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A Cost-Benefit Analysis of the Personal Injuries Assessment Board

Prepared by Dr. Vincent Hogan
December 2006

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CHAIRPERSON'S INTRODUCTION

Under the terms of the Personal Injuries Assessment Board (PIAB) Act 2003 the functions of the governing Board at Section 54(1)(c) include:

“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 purposes of awarding compensation for personal injuries”.

The difficulty which often arises in such exercises is the lack of comprehensive reliable data. Of most relevance is the lack of any historical data on what plaintiffs were paying to their own legal teams by way of solicitor/own client costs over and above any party-and-party costs payable by the defendant. Aside from media reports on complaints to the Law Society about breaches of the Solicitors (Amendment) Act 1994 from clients who had a percentage of their compensation deducted, there is no independent body of work that reflects the historical position. Equally, it is not possible at this time to determine what claimants may be paying to solicitors to complete PIAB applications although fixed fees of €399 have been advertised. Prior to the 2005 High Court decision in *O'Brien v PIAB*, which is under appeal to the Supreme Court, it was possible for our Service Centre to inform people that they were not required to instruct a solicitor to pursue a claim. At that time 50% of claimants chose to avoid legal costs altogether when we could tell them about their options and explain the PIAB process. In contrast, over 90% of claimants are currently represented by solicitors and we cannot now make direct contact with those clients.

As a result of this lack of both historical and current data on what claimants are paying to their solicitors, we can only undertake a comparison in relation to costs paid by defendants/respondents which the final Motor Insurance Advisory Board (MIAB) report reflected as 46%. There is, however, a more detailed body of work on such litigation outlay as presented in the published report of the Legal Costs Working Group presented to the Minister for Justice in January 2006. We are very fortunate that the Committee in question agreed to our use of their data and we are very pleased that Dr Vincent Hogan was prepared to extend the work he had completed for that Group to address the requirements of the PIAB Act 2003. In his report which follows, and put at its simplest, resolution of cases through PIAB involves a fixed cost regime averaging €1,330 per claim. This represents at least an 88% saving compared to the older litigation system where legal costs were invariably a percentage of the award or settlement regardless of what was involved in the case. In its early stages of operation this means that PIAB delivered savings of over €24m by reducing the overhead costs traditionally incurred to deliver compensation entitlements. For a full year's operations the projected saving is €48m over all classes of liability and motor injury cases, without even factoring in the upfront resolution of claims facilitated by the very existence of PIAB but on which no formal assessments proceed.

But PIAB is not just about savings on litigation costs. Early finalisation of claims in a non-adversarial process is likely to have beneficial effects on the recovery of injured parties. Delivery of an award in nine months relieves the stress that can be involved in litigation which averaged three to four years to finalise, despite the fact that less than 10% of claims ever proceeded to an oral hearing in a Courtroom. That conclusion about beneficial health effects can be inferred from studies on the positive outcomes of early intervention in the rehabilitation process but publication is awaited of further medical research which will be more specific to a future cost-benefit analysis.

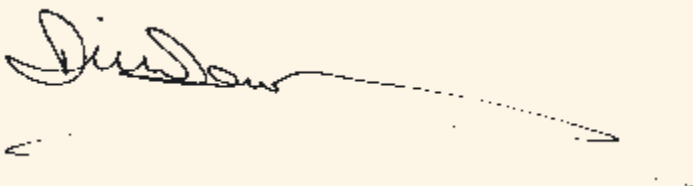
Another dimension to the Government's Insurance Reform Programme, for which an Action Plan was published in October 2002, was the reduction of premium charges to policyholders. At the time of the publication of the 2002 MIAB report, the Central Statistics Office (CSO) index for motor insurance stood at 108.8 compared to 74.0 in November 2006. This represents a 32% decrease on average. However, there are many factors both national and international that affect the trends in premium charges and one would require analyses of insurers' raw data before being any more specific. Arising from recommendations of the Competition Authority on the detail of published data for the Irish insurance market, the Financial Regulator is currently undertaking a Regulatory Impact Analysis so more comprehensive analyses may be possible in the future. However, the Financial Regulator has published in December 2006 motor insurance data as at 2004 which reflects significant reductions in claims costs and their independent analysis of outcomes as at 2005 will be even more informative.

Aside from the operation of the insurance market, the national factors that were acknowledged as drivers of unacceptably high insurance costs in 2002 were:

accident rates,
uninsured driving,
exaggerated claims,
litigation procedures,
level of litigation costs,
rehabilitation, and
hospital charges.

Cumulatively these were projected by the Irish Insurance Federation (IIF) to account for 31.2% of claims costs.

Obviously, PIAB can only influence some of the underlying cost drivers. It is for others to determine the extent to which these factors have been tackled and whether there has yet been sufficient reduction in premium charges to reflect the reforms that have been delivered.



Dorothea Dowling
Chairperson

CHIEF EXECUTIVE'S INTRODUCTION

The PIAB was set up under the PIAB Act 2003 and in delivering compensation to victims of personal injury accidents, this agency is charged with three key objectives:

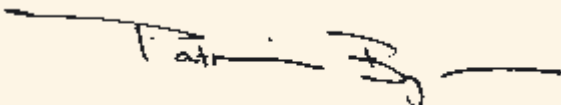
1. To reduce the cost of delivering compensation
2. To reduce the time to deliver compensation
3. To deliver the current level of compensation awards

In order to validate the actual reduction in delivery costs, the PIAB Act 2003 required that an independent Cost-Benefit Analysis be commissioned by the Board. I am pleased to introduce the output of this review, which confirms a significant reduction in delivery costs. Awards are also being maintained at prevailing levels and are made within the statutory timeframe of nine months.

The analysis over the following pages confirms the output of internal tracking carried out by PIAB since we made our first award in the Spring of 2005. PIAB delivers compensation at a delivery overhead which equates to a less than 10% addition to the actual compensation amount as opposed to an addition of, on average, 46% under the old system. On the first 3,137 cases assessed and accepted by victims of personal injury accidents in Ireland, the delivery cost was reduced by nearly €24m. In real terms this report shows an on average saving of 88% on a typical case that would have previously been subject to Circuit Court proceedings and an on average 97% saving on a case involving High Court proceedings. Even at such a high overhead, the vast majority of these litigation cases never entered a Court room but were settled ultimately on the "steps of the court". In addition, the new model has had a direct impact on cases entering litigation. In 2004, some 15,000 High Court writs were issued compared to just 750 in 2005. In the Circuit Court the pattern is even more remarkable, with the 2004 level of approximately 20,000 Civil Bills issued being reduced to just approximately 3,000 in 2005.

The benefits of PIAB span a number of key areas. In reducing the cost of delivering compensation to victims, the cost of insurance in this country has reduced and is evidenced by a number of key sources such as the Central Statistics Office. This in turn impacts the cost of all goods and services. In freeing up the litigation system from such a volume of personal injury cases, society benefits where other cases can flow more efficiently through the court system. The real benefit, though, is to those who have been unfortunate enough to have been injured at work or on our roads. They can now be assured of a cost-effective system which delivers their rightful compensation within a nine-month timeframe without an unnecessary adversarial contest. Historical records demonstrate that some 90% of all personal injury cases do not involve any dispute on legal issues or at least few that can justify three to four years tied up in costly litigation.

I would like to thank my colleagues on the Board and in particular our Chairperson, Dorothea Dowling, for their support and commitment over the last two and a half years.



Patricia Byron
Chief Executive

A Cost-Benefit Analysis of the Personal Injuries Assessment Board

Prepared by Dr. Vincent Hogan
December 2006

1. INTRODUCTION

The PIAB was established in April 2004 with the explicit purpose of providing a method of dealing with uncontested personal injury claims that would be less costly than the traditional approach of litigation. By this time, it had become widely accepted that legal costs in personal injury cases were excessive. In 2004, the Motor Insurance Advisory Board (MIAB) report had shown that litigation overheads had risen to a level of 46 cents on top of every euro paid in compensation. The PIAB objectives were: to reduce the overhead cost of delivering compensation to the victims of personal injuries, but without compromising the level of compensation, and to do so more quickly than the litigation system. It was also intended that resulting cost savings would be passed on to consumers in the form of reductions in insurance costs.

As we show below, the PIAB has been largely successful in these tasks. Litigation costs now represent less than a 10% overhead on top of compensation. This represents a saving of nearly €24 million on the cases dealt with by the Board up to October 2006. This reduction in volumes of litigation with its attendant costs has facilitated a drop in insurance premiums. In addition, it appears that cases are resolved by the PIAB on average 4 times faster than traditional litigation and without any lessening in the compensation received by injured individuals.

Section 54(1)(c) of the PIAB Act 2003 requires a cost-benefit analysis to be undertaken. In the next section we review the cost structure of the PIAB system and compare it with the cost of the traditional litigation system. We also calculate the likely cost saving for each case dealt with by PIAB to date. In section 3, the reductions in motor insurance premiums are recorded. In section 4 we look at the position of the claimant in terms of the level of the award and the speed with which it is made. Finally section 5 provides a summary and conclusions.

2. DETAILED EVIDENCE ON COSTS

2.1 Introduction

This study draws on statistical analysis of the old courts-based system that was done for the Legal Costs Working Group (LCWG) and is used here with their permission.¹ This is supplemented by data from the new system provided by the PIAB. We have details of 3,137 cases processed by the Board from March 2005 to October 2006. In all of these cases, both parties accepted the recommendation of the Board. In a further 1,828 cases, the recommendation was not accepted by one or both of the parties. These cases are excluded from the analysis, as they may be subject to litigation, which could result in an award different from the PIAB's assessment, although very few of these cases have yet progressed to legal proceedings being issued.

2.2 The Cost Structure of the PIAB

One of the main benefits of the PIAB system is that the costs are clear and transparent, as well as being largely predictable. The PIAB charges the plaintiff a fixed fee of €50 to register the case. The respondent is responsible for a fixed administrative fee of €850.² The respondent is also responsible for a €150 contribution to cover the charge for a medical report from the treating doctor. Thus the standard cost to the parties for processing the claim is €1,050. In addition there will usually be charges (to the respondent) for a further independent medical examination and in some cases fees for other technical submissions. This charge is usually fairly small. The average in the data is €280 and the highest recorded was €4,235. Thus the total charge to the Respondent for using the PIAB was on average €1,280 and was never more than €5,235.

¹ A summary of the statistical analysis was published as Appendix 2 in the Report of the Legal Costs Working Group.

² This increased to €900 for applications completed after 1st June 2006.

2.3 The Cost Structure of the Court System

The costs of the previous, court based, system were larger and also more complicated. Costs depended on which court heard the case, how long the case lasted, how many expert witnesses were called and whether liability was contested or not. In the event of liability being admitted or decided in favour of the plaintiff, the respondents became liable for the plaintiff's costs in addition to their own. When costs were disputed the issue would be decided by the Taxing Masters (County Registrars in the case of the Circuit Court). In the old litigation system, less than 10% of claims ever proceeded to oral hearing and similarly only a small proportion of cases ended up before the Taxing Masters³. However, their decisions formed a set of precedents which effectively determined the structure of costs in general.

On top of the plaintiff's party-and-party costs, the respondent would be responsible for his own costs. As a general rule these were set at 66% of the plaintiff's costs. In addition to the cost of the legal professionals, there would usually also be the costs of medical examinations and other technical reports and/or professional witnesses.

The issue of what determined the level of costs in particular cases was analysed in detail in the LCWG report.⁴

The conclusions of that analysis can be summarized as follows:

- Solicitors' Instruction fees increased by 4% in real terms (i.e. in excess of the Consumer Price Index) every year for 20 years (1984-2004).⁵ Barristers' brief fees grew by 3% in real terms.
- There is a very large variation in fees charged even for the same class of case.
- In the High Court, the most important determinant of fees charged in personal injury cases was the level of the award to the plaintiff. Measures of the quality/quantity of legal services provided did not appear to be major factors.
- In the Circuit Court, the level of the award does appear to influence the levels of the fees – but the effect is weaker than in the High Court and held only for solicitors.

For the purpose of evaluating the relative performance of the PIAB, the most important findings of the LCWG report were the last two points: essentially only the level of the award mattered for determining the fees. This result deserves some more detailed discussion.

The purpose of the original study was to see if fees could be justified by the lawyers' input into the case.

The amount of legal work done was measured on three dimensions:

- whether the case goes to trial;
- whether expert witnesses are called;
- whether motions of discovery are employed.

In addition, the link between the fee and the level of the award was also considered.

3 In 2003 there were 16,244 cases before the High Court (including 11,000 PI cases) but only 519 bills of cost went before the Taxing Masters. See Annual Report of the Courts Service 2003 and the Report of the Legal Costs Working Group.

4 The statistical analysis in LCWG was based on a sample of 91 cases selected from the Taxing Masters' caseload in 2003 and 105 from their 1984 caseload. There were also 192 cases from the Circuit Court (Dublin, Cork, Limerick and Sligo).

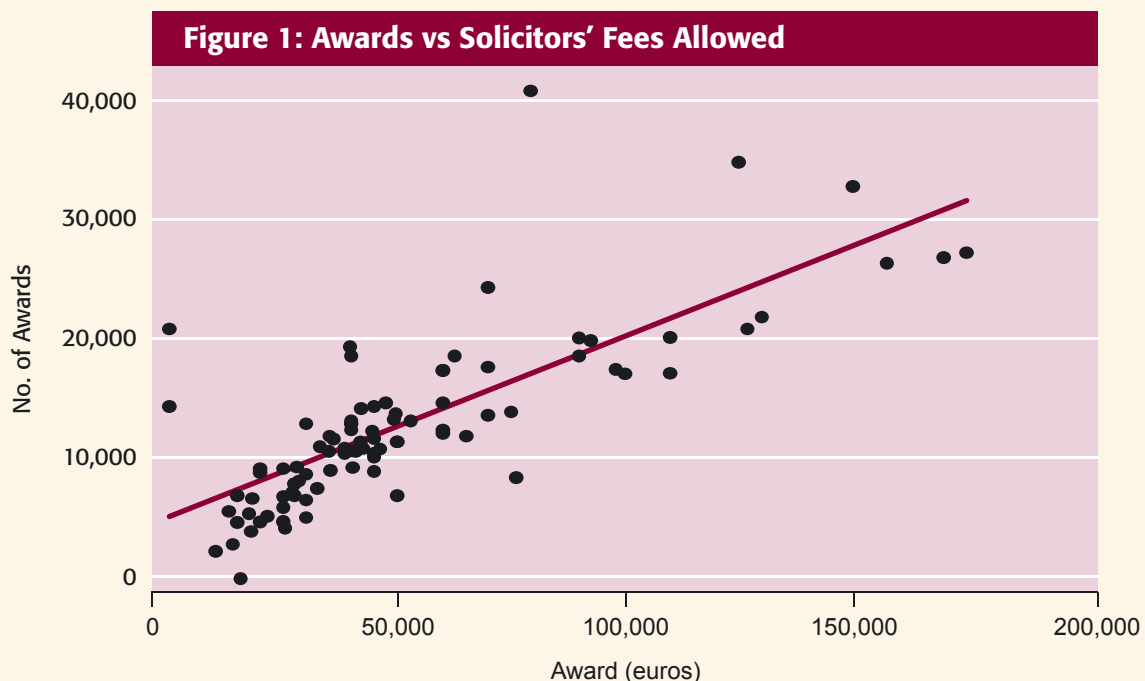
5 In nominal terms fees grew by about 8% per year.

It is self-evident that uncontested cases generally should involve somewhat less work than contested cases that actually go to trial and, therefore, should attract lower fees. Similarly, the number and type of motions presented in a case should be an indicator of how complicated it was. Both motions for discovery and the presence of expert witnesses will likely increase the workload of the lawyers. The final control variable is the size of the award, which, while it may be of some relevance to costs, should not be the primary factor in determining the level of the fee. For instance, in a case where more is at stake, it might be expected that a client would hire better lawyers and this higher quality will be reflected in higher prices.

The results indicated, however, that the level of the award or settlement is almost the only variable that matters for both barristers and solicitors. Put simply, the size of the award is by far the most important determinant of the fees of both barristers and solicitors even if the case never proceeded to an oral hearing.

It is striking that the measures of legal difficulty (discovery, experts and whether the case is contested) did not seem to influence costs to any great extent. By the normal statistical criteria neither the presence of expert witnesses nor the necessity of discovery motions had any effect for either barristers' or solicitors' fees. However, whether a case was contested did matter for solicitors. On average, a solicitor received just over €7,460 extra for a case that went to trial in the High Court in 2003. However, whether a case is contested or not does not seem to matter for barristers' brief fees.

What all this suggests is that the instruction fee for the plaintiff's solicitor in High Court personal injury cases in 2003 can be determined by a simple formula: the solicitor receives €5,029 plus 15% of the award. This simple formula explains nearly 60% of the variation in fees across personal injury cases. For Senior Counsel, the corresponding formula is €410 and 2.3% of the award (with two-thirds of that for Juniors). The accuracy of the formula can be seen from the following graph. This shows a scatter plot of the actual fees allowed to the solicitor versus the award to the plaintiff. The line on the graph shows the level of the fee predicted by the simple formula.⁶



⁶ The corresponding graph for barristers' brief fees is very similar and so is not reproduced here.

Table 1: The Plaintiff's Legal Fee Norm for Personal Injury 2003

		Circuit Court	High Court
Solicitor's Instructions Fee	Fixed	€1,655	€5,029
	% of Award	<i>plus</i> 10%	<i>plus</i> 15%
SC's Brief Fee	Fixed	N/A	€410
	% of Award		<i>plus</i> 2.3%
JC Brief fee	Fixed	€1,077	€270
	% of Award	0%	<i>plus</i> 1.53%

Table 1 summarizes the results of the analysis. Note the table is calculated for cases where liability was not contested. Note also that the brief fee for a Junior Counsel in the High Court was almost without exception exactly two-thirds of the Senior's fee. Also, Seniors did not appear in the Circuit Court (at least not in any of the cases covered by the data).

A similar formula also held for personal injury cases heard in the Circuit Courts, although the parameters of the formula are slightly different. The solicitors' fee is €1,655 plus 10% of the award. This formula is statistically significant by the standard criteria.⁷ But it is less robust than the corresponding rule for the High Court as it is estimated from a smaller sample. It also fits the data less well than the High Court data, explaining only 40% of the variation in fees. Furthermore, there is no similar rule for the brief fee in the Circuit Court, i.e. the Junior Counsel's brief fee appears to be unrelated to the award. Finally, the only measure of legal input available at the Circuit Court level is whether a case goes to trial or not and this appears to have no impact on either the solicitors' or barristers' fee.⁸

It is also important to note that these are the fees for Plaintiff's lawyers. As noted above, the respondent would have to pay his own costs which were usually set at 66% of the plaintiff's. Furthermore, we have not considered the cost of expert witnesses and/or technical reports.

2.4 Comparing the Two Cost Structures

We can now compare the two cost structures. We do so by calculating what the cost of the PIAB cases would have been, had they gone through the courts system. Basically, we take the settlement that PIAB awarded in each case and use the statistical model outlined in section 2.3 above to predict the fees that would have arisen for that case had it gone through the litigation system. In essence, given the award, we use Figure 1 (or equivalently, Table 1) above to predict the level of fees. We can then compare the predicted fees with the actual fees levied by the PIAB.

Before we present the results of this comparison, we need to address some issues regarding this procedure. First we need to decide what court would have heard the case, had the PIAB process not been available. This is an important issue because fees in the High Court would tend to be higher than fees in the Circuit Courts. I adopt the convention that any case with an award of less than €38,000 would have been heard in the Circuit Court, with the others being heard in the High Court. On this basis only 194 of the 3,137 PIAB cases are treated as High Court cases.

I also assume that all cases would be dealt with in one day so that barristers did not receive a refresher fee. We also assume that Senior Counsel did not take Circuit Court Personal Injury cases. Finally I assume that the respondents would not have contested liability under the old system. These are reasonable assumptions. Furthermore, they are

7 The p-value for the test of the null hypothesis that the true percentage is zero is equal to 0.001.

8 The p-value for the test of the null hypothesis that trial has no effect on fees is equal to 0.946.

conservative insofar as any violation would increase the fee incurred via the court system rendering an even greater saving from using the PIAB.

Table 2 shows the results of the analysis for the average PIAB case that would have gone to the Circuit Court and the average case that would have gone to the High Court. The size of these average awards is indicated in the first row. The second row shows what the plaintiff's solicitor's instruction fee would have been had the average case gone to appropriate court (and liability was not contested). This instruction fee is calculated using the rule described in Table 1 which was estimated from Courts Service data (see section 2.3).

The third and fourth lines show the brief fees for the plaintiff's barristers. Again these are calculated using the rules described in Table 1. Note, however, that I also assume that Senior Counsel would not have been present in a Circuit Court case and that no refresher fee would have been allowed. Both of these assumptions serve to reduce the costs.

The fifth row gives the total of the plaintiff's legal costs (i.e. the sum of the solicitor's instruction fee and the brief fees for senior and junior counsel). The next row gives the total legal costs incurred by the respondent. These are assumed to be 66% of the plaintiffs' costs. The seventh row gives the total cost to the parties under the old system: €7,223 for the Circuit Court and €28,553 for the High Court. Note that these costs amount to 50% of awards in both the Circuit and High Courts. These ratios are consistent with the 46% estimated by the MIAB report.

The next row describes the costs levied by the PIAB. The registration and administration fees are the same for all cases. Note that, on average, the total costs of the PIAB are less than 6% of the award for the Circuit Court case and 1.4% for the High Court case.

The final two lines illustrate the savings facilitated by the PIAB system. The cost of the average Circuit Court case was reduced by €6,373 or 88% while the cost of the (rarer) average High Court case was reduced by €27,703 or 97%. Finally, it must be emphasized that these savings are almost certainly underestimates, as we have made conservative assumptions. In particular medical and other technical experts almost certainly cost more under the old system than through the PIAB system.

Table 2: Cost of Average litigation case compared to PIAB system

		Circuit Court	High Court
1.	Average Award (€)	16,022	60,636
2.	Plaintiff's Solicitor's Instructions Fee (€)	3,257	14,124
3.	Plaintiff's SC's Brief Fee (€)	0	1,804
4.	Plaintiff's JC Brief fee (€)	1,077	1,203
5.	Total Plaintiff Fee (€)	4,334	17,132
6.	Total Respondent Fee (€)	2,889	11,421
7.	Total (€)	7,223	28,553
8.	PIAB Admin & Registration Fee (€) ⁹	850	850
9.	Saving (€)	6,373	27,703
	% Saving	88%	97%

⁹ The increased fee of €900 applied to only 8 cases in our sample.

Table 2 shows the calculated savings for the two average cases. But focusing on these averages could be misleading as there is quite a large variation in awards around the average. We can replicate the calculation in Table 2 for each individual case and calculate the saving from using the PIAB on a case by case basis.

This shows that the savings due to PIAB are sizable for all levels of awards. The average reduction is over 88% with many in excess of that. Furthermore in no case is the saving ever less than 80%. Finally if we sum the savings from all 3,137 cases, we get a total saving of €24 million.

3. INSURANCE COSTS

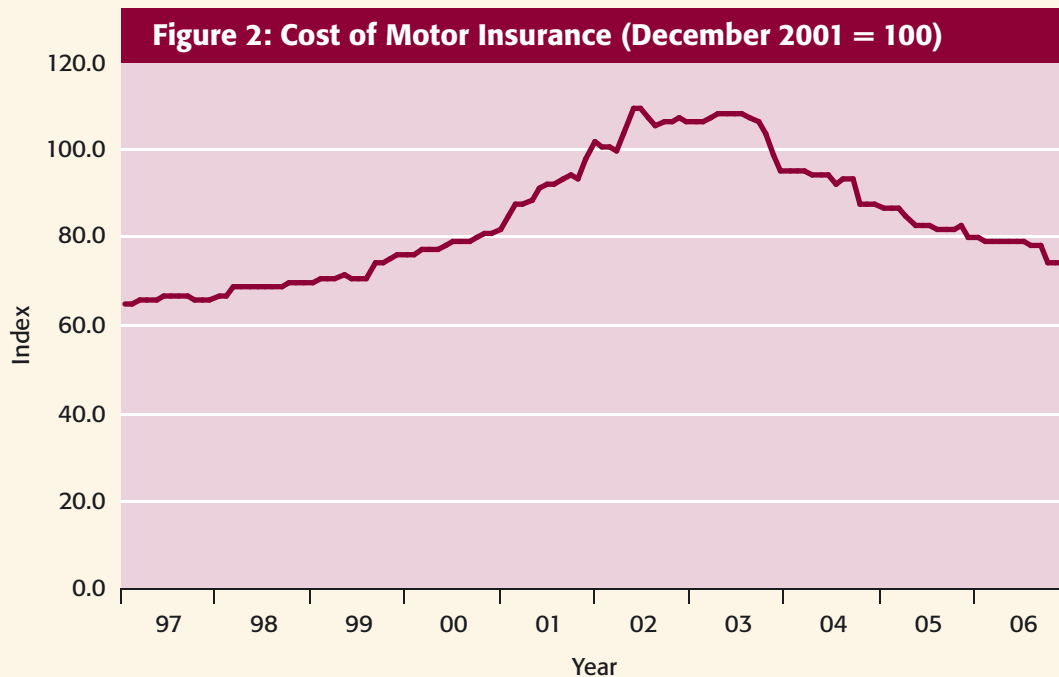
One of the primary reasons for the establishment of the PIAB was to help reduce insurance costs to both industry and consumers. Section 2 showed that the cost of processing personal injury claims has decreased dramatically, with overheads declining from 46% of awards to less than 6%. This reduction in costs would have been felt directly by insurance companies and self-insured parties. But it remains to be shown that they passed it on to consumers. This is an issue because the degree of competition in the insurance industry has been questioned both by the MIAB 2002 report and the Competition Authority.¹⁰

The cost of insurance has declined since the inception of the PIAB. Indeed the decline started in 2002, before the PIAB. This was probably in response to the criticisms of the industry in the MIAB report and perhaps was in anticipation of the PIAB. Premiums continued to decline from the date the PIAB became operative (June 2004) by a total of 20% to October 2006.

However, there are many factors both national and international that influence the cost of insurance. The most recent analysis by the Financial Regulator of raw data from motor insurers relates to the position at year-end 2004 of claims costs relative to premium income. During 2004 average premiums fell by 18% for comprehensive cover and by 16% for third party fire and theft cover. This followed a period of rapidly rising premiums, which grew by 45% for comprehensive cover and by 70% for third party fire and theft cover between 1997 and 2003. Future such analyses by the Financial Regulator will indicate to what extent savings have been reflected in premium rate trends and the time lag between the two development patterns.

A similar pattern can be observed from the cost index produced monthly by the Central Statistics Office. This shows that the cost to consumers of motor insurance has fallen by 20% on average since the inception of the PIAB and by 32% since a peak in April 2002.

¹⁰ See "Competition Issues in the Non-Life Insurance Market", Competition Authority, 2002.



4. THE CLAIMANT'S POSITION

4.1 The Level of Compensation

In Section 2 we assumed that the award in any given case would be the same under both systems. It might be objected, that courts would make higher awards than the PIAB. Furthermore, this might be more likely if plaintiffs were well represented by experienced Personal Injury lawyers. This argument against the establishment of the PIAB was advanced by many in the legal profession.

The PIAB is structured to limit this possibility. Firstly, under the Civil Liability Act 2004 the judiciary are required to have regard to the Book of Quantum published by PIAB since this reflects the reality of compensation data compiled on various injury types. The Book of Quantum is merely a consolidation of existing case law and industry practice. No attempt was made to impose lower rates of compensation. Secondly, claimants have the right to reject the PIAB's evaluation of their case. They are then free to instigate legal proceedings in the same way as before. In reality nearly 90% of claimants in the PIAB process are represented by solicitors but only 29% of claimants are the sole source of award rejection. To date 37% of the PIAB's decisions have not been accepted by either party.¹¹ At the time of writing, most of these cases have not yet become the subject of litigation and it is possible that many have since been resolved between the parties. At some future date it will be possible to analyse a body of data on Court awards in cases where the PIAB assessment was not acceptable to one or more of the parties and establish whether on a like for like basis the ultimate cost was higher or lower. In any case, it appears that the vast majority of claimants, including those who have retained legal and other experts, think that the PIAB's assessment is reasonable.

¹¹ There is anecdotal evidence to suggest that many of these cases are not going to court. Instead the PIAB's assessment is being used as a basis for further negotiation between the parties.

4.2 The Speed of Assessment

Another objective of the PIAB was to speed up the assessment of claims. This it appears to have done. In fact, the improvement has been dramatic. The PIAB aims to complete the assessment within a statutory nine-month period from consent to the process. In the year to October 2006, the average time lag from application by the claimant to award being made was nine months, with 90% of claims processed within 12 months. This is substantially less than the average of 36 months it took to process a claim through the courts (see the McAuley report 1999).

5. SUMMARY AND CONCLUSIONS

The creation of the PIAB has reduced the costs of processing Personal Injury cases considerably. Since March 2005, we estimate that PIAB reduced the cost of processing personal injury claims by a total of €24 million on the 3,137 cases where its award was accepted by both parties. This figure was calculated using extremely conservative assumptions and is almost certainly an underestimate of savings. In future years, the volume of cases being dealt with by the Board will increase dramatically as the Statute of Limitations 2004 takes effect. Thus the total savings will be many multiples of the €24 million savings to date.

This overall figure represents a saving of €6,373 on the typical case that would have gone to the Circuit Court i.e. an 88% saving over court costs. The figures for the High Court are even more impressive. Here the average saving was €27,703, representing a 97% saving over the typical court costs. It must be emphasized, however, that only 6% of the PIAB cases would have gone to the High Court.

It is important to emphasize that this saving occurred without any diminution in the size of awards to the injured parties. In fact there is some evidence to suggest that awards may actually be higher under the PIAB – at least for more serious injuries. Furthermore the PIAB has delivered its assessments, on average, 75% faster than the law courts.

It also appears that the time constraints placed by PIAB on respondents to make up their minds about fighting cases in Court or allowing them to proceed to assessment is resulting in a large volume of claims being resolved within the 90-day cooling-off period. It is understood that further data will be available on the outcome of those cases for a future cost-benefit analysis. The reality is that over the past two years 40,000 claims started into the PIAB process as is mandatory but only 32,000 have found it necessary to proceed to formal registration to have their claim resolved. As the new Statute of Limitations 2004 allows only two years in most cases for proceedings to be issued it seems highly unlikely that such a volume of cases are waiting in the background to commence litigation and it is therefore reasonable to assume that the vast majority have been finalised directly between the parties at this stage.

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