



Public Consultation on the Central Bank (National Claims Information Database) Bill

Submission on behalf of the Alliance for Insurance Reform

SUMMARY

The Alliance for Insurance Reform:

- rejects in the strongest possible terms, the proposal that the collation and supervision of insurance industry data be the responsibility of the Central Bank
- suggests that the Personal Injuries Assessment Board is the body best placed to gather, interpret and disseminate this data
- seeks quality data on the entire insurance industry (not just Insurance Ireland members)
- demands that the data produced is extended to Public Liability and Employer Liability immediately
- requests that individual company information be reinstated
- asks that the Claim-by-Claim Register to be put in place immediately

INTRODUCTION

The Alliance for Insurance Reform is a representative body that brings together 20 civic and business organisations from across Ireland, representing 35,000 members, over 633,000 employees and 41,300 volunteers, highlighting the negative impact of persistently high premiums and calling for real action to tackle the issue. Its members include:

- AOIFE Ireland (Association of Irish Festival Events)
- Car Rental Council of Ireland
- Coach Tourism & Transport Council of Ireland
- Construction Industry Federation
- Convenience Stores and Newsagents Association
- Galway City Business Association
- Ireland Active
- Ireland's Association for Adventure Tourism
- Irish Road Haulage Association
- Irish Hotel Federation
- ISME
- Licensed Vintners Association
- Motorsport Ireland
- Playcentres Ireland
- Quick Service Food Alliance
- Restaurant Association of Ireland
- RGDATA
- Society of the Irish Motor Industry
- Vintners Federation of Ireland
- The Wheel (Ireland's national association for community, voluntary and charitable organisations)

Our objectives are:

TRANSPARENCY on how premiums are calculated and claims are settled

PREVENTION of exaggerated and misleading claims being pursued and settled

CONSISTENCY in the calculation of awards at realistic and sustainable levels

BACKGROUND

The insurance industry is of systemic importance to the proper functioning of Irish society and enshrined as such in much legislation and regulation. Therefore, public policy and consumer protection issues demand that a full set of transparent data is available from the industry. Other important issues such as controlling money laundering, tax avoidance and the management of social welfare entitlements also need full transparency.

A survey carried out by Amárach Research on our behalf in January 2018, found that:

- Since 2013, nearly half (47%) of respondents have seen their premiums rise by over 30%, while over one fifth have even seen rises of over 70%. This is in the context of a 0.9% increase in the Consumer Price Index in the same period.
- Two thirds of respondents also reported having increased excesses or new exclusions added to their policies -creating more risk and exposure to cost.
- The top impacts of this on their organisations included inhibiting their ability to grow (47%), threatening the future of their organisation (45%) and making jobs less secure (25%).

Furthermore, the insurance industry is highly concentrated. Our members are increasingly reporting that only one underwriter is willing to quote for specific sectors. This has created an impression of a cartel-like carving up of the market and a regulator leaving policy holders at the mercy of the industry.

This market dysfunctionality is compounded by the lack of any useable industry data to analyse what is going on at either macro or individual policyholder level, a situation that we respectfully suggest perfectly suits the industry. The Central Bank itself has compounded this problem in recent months by discontinuing the Blue Book, the only aggregated industry data that was available to consumers and claiming to replace it with Solvency and Financial Condition Reports (SFCR), a suite of Solvency II returns from individual insurers long on narrative and short on raw data. These reports are published by the Central Bank without any summary analysis by class of business and are essentially unusable.

It is worth noting in the current context that a more granular version of the Blue Book could have been produced by the Central Bank under their powers within existing legislation to provide the data required to properly inform public policy and identify necessary reforms in the operations of the industry within the Irish claims environment.

We further note that the second Motor Insurance key Information Report, scheduled for November 2017, has not yet been published and the Working Group Report published on 25th January 2018 on Employer and Public Liability did not produce any data on the breakdown in claims settlements such as had been provided in the January 2017 report on motor insurance. We have a serious concern that the cumulative delays in the area of transparency are hampering genuine reform.

A stark recent illustration of the insurance market dysfunctionality in Ireland is the recent spike in motor insurance costs. There is not a single shred of credible evidence that the number of claims or

the cost of cases have skyrocketed over the period in question. In fact, PIAB and Courts data would suggest that between 2013 and 2016:

- The total number of registered personal injury claims increased from 31,000 to 34,000 (+10%)
- The average PIAB award increased from € 22,847 to €24,294 (+6%)

SOURCE: PIAB annual report 2016 (data very similar to II data in CIWG Motor Insurance Key Information Report)

- The total number of Court awards increased from 1,699 to 1,902 (+12%)
- The total awarded by Irish courts increased from €147m to €169m (+15%)

SOURCE: Combined High, Circuit and District Court Annual Reports (incl Medical Negligence cases)

So there is absolutely no justification for +70% increase in motor premiums identified by the Cost of Insurance Working Group. Likewise, while we might welcome the more recent small reduction in motor premiums, we see no logical reason why it happened other than the degree of scrutiny being applied to the insurance sector by us and other concerned institutions.

Additionally, we have received anecdotal feedback from a number of members that the average is dropping because young drivers and older cars can no longer get quotes at all.

Now that motor premiums appear to have stabilised in the short term, we are getting strong feedback from our members that Employer Liability and Public Liability premiums are shooting up. But we have no market data to confirm that. This is the problem. While it is difficult to suggest that the banks might be a good example to follow, at least when there is a perceived problem with the banks, there is data to examine it. There is no such facility with the insurance companies. We fully understand why they would prefer to operate under a cloak of secrecy but this industry is too important and has too many mandatory elements to it, to be allowed continue to operate in this cavalier fashion.

INTERIM DATA

There is no transparency, even at the most basic level, in the Irish insurance market. The data now being provided on an interim basis in the Motor Insurance key Information Report is:

- only for the motor insurance element of the industry
- only for the members of industry lobby group Insurance Ireland
- data is aggregated across all respondents, with no individual firm information

In the absence of the Blue Book from 2016 onwards, we can only rely on figures issued by Insurance Ireland which report Motor and Liability premium income for their members alone at €2.3 billion. In contrast, only €338 million can be accounted for in awards made by the Courts and by PIAB during 2016. That is a variance in one year alone of almost €2billion which is unaccounted for in the reports from the Cost of Insurance Working Group reports.

The only reliable statistics available on the volumes of claims comes from the Annual PIAB Reports. These demonstrate another big black hole in data. Of the 36,656 new injury claims registered during 2016 only 7,076 can be accounted for in accepted PIAB awards, on which there are no awards for legal costs, and there were 1,900 awards by the Courts. Even ignoring the reality that awards by the High Court included a high value of clinical negligence, that combined volume only accounts for 8,976 cases which is only 24% of the total. This lack of transparency means there is no way of validating what is being spent on 76% of claims every year.

VIEWS ON ADMINISTRATION OF THE GENERAL SCHEME

We reject in the strongest possible terms, the proposal that the collation and supervision of insurance industry data be the responsibility of the Central Bank as proposed in the Bill. The Central Bank's insurance supervision mission statement is "Protecting consumers through effective supervision that supports the sustainability of the insurance sector". The two halves of this mission statement are fundamentally conflicted. The Central Bank cannot support insurance companies via its prudential responsibilities and protect insurance company customers at the same time. In practice, our view is that the Central Bank is fully focused on the solvency and funding of the industry with no regard for the impact imposed upon policyholders or wider society by crippling premiums.

The recent tracker mortgage scandal has illustrated how the CBI is incapable of managing bank data intended to protect consumers. There is no evidence to suggest that they would be better able to do so in the less regulated, less transparent insurance market. Additionally, the Bill as it stands allows the Central Bank a degree of discretion in what they do and do not publish. We fear that an interest in protecting the industry will always trump any concern for consumers in this situation.

In the absence of a Financial Conduct Authority at present to champion the interests of consumers, we respectfully suggest that the Personal Injuries Assessment Board is the body best placed to gather, interpret and disseminate this data since all of the relevant injuries claims must be registered with them before any litigation can be issued.

Rather than engaging in the further delay that will be involved in enacting any new legislation, this can happen immediately by order of the Minister for Enterprise and Innovation under the PIAB Act 2003 at sections 54 and 55 below.

54.—(1) The principal functions of the Board shall be—

(a) to arrange for the making, in accordance with this Act, of assessments of relevant claims the subject of applications to it under *section 11*,

(b) to prepare and publish a document (which shall be known as the "Book of Quantum") containing general guidelines as to the amounts that may be awarded or assessed in respect of specified types of injury,

(c) to cause a cost-benefit analysis to be made of the legal procedures and the associated processes (including those provided for by this Act) that are currently employed in the State for the purpose of awarding compensation for personal injuries,

(d) to collect and analyse data in relation to amounts awarded on foot of, or agreed in settlement of, civil actions to which this Act applies, and

(e) to perform any additional functions conferred on the Board under *section 55*.

(2) The Board shall have all such powers as are necessary or expedient for, or incidental to, the performance of its functions under this Act.

(3) The Board may perform any of its functions through or by any member of the staff of the Board duly authorised in that behalf by the Board.

55.—(1) The Minister may, with the consent of the Minister for Finance, confer on the Board, by order, such additional functions connected with the functions for the time being of the Board as he or she thinks fit, subject to such conditions (if any) as may be specified in the order.

(2) An order under this section may contain such incidental, supplemental and consequential provisions as may, in the opinion of the Minister, be necessary to give full effect to the order.

The Alliance for Insurance Reform would go so far as to argue that the PIAB is already under a statutory obligation to compile the relevant data on all settlements given their functions at sections 54(c) and 54(d)-

(c) to cause a cost-benefit analysis to be made of the legal procedures and the associated processes (including those provided for by this Act) that are currently employed in the State for the purpose of awarding compensation for personal injuries,

(d) to collect and analyse data in relation to amounts awarded on foot of, or agreed in settlement of, civil actions to which this Act applies

One example of why we want PIAB to produce and analyse industry data is the following statement made in the First Motor Insurance Key Information Report published in July 2017:

'For the years 2013 until 2015, private motor insurance moved to a loss-making position'

This statement is only correct if the massive increases in reserves applied in recent years, at the behest of the Central Bank, turned into actual payments. The available evidence indicates that this did not happen as gross claims payments only increased by 2.8% in 2015 according to the CIWG Report on the Cost of Motor Insurance at Page 95. It will take a consumer-oriented administrator to pursue this analysis.

For the National Claims Information Database and for the future Claim-by-Claim Register, there are additional reasons why we propose that PIAB are made responsible for assembling this data and publishing it. PIAB have the financial resources, technology and data protection clearance as well as existing data sharing arrangements under their legislation with the Revenue Commissioner and the Department of Social Protection to be able to collate any necessary data .

Finally and importantly, this measure proposed by AIR could allow the Claim-by-Claim Register to be put in place immediately as it would not require the preparation of primary legislation.

VIEWS ON INFORMATION TO BE COLLECTED

In terms of what is practical and easily achievable, we seek **quarterly reports** on the **entire industry** (not just Insurance Ireland members) providing an enhanced version of the level and quality of data currently being produced by the Institute and Faculty of Actuaries in the UK on motor but **extended to Public Liability and Employer Liability**. This extension is particularly urgent given that the most severe increases our members are seeing right now are in their PL and EL policies.

As most of the players in the Irish market also operate in the UK, providing this data as a matter of urgency will not be an issue once the will is there. Indeed we would be surprised if this data is not already being used regularly by all the individual companies in Irish market to properly run their businesses.

Finally, we request that **individual company information** to the standard provided in the Blue Book up to 2015, be provided as part of the new regime.

One example of why we want individual company information to continue to be available is illustrated by the following example:

- 'When I came in, Ireland was one of the worst businesses we had' Aviva CE Mark Wilson, quoted in the Irish Times, 19th Jan 2018
- Mr Wilson 'came in' in early 2013
- Aviva motor insurance loss ('Result on Technical Account') in 2012: €66 million
- Aviva motor Management Expenses transfer to UK parent in 2012: €94 million, which was half of the money it had collected from Irish policyholders

And finally, we ask that the **Claim-by-Claim Register to be put in place immediately**, using PIAB and its existing legislation, data and resources to ensure the benefits of this necessary data are felt sooner rather than later .

This proposal will also facilitate identification of repeat claimants

As well as ensuring a steady reliable flow of data to PIAB on prevailing compensation levels, backed up with medical evidence, this could discourage below-value settlements by unscrupulous compensators.

It also ensures that assertions of 'proceeds of an injury claim' are not being used to explain away payments that would otherwise be taxable. PIAB would also then hold a complete record on all injury claims which could cost-effectively replace the existing privately-owned central claimant database.

This measure could be put in place quite quickly as it would not require the preparation of primary legislation. Since 1st August 2014 every potential compensator (whether insured or self-insured) is required to apply to the Department of Social Protection with the claimant's PPS number for a certificate of the State benefits which were caused to be paid as a result of a negligent accident. It would be a simple matter for that Department to electronically copy to PIAB the Form RBA20 (which issues on settlement of a claim with details of the claimant and compensator). This can be provided for by amendment to the Social Welfare (Miscellaneous Provisions) Act 2015. Both the Department of

Social Protection and the PIAB have existing compliance policies with the Data Protection Commissioner whose approval will be required.

ENDS

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