

THE FEASIBILITY OF AN INSURANCE CLAIM-BY-CLAIM REGISTER

Consultation Paper

14 MAY 2018



An Roinn Airgeadais
Department of Finance

Introduction

The Minister for Finance, Pascal Donohoe TD, invites interested parties to make submissions in relation to the feasibility of an insurance claim-by-claim register.

The objective of this consultation is to seek the views of stakeholders, including insurance undertakings and intermediaries, consumers, other state bodies and interest groups, on what the added value of a claim-by-claim register would be in addition to the National Claims Information Database, which is currently being developed by the Department of Finance and the Central Bank of Ireland, and the Insurance Fraud Database, which is currently being developed by the Department of Justice.

In particular, the Minister is keen to try and identify what form a claim-by-claim register could take, as there are a diverse range of views in relation to this matter, as well as a number of considerations such as data protection which would need to be satisfactorily taken account of.

The consultation period will run until **22 June 2018**. Any submissions received after this date may not be considered.

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Background

The Cost of Insurance

Pricing in the non-life insurance sector has been subject to a lot of volatility in recent years, particularly since 2014.

As a result of this and other developments in the insurance sector, the Minister for Finance began an insurance policy review in 2016. The Cost of Insurance Working Group (the Working Group) chaired by Minister of State at the Department of Finance, Eoghan Murphy TD¹, was established as part of that review in July 2016. The Minister of State decided that the focus of the first phase of its work would be on the rising costs of motor insurance.

The objective of the Working Group was to identify and examine the drivers of the cost of insurance, and recommend short, medium and longer-term measures to address the issue of increasing insurance costs, taking account of the need to ensure a financially stable insurance sector. In the second phase of its work, the Working Group examined the factors leading to rising costs in employer and public liability insurance to businesses. Its Reports have been published and are available at:

<http://www.finance.gov.ie/wp-content/uploads/2017/07/170110-Report-on-the-Cost-of-Motor-Insurance-2017.pdf>

<http://www.finance.gov.ie/wp-content/uploads/2018/01/180125-Report-on-the-Cost-of-Employer-and-Public-Liability-Insurance.pdf>

Periodic update reports have been published subsequently and these can be found on the Department's website.

Data availability in the insurance sector

Following extensive consultations with a range of stakeholders in both phases of its work, a common theme which emerged was that there was a requirement to improve transparency around what was causing premium volatility, over relatively short periods of time. This was mainly due to the fact that it was difficult to substantiate the reasons for the increase in the cost of insurance premiums in recent times. While industry cited increases in the cost of claims as being a key driver, the Working Group while accepting that it was a contributory factor did not feel this told the full story behind such increases. A key problem from its perspective was the inability to identify the impact on claims of the use of different settlement channels, in particular the average settlement amount within each channel.

¹Michael D'Arcy TD became the Chair following his appointment as Minister of State in June 2017.

In order to better understand how claims costs impact premiums, the Working Group in summary recommended the following:

- In the short term, the collation and quarterly publication by the Department of Finance of key aggregated metrics on claims costs and trends within the market. This data would be collected from all relevant insurance undertaking operating in the State
- In the medium term, the establishment of a National Claims Information Database. The data to be collected would be in the form of a mandated industry analysis at a level of granularity to be determined. The information would however be collected and stored at a level of aggregation higher than individual claim level, i.e. not claim-by-claim information.

The Working Group outlined some of the potential difficulties associated with the establishment of a claim-by-claim register, and in that respect, recommended that the feasibility be considered over the longer term.

The incremental approach referred to above is comprised of the following recommendations in the 2017 Motor Report:

Rec No.	Recommendation	Action Point No.	Action Point
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
		23	Legislation in place for a national claims information database
		24	National claims information database established
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
		26	Collation and analysis of submissions received from insurance undertakings
		27	Quarterly publication of key aggregated metrics commenced
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
		29	Report on claim-by-claim register delivered

What is already being done to address the transparency agenda?

Details of what is already been carried out to address the broader transparency agenda are set out below.

The National Claims Information Database (Recommendation 11)

The aim of the National Claims Information Database is to improve the availability of data to explain trends in claims costs as they relate to motor insurance, in particular:

- (i) understanding the relationship between the price paid by a customer for motor insurance and the cost to insurance undertakings, and
- (ii) identifying any significant divergence over time between both and the underlying reasons.

The type of information that will be collected from insurers operating in the Irish market will include information on:

- income, such as premium information and investment return information;
- expenditure, such as claims expenses, including legal costs, commissions payable, and management expenses;
- claims information, including information on numbers of claims, frequency of claims, the ultimate costs associated with claims, information on settled claims, including the settlement channels, length of time to settle, type of damage, etc.

The Working Group considers that the National Claims Information Database will considerably improve the level of transparency with regard to claim information to better inform policy makers and insurers on identifying the drivers of the cost of insurance. While it is not proposed to require data from self-insured entities or other public bodies such as the Courts Service, PIAB or the State Claims Agency, the coverage among insurance companies is seen as sufficient to provide an accurate account of the overall motor insurance market in Ireland, notwithstanding that the scope of the Database may be expanded in the future to cover other types of non-life insurance.

It should be noted that, as an interim measure, prior to the establishment of the Database, that the Department of Finance is publishing reports of key metrics received from Insurance Ireland members including some of the data listed above. The second report is due to be published in May 2018.

Other relevant measures

The Working Group also acknowledged the need to improve data availability in other areas of the insurance sector, namely in relation to fraud and uninsured driving. Separate databases are being developed by the Department of Justice and Equality and the Department of Transport, Tourism and Sport respectively for these purposes. Both are detailed briefly below. However, more information on each of those can be found in Chapter 9 of the Cost of Insurance Working Group's Report on the Cost of Motor Insurance.

Fraud Database

The stated aim of the Fraud Database in the Working Group's Report is to provide a mechanism for the insurance industry to identify patterns of fraud at any stage in the policy lifecycle. Insurers would be able to share data amongst themselves for this purpose through a secure protocol, to ensure the integrity of the data, subject to data protection constraints. It is hoped that such a database would play an important role in the fight against insurance fraud to protect honest customers. The database would be available to all insurers participating in the Irish market for fraud detection purposes.

Uninsured Database

The recommendation involves the establishment of a database of insured and uninsured drivers which will enable An Garda Síochána to check motor insurance compliance as part of its road traffic enforcement function. The database will be comprised of two separate parts – one for insured drivers and a second for uninsured drivers. Together, they will collectively be referred to as the database to identify uninsured drivers.

What is a Claim-by-Claim Register

Background

At the time of publication of the Report, the Working Group took the view that the establishment of a claim-by-claim register would not be included in the Action Plan for a number of reasons, primarily with regard to

- the cost to establish and administer such a large register,
- the fact that no precedent for such a register, to be updated on a constant basis, existed in any other jurisdictions, and
- that if such a register were to be established, it might act as a potential barrier to new entrants in the Irish non-life insurance market.

It was agreed instead, to recommend the consideration in the longer term of the feasibility of such a claim-by-claim register. Given that the second phase looked at the cost of employer and public liability, the Department will consider the feasibility of the claim-by-claim register in the context of claims linked to motor, employer liability and public liability insurance.

In that context, the Minister for Finance invites interested parties to provide their views on a number of questions set out in the next section in order to assist the Department's consideration of the feasibility of such a register. The Department, and the Data Sub-group of the Working Group, will examine all responses received on the basis of the considerations mentioned in the next section and the other measures being developed.

Claim-by-Claim Register – what does it actually entail?

A claim-by-claim register is most likely a register whereby data linked to a claimant would be provided, most likely by the insurer or self-insured entity, against whom the claim is being made. It would likely have to include certain uniquely identifiable details related to the claim, including potentially:

- personal details of the claimant(s) such as PPS Number, driver number (if a motor claim), name, address, age, passport details if non-resident, etc.
- claim details such as the name of the insurer of the plaintiff, the policy number the claim is being made against, the date the claim event took place and the date in which the claim was lodged, the location or the address of the premises where the incident occurred, the nature of the claim, for example, personal injury, property, workplace related, etc., and the nature of the injury or damage, ie. classification of the personal injury.
- In addition, over the lifetime of the claim, other details would be required to be provided, such as details related to the final settlement, including the date of

settlement, and where applicable, the settlement channel, including PIAB interactions, and any litigation details, including court award levels, presiding judge etc.

If a decision was made to establish a claim-by-claim register, its main purpose would almost certainly be influenced by the responses received to this consultation. This decision in turn would determine the choice of data to be collected. In addition, in such a scenario, the relevant body to establish and maintain such a register would likely be one that is independent of the insurance industry but the determination of which entity that might be could only be decided when we have agreement on what the register's main purpose would be and who has the necessary resources and expertise to carry out the task.

It is clear that data protection will play a prominent role in the consideration of such a register. For instance, GDPR considerations would likely be a key requirement in its design and operation. However, before such a data protection evaluation could take place there would first need to be a clear identification of the purpose of the register, including a clear outline of the data that would need to be collected as well as justification as to why this information is necessary. Thus in responding to this consultation it is important that those who favour such a register give a perspective on what they think the data protection implications of their suggestions would be.

Finally, on the basis of the above, the register would most likely have to be underpinned by legislation.

Main Issues for Consideration

The Report on the Cost of Motor Insurance provides an overview of the potential positives and negatives for what a claim-by-claim register might entail. The Sub-group believes that many of these potential positives in particular the understanding of claims trends are addressed through the National Claims Information Database (NCID) at an industry aggregate level. The benefit of this approach is that it removes data protection as an issue but at the same time provides a clearer picture of how the market is evolving over time.

It is appreciated that there is a view that the claim-by-claim register as well as covering claims trends could also replace the fraud database which is currently being implemented by the Department of Justice and Equality. Thus it is argued that instead of having 2 registers we could have one overall register. However there is a concern aside from some of the issues outlined below that data protection issues could unnecessarily complicate the trends analysis which we believe are appropriately being addressed under the existing NCID proposal.

Another important issue related to the consideration of a claim-by-claim register is that conceptually, such a register may mean different things to different stakeholders. Our experience to date shows that stakeholders have tended to focus on elements that may be of benefit to their particular interests, without providing an overarching view on how such a register might provide value for money. These uses have included that the register might be used primarily as a measure to register fraudulent claimants or repeat claimants, or a measure to assist in the production of the Book of Quantum, or a measure to show settlement channels, including suggestions that there be a register of awards made by particular members of the judiciary.

There have also been varying views on how public the information collected should be. For example, would information be available to external parties such as insurers to see if a prospective customer has made a claim previously, perhaps on the basis of paying a fee, could a claimant access the information related to their claim, etc,. The accessibility of the data on the register would have considerable and complex data protection implications. In addition, a claimant recorded on the register may have no linkages to the policyholder, nor the insurer of that policyholder. The collection of data linking a third party to the insurance policy would likely require the seeking of permission from the claimant for the use of their data. Introducing a requirement for the obligatory provision of such information may have complex legal implications that go beyond data protection concerns.

Linked to this point is the logistics of how such data might be collected. Options would include collecting it directly from the claimant, directly from the insurer of the insurance policy upon which the claim is being made, or directly from the self-insured entity. Data on claims made against the State would have to be collected by the State Claims Agency.

In addition, there have been varying views with regard to the granularity and frequency of the collection of such data. A claim-by-claim register might potentially require a significant level of data entry and administration. For example, the number of new claims notified to Insurance Ireland members in 2016 was 357,409, of which 59% were motor claims while 17% were made on property insurance policies (household and commercial property)². Therefore when this is viewed from the perspective of this level of claims being recorded on the system each year with some of the claims being on the system for up to five years, and with updates potentially provided on a quarterly basis, it is clear that there is the potential for such a register being expensive both to establish and to administer. A comparison in this regard could be the Central Credit Register, where data is provided and administered on an ongoing basis and the establishment of which has taken considerably longer than envisaged initially. The costs would inevitably have to be met by the users of the register, such as the insurance sector, or self-insured entities, or public agencies that may use the data.

Given the potential high cost of such a register, it will be necessary to carry out a feasibility study to consider if a proposal for a claim-by-claim register would present value for money,

² Insurance Ireland Factfile 2017

and to establish whether it could have unintended consequences of increasing the cost of insurance to policyholders. However, before this could be done, it would be necessary to have a clear outline of what its essential purpose would be and what type of information would need to be collected, thus explaining one of the key purposes of this consultation exercise.

Consultation Questions

The responses to the questions below will assist the Department and the Data Sub-group of the Working Group to identify the key elements of a claim-by-claim register, and therefore assist in assessing the feasibility of such a register.

1. What would the primary purpose of a claim-by-claim register be in view of the proposed establishment of a National Claims Information Database and Fraud Database?
2. With regard to this primary purpose, what specific data would need to be collected?
3. How would this specific data achieve the primary purpose of the database?
4. How would the accuracy of the data be guaranteed?
5. Who should administer a claim-by-claim register?
6. Who should fund a claim-by-claim register?
7. Who should be able to access this register and for what purpose?
8. How should the data be collected?
9. What are your views on the possibility that a detailed claim-by-claim register may discourage new entrants from entering the market, particularly if there is a significant cost associated with such a register?
10. What would be the additional value that a claim-by-claim register would add to the insurance environment?

Where you make specific proposals in relation to what issues the claim-by-claim register should address, please also outline what you believe the data protection implications of your proposals are, if any, and how they can be addressed.

Consultation Process

Consultation Period

The consultation period will run to Friday, 22 June 2018. Any submissions received after this date may not be considered.

How to Respond

The preferred means of response is by e-mail to: insurance@finance.gov.ie with the subject line Public Consultation – Feasibility of an Insurance Claim-by-Claim Register

Alternatively, you may respond by post to:

Public Consultation – Feasibility of an Insurance Claim-by-Claim Register
Insurance Division
Room 3.15
Department of Finance
Government buildings
Upper Merrion Street
Dublin 2
D02 K728

Please include contact details if you are responding by post.

When responding, please indicate whether you are contributing to the consultation process as a professional adviser, representative body, corporate body or member of the public.

Meetings with key stakeholders

The Department of Finance may also invite key stakeholders to meet with them, including representative bodies, public bodies and other interested groups or individuals.

Freedom of Information

Responses to this consultation are subject to the provisions of the Freedom of Information Acts.

Parties should also note that responses to the consultation may be published on the website of the Department of Finance without further correspondence.

After the Consultation

Responses received will be considered as part of the overall process of assessing the feasibility of an insurance claim-by-claim register.

Queries

Please email insurance@finance.gov.ie should you have any queries.

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