of Justice and Equality to report to the Working Group about the status of the request and the timeline for delivery	Q2 2018		✓						
12 THE COURTS SERVICE TO COMMENCE PRODUCING STATISTICS ON PROSECUTIONS AND CONVICTIONS RELATING TO FRAUD WITHIN THE PERSONAL INJURIES AREA											
	22	Department of Justice and Equality to consult with the Courts Service in respect of the request to produce relevant statistics on prosecutions and convictions related to fraud within the personal injuries area	Q1 2018	✓							
	23	Department of Justice and Equality to report to the Working Group about the status of the request and the timeline for delivery	Q2 2018		✓						
13 INSURANCE IRELAND, AN GARDA SÍOCHÁNA AND THE DPP TO AGREE A SET OF GUIDELINES IN RESPECT OF THE REPORTING OF SUSPECTED FRAUDULENT INSURANCE CLAIMS											
	24	Meeting with appropriate stakeholders to commence discussion on the development of guidelines in respect of the reporting of suspected fraudulent insurance claims to An Garda Síochána	Q1 2018	✓							
	25	Agreement of new set of guidelines in respect of the reporting of suspected fraudulent insurance claims to An Garda Síochána	Q3 2018			✓					

Rec.	Action	Title	Deadline	Q1 2018	Q2 2018	Q3 2018	Q4 2018	Q1 2019	Q2 2019	Q3 2019	Q4 2019
14	AMENDMENT OF SECTION 14 OF THE CIVIL LIABILITY AND COURTS ACT 2004 TO IMPROVE THE USE AND EFFECTIVENESS OF THE PROVISION										
	26	Department of Justice and Equality to propose amendment to Section 14 of the 2004 Act to allow for the Court to draw inferences from non-compliance with requirement to lodge the verifying affidavit within the 21-day period	Q3 2018			✓					
	27	Department of Justice and Equality to report to the Working Group about the status of the legislation and the timeline for delivery	Q4 2018				✓				
15	DEPARTMENT OF JUSTICE AND EQUALITY TO CONSIDER PROPOSING AN AMENDMENT TO THE JUDICIAL COUNCIL BILL TO FACILITATE TRAINING AND INFORMATION SUPPORTS FOR THE JUDICIARY										
	28	Department of Justice and Equality to consider proposing an amendment to the Judicial Council Bill 2017 for the purposes of including an explicit reference to the assessment of general damages in personal injury cases	Q1 2018	✓							
	29	Department of Justice and Equality to bring to the attention of the judiciary in an appropriate manner the recommendation that consideration be given to training pending the enactment of the Judicial Council Bill	Q2 2018		●	✓					
Key											
● Action delayed beyond scheduled quarter				✓ Action completed							
● Action partially delayed / at risk of being delayed				➔ Action ongoing							
● Action on track											

3 Personal Injuries Commission Reports

Overview of Progress on Recommendations from the Two PIC Reports

Introduction

The first PIC Report was published in December 2017 and contained four recommendations. The second PIC Report was published in September 2018 and contained ten recommendations. Four of these recommendations directly relate to recommendations in the two Cost of Insurance Working Group Reports.

In October 2018, the Minister for Business, Enterprise and Innovation wrote to relevant Government colleagues, the Minister for Justice and Equality and the Minister for Health, as well as other organisations, including the Garda Commissioner, Insurance Ireland, the Law Society of Ireland, the Council of the Bar of Ireland and the Law Reform Commission, seeking co-operation in advancing the implementation of the recommendations relevant to them. A further letter issued from the Minister for Business, Enterprise and Innovation in May 2019, seeking an update on implementation.

Implementation of these recommendations will be a matter for each of the bodies responsible, and while the recommendations are not time-bound due to the nature of them, it is expected that they will be acted upon as soon as possible.

3.1 1st Report Recommendations

The updates below provide detail on the implementation of each of the four as at end of June 2019.

3.1.1 ADOPTION OF A STANDARDISED APPROACH TO EXAMINATION OF, AND REPORTING ON, SOFT TISSUE INJURIES

The PIC Report specifically recommended that the Quebec Task Force (QTF) Whiplash Associated Disorder (WAD) grading scale should be used going forward by all medical professionals reporting on relevant injuries. These are internationally recognised scales based on severity of symptoms and associated physical signs. A standardised medical reporting template was included in the Report, which was circulated to stakeholders following publication, and then revised following feedback. The finalised version of the template was agreed by PIC members in May 2018.

The Personal Injuries Assessment Board (PIAB) completed in April 2019 roll out of the final version of the template to its independent medical panel.

Insurance Ireland has distributed the medical reporting template to their members who will begin to implement the use of the form within their individual companies. Implementation will require a lead-in period as Insurers will need to inform their medical panels, train staff and make the necessary IT changes to handle such processing changes.

The Irish College of General Practitioners (ICGP) has trained medical practitioners on soft tissue examination and standardised reporting. They have assisted in the development of a management and assessment algorithm for use by medical practitioners. They delivered a dedicated workshop at the 2018 GP Trainee Conference and published the presentations from the conference on their website. These changes have been documented in the ICGP medical journal FORUM.

The Royal College of Surgeons in Ireland (RCSI) is working with orthopaedic, surgical and emergency medicine consultants to ensure awareness of these new forms.

3.1.2 PROMOTION OF 'BEST PRACTICE' STANDARDISED TRAINING AT CPD LEVEL FOR MEDICAL PROFESSIONALS COMPLETING PERSONAL INJURY MEDICAL REPORTS

The PIC facilitated a meeting in March 2018 with medical stakeholders to discuss and progress the development by them of an “education package” for doctors. Since then, there has been extensive engagement between PIAB, the Irish College of General Practitioners (ICGP) and the Royal College of Surgeons in Ireland (RCSI) in relation to the development of an accredited soft-tissue ‘whiplash’ training and education package to deliver on the relevant PIC recommendation. The full package will follow once issues relating to funding, procurement and technical/practical considerations have been agreed between the respective bodies.

The CIWG understands that the relevant training has commenced in the ICGP and it is understood that the RCSI will continue to assess requirements with respect to the provision of any further relevant training for members.

3.1.3 LINK FUTURE PUBLICATIONS OF THE BOOK OF QUANTUM TO THE NEWLY STANDARDISED EXAMINATION AND REPORTING INJURY CATEGORIES OF THE QTF WAD SCALE

This recommendation has been superseded by the recommendations of the Personal Injuries Commission (PIC), which highlighted the significant differential between award levels in Ireland and other jurisdictions, and has made a number of recommendations, in particular the establishment of a Judicial Council to compile guidelines for appropriate general damages for various types of personal injury. In this regard, relevant amendments were agreed to the Judicial Council Bill at Report Stage in the Seanad on 20 June, which will provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for

various types of personal injury which will fall to be adopted by the Judicial Council. These amendments will also revoke the relevant Sections in the PIAB Act with regard to the Book of Quantum, as when the Judicial Guidelines are in place, it is intended that they will supersede the Book of Quantum. The PIC recommended that the Judicial Guidelines take account of a number of issues, including the WAD scale.

The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

3.1.4 RELEVANT INJURY DATA TO BE COLLATED AND PUBLISHED BY APPROPRIATE BODIES

On 5 November 2018, PIAB published data on whiplash-related injury compensation awards resulting from road traffic accidents, in line with this recommendation.

3.2 2nd Report Recommendations

The second PIC Report was published in September 2018 and contained ten recommendations. Four of these recommendations directly relate to recommendations in the two Cost of Insurance Working Group Reports. The updates below provide detail on the implementation of the remaining six as at the end of 2018.

3.2.1 RECOMMENDATIONS 1&2: JUDICIAL COUNCIL, WHEN ESTABLISHED, TO BE REQUESTED TO COMPILE GUIDELINES FOR APPROPRIATE GENERAL DAMAGES AWARD LEVELS FOR VARIOUS TYPES OF PERSONAL INJURY AND JUDICIAL COUNCIL BILL 2017 TO BE PROGRESSED THROUGH THE HOUSES OF THE OIREACHTAS AS A MATTER OF URGENCY

The Government has approved Minister Flanagan's proposal to amend the Judicial Council Bill to establish a new Personal Injuries Guidelines Committee within the framework of the Judicial Council. This new Committee will draw up guidelines on the level of damages which should be awarded in personal injuries actions. This will help to promote consistency in the level of personal injuries damages awarded by the courts. In this regard, the relevant amendments were agreed to the Judicial Council Bill at Report Stage in the Seanad on 20 June, which will provide for the establishment of a Personal Injuries Guidelines Committee whose sole purpose will be to develop guidelines for various types of personal injury which will fall to be adopted by the Judicial Council. These amendments will also revoke the relevant Sections in the PIAB Act with regard to the Book of Quantum, as when the Judicial Guidelines are in place, it is intended that they will supersede the Book of Quantum. The PIC recommended that the Judicial Guidelines take account of a number of issues, including the WAD scale.

The Bill has been passed by both Houses of the Oireachtas on 9 July, and it is expected to be signed into law by the President shortly.

3.2.2 RECOMMENDATION 4: DEVELOPMENT AND ROLL-OUT IN ALL RELEVANT LOCATIONS OF 'BEST PRACTICE' STANDARD TREATMENT PLANS FOR SOFT TISSUE INJURIES

Following the publication of the Second and Final Report of the Personal Injuries Commission, the Department of Health sought information from the Health Service Executive (HSE) on the extent to which the model in Tallaght Emergency Department referred to in the Report is used in other Emergency Departments (EDs) throughout the country. The HSE's Emergency Medicine Programme (EMP) advised that the model outlined in the PIC's case study, whereby patients are referred early to a physiotherapist when treating soft tissue injuries, such as whiplash, is both recommended and common practice in Emergency Departments in Ireland. The EMP advised that it strongly endorses the implementation of the appropriate level of physiotherapy support in all Emergency Departments and Injury Units and agreed to survey the availability of these resources nationally. The HSE has confirmed that it is due to receive the Report of this Survey from the EMP shortly.

3.2.3 RECOMMENDATION 5: IN CASES WHERE AN INSURER DEALS DIRECTLY WITH A CLAIMANT, NO OFFER OF SETTLEMENT OR PAYMENT OF A PERSONAL INJURY CLAIM TO BE MADE UNLESS AND UNTIL A DETAILED MEDICAL REPORT HAS BEEN OBTAINED

Insurance Ireland has advised that it is standard practice for insurers to base their personal injury claims settlements on the content of medical reports.

3.2.4 RECOMMENDATION 9: INSURERS AND OTHER RELEVANT PARTIES TO ADOPT THE SAME INTERNATIONALLY-RECOGNISED INJURY CODING SYSTEM (THE WORLD HEALTH ORGANISATION'S ICD-10 SYSTEM)

Insurance Ireland has advised that the adoption of an internationally recognised injury coding system will be considered by insurers on an individual basis, subject to their internal business requirements and IT integration plans. The Department of Business, Enterprise and Innovation and PIAB are working with the Central Bank to progress this recommendation.

3.2.5 RECOMMENDATION 10: INSURANCE INDUSTRY TO ESTABLISH A NATIONAL MEDICAL RESEARCH STUDY ON THE PREVENTION AND MANAGEMENT OF SOFT TISSUE INJURIES

Insurance Ireland has spoken to a number of parties in relation to conducting a national medical research study on behalf of industry on the prevention and management of soft tissue/whiplash injuries.



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