



**Guidelines on Legal Costs
under Section 44 of
PIAB Act 2003**

July 2009

Background

These guidelines have been drawn up to assist those making claims to the Board, and their solicitors. They are not intended in any way to interfere with an individual's right to seek legal advice or with any existing solicitor/client relationship.

The guidelines set out services available from the Board to enable a claimant comply with the provisions of the Personal Injuries Assessment Board Acts and the Rules made thereunder and the circumstances under which fees and expenses are generally allowed.

Services available from the Board

A claimant may make an application directly to InjuriesBoard.ie. To assist applicants, InjuriesBoard.ie operates a Customer Service Centre from 8am to 8pm Monday to Saturday. The Centre can be contacted on Lo-Call 1890 829 121 or from Northern Ireland 0870 876 8121.

The InjuriesBoard.ie website (www.injuriesboard.ie) permits online applications (available 24/7) and provides an online claims estimator, multi-lingual services and a health and well-being webpage to assist recovery following an accident. In addition the website provides step by step guidance on how to process a claim. The Board's Customer Service Centre assists claimants with the completion of their Application to the Board. In accordance with the Official Languages Acts the Board deals with claimants who wish to process a claim through Irish. The Centre also assists those with limited knowledge of the English language.

To process an application a claimant is required to submit:

- A completed Application Form (available from Service Centre or from website)
- A report from their treating doctor (Medical Form available from Service Centre or website and ask doctor to complete)
- €50 application fee

The reasonable cost of the Medical report and the application fee form part of the claim and will be included in the assessment of the claim.

Where further details are required to facilitate the assessment of a claim such as medical reports or actuarial reports in relation to future loss of earnings or medical treatment/care these will be arranged and paid for by the Board. Any such reports will be provided to the claimant with the assessment of the claim.



Application made using a Solicitor

A claimant is entitled to submit a claim directly to the Board or through another party. This is a decision for the claimant. There is no right to recover fees incurred. It is acknowledged that there will be circumstances where the Board may not be in a position to provide the assistance required by the claimant. In such circumstances the Board may advise a claimant of the desirability of obtaining professional advice or agree that such services were necessary. The Board will exercise discretion and consider if the fees and expenses were reasonably and necessarily incurred and such fees and expenses will be included in any assessment that is made.

In considering whether fees and expenses were reasonably and necessarily incurred, the Board will consider:

- Whether the Board could have provided the assistance, for which fees and expenses are sought
- The inability of the claimant to sufficiently appreciate the legal consequences of taking a step as required under the Act
- The inability of a claimant to conduct their business directly with the Board
- Any other relevant issues.

It is important to note that each case will be considered on its individual merits.

Submission of details

If legal fees and expenses are being claimed, an itemised bill together with the reason as to why the fees and expenses were incurred must be submitted to the Board for consideration. If details of fees and expenses with an explanation as to why they were incurred are not submitted, they will not be considered in the assessment of the claim.

The average estimated time that any solicitor will expend on such cases will vary depending on the individual circumstances involved. In cases where the Board has allowed fees and expenses to date the average amount allowed was €390 excluding VAT.

Where fees have been allowed

Examples of cases where fees and expenses may be allowed include but are not limited to:

- Minors
- Fatalities
- Uninsured or untraced motorists
- Identity of respondent issues



Where fees have not been allowed

As the Board provides assistance for claimants to complete their application and comply with the provisions of the Act it is not envisaged that fees and expenses will be allowed in circumstances where the claimant could have availed of the Board's services. Additionally fees and expenses are not allowed for legal costs incurred which are not for the purposes of complying with the requirements of the Act. For example:

- Advice in relation to the bringing of the claim
- Advice in relation to liability or the likely success of the claim
- Medical and actuarial reports not commissioned by InjuriesBoard.ie
- Lack of understanding of the PIAB Acts and the Rules made thereunder.
- Consideration of whether to accept or reject the assessment and the consequences under the Personal Injuries Assessment Board (Amendment) Act 2007.

The Board's legal authority

The Board's authority arises under Section 44 of the Personal Injuries Assessment Board Act 2003 and gives the Board a discretion to include with the Notice of Assessment a direction that the Respondent shall pay the fees and expenses, in whole or in part, that, in the opinion of the Board, have been reasonably and necessarily incurred by a claimant in complying with Part 2 of the Personal Injuries Assessment Board Act 2003 and the Rules thereunder.

It is only the fees and expenses that are reasonably and necessarily incurred in complying with Part 2 of the Act and Personal Injuries Assessment Board Rules 2004 that fall for consideration under Section 44.

