

Personal injuries board welcomes clarity of ruling



ANALYSIS

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THE PERSONAL Injuries Assessment Board put a brave face on yesterday's Supreme Court ruling, welcoming the "clarity" it brings to its previous policy of not communicating directly with solicitors even when requested to do so by claimants.

This was in pursuit of its aim of minimising the role of lawyers in the compensation process. The board processes claims for compensation for work injuries where liability is not contested, and assesses the appropriate level of award, based on medical reports.

Accordingly, it always maintained this was an administrative process, and lawyers were not necessary. It therefore sought to deal directly with claimants, even when they had authorised solicitors to represent them.

All such cases must first go to the PIAB, even if they are contested. If they do not fall within its remit, they go to court. They also go to court if either the claimant or the respondent does not accept the level of award.

The Supreme Court yesterday identified a number of ways in which individuals could be vulnerable. For example, Ms Justice Macken pointed out: "Once the claimant makes the claim, he may not opt out of the scheme until the very end of the statutory assessment and on notification of the award to him, nor may he request the board to exercise its discretion not to deal with the claim."

"A respondent may opt out of the scheme immediately on receipt of the notice of the making of the claim, or at award stage, without indication as to reasons."

In addition, as Mrs Justice Denham pointed out, issues like the Statute of Limitations can

arise or difficulty with medical reports. Also, many people might lack the confidence or educational background to handle such an application themselves, especially if they were recovering from an injury, even though PIAB tries to make its procedures user-friendly.

It is hardly surprising, therefore, that the vast majority of complainants seek legal advice before going to PIAB. In 2007 over 90 per cent of applicants chose to process their claims through a solicitor, though PIAB does not pay legal costs.

In 2007 the legislation was amended to prevent claimants who rejected the board's awards from recouping their legal costs, unless they were awarded a higher amount.

Since this case went to the High Court in 2004, and was decided in January 2005, PIAB said it has been dealing "closely and constructively" with solicitors on behalf of claimants. It welcomed the ruling in the judgment that it could copy all correspondence to the claimants directly, so that they can be kept informed of progress.

This is likely to be the norm from now on.