

Settling claims in a non-adversarial manner

In his recent posthumous critique, Mr Justice Seán O'Leary has critical things to say about the Personal Injuries Assessment Board. Chief executive Patricia Byron responds

When we acquire any new product or service, there are two questions in our minds: does it do what we thought it would and were we wise to get it in the first place?

A public service is no different. Three years ago, the Irish people – through the Oireachtas – took on an entirely new way of dealing with personal injury claims. The cost of dealing with such claims had reached such levels that the State was concerned with the crippling effect this was having on our ability to compete successfully as a trading nation. While businesses shut down, consumers felt the effect in the cost of goods and services and in particular the cost of insurance.

This was the driving force behind the setting up of the Personal Injuries Assessment Board (PIAB). After much debate, in and outside the Oireachtas, it became fairly clear what most sensible people wanted: a system to administer personal injury claims in a prompt, fair, transparent and non-adversarial manner. After all, the vast majority of claims were entered into an adversarial litigation system for three to four years and were usually settled on the steps of the courts.

A new system was established by the Oireachtas, with all-party support, creating an independent statutory body. The board, representing consumers, unions, employers and those paying for claims, was appointed by the Minister for Enterprise, Trade and Employment and the executive was appointed through open public competition. It is now law that all personal injury claims are submitted to Piab unless settled directly between parties. Piab encourages open and transparent dialogue between parties which has facilitated an unprecedented level of early settlements.

Piab has a statutory obligation to

deliver awards within nine months from consent to the process, compared to an average of three years under the litigation system. From the very outset Piab put in place a system which was customer-focused and accessible. A process was established and a service centre was put in place which opens from 8am to 8pm Monday to Saturday to assist both claimants and those against whom claims are being made.

One of the major drawbacks of the old litigation system was the cost of delivering compensation. For example, in 2003 it cost €450 million to deliver €1 billion in compensation to victims of personal injury accidents, ie almost 50 per cent. Under the new Piab system, these costs have been dramatically reduced to less than 10 per cent while victims continue to receive the current level of compensation. This reduction in costs has a positive impact on insurance premiums and is confirmed by the CSO.

Let us be clear what putting everyone into an adversarial litigation system meant. Claimants were forced into a confrontational position where liability was, as a matter of course, denied. The trauma of this denial was immense when it was blatantly clear to the vast majority of claimants that their car had been rear-ended or the factory machine had no safety guard, and the ultimate settlement three years down the road was of little comfort when the last three years had been disrupted with stating and restating the facts.

A new culture has been fostered where Piab engages in open and transparent communication with claimants and encourages offending parties to address the impact of their actions. This is in the interest of both the claimant and those paying claims (ie the

public, which pays the premiums). The minority in society who choose to pursue fraudulent claims are subject to measures contained in the Civil Liability and Courts Act 2004 and are outside the scope of Piab.

The additional benefits which are significant in themselves are best evidenced through the dramatic drop in personal injury litigation. Courts Service statistics confirm an annual figure of an average 33,000 writs between 2001 and 2004.

Since the establishment of Piab the year-end figures for 2005 were approximately 4,000 writs in total. This dramatic shift is not unexpected when one also considers that at its height there were 35,000 writs issued in a year in this country, with fewer than 3,000 cases requiring a formal court hearing and the balance lodged in a litigation pipeline and settled outside of the courts three years on with all ensuing litigation costs.

So, are the Irish people getting from Piab what they hoped when they set up this service? Results to date show that accident victims receive the same level of compensation but three times faster and through a delivery system which is four times cheaper than the old litigation route.

Modern Ireland is open, transparent, confident and progressive and this is why the Irish people chose (through the Oireachtas) to move to this new way of settling non-adversarial claims. It is a matter for the people to judge whether they are getting a better system. It is difficult to see why anyone would want to go back to an adversarial system for non-adversarial personal injury claims.

Piab has been operating for almost three years and remains focused on maintaining rights while reducing intermediary costs and

saving time. The administration of this new model is strictly in accordance with the terms of the Piab Act 2003 and interaction with consumers is independent, fair and transparent in accordance with best corporate governance and public policy.

Patricia Byron is chief executive of the Personal Injuries Assessment Board. The Piab can be contacted on LoCall 1890 829 121 from 8am to 8pm Monday to Saturday, on their website www.piab.ie and by email at enquiries@piab.ie