

Improving the lot for personal injury claimants

InjuriesBoard.ie CEO Ms Patricia

Byron tells **Lloyd Mudiwa** that with

the help of doctors, victims of

personal injury accidents no longer

have to be subjected to years of

unnecessary litigation and

associated exorbitant legal costs

InjuriesBoard.ie, a statutory body that provides independent assessment of personal injury compensation, started life as the Personal Injuries Assessment Board (PIAB) four-and-a-half years ago with a mandate to reduce both the time and cost of processing compensation claims for work, motor and public liability injuries.

On opening its doors in mid-July 2004, it took, on average, three years wait and an add-on cost of 46 per cent to process a claim.

InjuriesBoard.ie CEO, Ms Patricia Byron, told *IMN* that, following the introduction of legislation compelling every injuries claim to go to the Board at first instance, it now takes nine months and an eight per cent add-on cost to process a claim. In real money terms – a direct saving of €50 million, rising to €100 million including settlements facilitated by the Board.

Most importantly, she stressed, the cost of insurance

has been pushed downwards. Courts are also freed up to deal with issues of real dispute.

“More insurance premiums have come down across the field by 40 per cent confirmed by the CSO [Central Statistics Office] and surveys on price comparison by the Financial Regulator.

“People don’t argue anymore... but I think the important thing to remember is that it just didn’t happen out of the blue. There is a reason,” Ms Byron commented.

Eighty-seven per cent of the assessments made by the Board every year come to less than €38,000, a figure in line with data on court awards.

“Most [of these] low to medium value claims that were adversarial are now much more streamlined because they are not litigation-based. It’s very much an administrative process,” Ms Byron explained.

According to her, the expert medical report provided by the doctor is the key technical document in cases.

Ms Byron reported that when a claim arises, investigations have to be completed within 90 days and consequently there are now less files, whereas previously this could take years and the legal profession was there to sort that out at 46 per cent cost.

Referring to the certainty provided by the Board, she also said insurance firms will rather settle at the appropriate cost, than have the uncertainty of unknown claims on their books. This also helps them to competitively price their product, she added.

The InjuriesBoard.ie authorises a small volume of cases (10 per cent) where there remains a genuine dispute to resort to the courts.

Discussing the role of medical professionals in the area, Ms Byron said doctors have “embraced the system”.

“It took time for them to understand that all claims must now come before the Board, to understand that we are now the largest purchaser of medical

reports,” she acknowledged.

In addition to reports received at registration, the Board commissions over 13,500 independent medical assessments through a panel of 400 doctors in different specialties including general practice, neurology and orthopaedics.

Revealing that as much as 20 to 30 per cent of reports received from doctors are still in the format of a medical legal form, Ms Byron said the “big issue” for the medical community is to use the medical report forms the Board provides, as medical legal forms are prepared in anticipation of litigation whereas the process is now “purely administrative”.

The rapid assessment of claims is largely dependent on the quality of the medical form developed with the help of the medical profession and in a format mirroring the social welfare claim forms already completed by doctors, meaning the doctors will be familiar with the layout, she explained.

She advised doctors request-

ed to provide medical reports on patients' behalf not to worry if it is not possible to provide details such as the full extent of patients' injuries or the estimated time of full recovery at the time of registering the claim, as the Board can always commission independent medical reports.

"They think when they are preparing a form for us that it is going to be used in court, where it will be pitted against another report from another doctor. That's gone now.

"If it moves out of our system and into the court system, they will have a lot of time to prepare a new medical legal report. When we're getting an independent report, we're not second guessing them, we just want to get a second opinion in the event there has been a change in the patient's health since the initial report was prepared because we are anxious to get the award right," Ms Byron pointed out.

Urging doctors to utilise online communication in order to increase efficiency, Ms Byron said the switch from the PIAB to InjuriesBoard.ie last July was designed to encourage claimants and doctors to go to the website, providing a 24/7 service, when registering claims and submitting reports.

To help doctors with this process, InjuriesBoard.ie has issued a brochure entitled, *Information for the medical community*; covering the application process, medical appointments and payment of fees for reports, averaging approximately €300 for GPs and €400 for consultants.

After claimants complete registration papers and provide

medical reports, the Board forwards them to the respondents.

"The process is quite clear at initial stage, and usually insurance firms say this is a clear claim and because of the low cost we will not waste time arguing this point.

"While some awards are rejected, they are not ending up in court."

Welcoming the "clarity" brought by a Supreme Court ruling in December to the Board's previous policy of writing to the claimant and copying in the solicitor, Ms Byron remarked that the determination in reality did not change anything since the Board's aim to include the claimant in correspondence was granted.

The Board welcomed the ruling in the judgement that it had to communicate with solicitors but could copy all correspondence to the claimants directly, so that they can be kept informed of progress.

While claimants are free to use a solicitor, the Board only allows for these fees in exceptional cases where vulnerable claimants are involved. It may also cover translation costs for claimants with linguistic difficulties.

"But, if you can apply for a driving license, passport a social welfare claim or whatever, then you can make a claim," Ms Byron stated. She claimed some news media had incorrectly interpreted the ruling to mean that claimants must engage a solicitor, and this was not the case.

On a separate but related issue, Ms Byron embraced the publication recently by the Law Society of a practice note for solicitors, which recognis-

es the importance of their clients attending medical assessments arranged by the Board for all personal injury claims.

"We saw some very unusual non-attendance rates with a small number of firms and we had to talk to the Law Society about that because if we make an award, then it's bound to be inaccurate and to get rejected in favour of the costly courts.

"It is not for me to say, but if you find a small number of firms that have abnormal attendance rates then you have to wonder, was it the solicitor not notifying the claimant, or was it the firm that is unlucky to have clients not attending.

"There were five or six firms with some 50 to 80 per cent of their clients not attending medicals," she said.

"When we raised the issue with the Society they responded promptly with very clear guidance for their members."