



28th February, 2014.

Ms Niamh Maguire,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.

Dear Ms Maguire,

Mr John Corrigan, Chief Executive of the National Treasury Management Agency, has asked me to reply to your letter dated 20th February, in my capacity as the Director with responsibility for the State Claims Agency. Having considered the full transcript of the proceedings of 13th February 2004 together with the content of your letter, we wish to reply as follows:

1. Six only clinical negligence cases, adjudicated by the courts, were finalised in 2013. Details of the six cases indicating the level of settlements and legal costs associated with those cases, are set out in tabular form at attachment 1. The average settlement and the percentage represented by legal costs is also set out at attachment 1; and
2. Details of all finalised clinical negligence cases, in 2013, where “out of court” settlements were reached following the commencement of proceedings are also set out at attachment 1. These cases include those which were successfully defended by the State. The level of settlements and the attendant legal costs are set out in the attachment, together with details of the average settlement and the associated legal costs.

We note that Deputy Fleming expressly sought details/information on the payments made to the top five counsel in clinical negligence cases. This information is set out at attachment 2. In relation to the sums paid to the various counsel, it should be noted that such sums are inclusive of VAT and the sums paid in any one year reflect work carried out over a three to five year period in a number of cases of high value.

We note that you have sought the number of cases that were settled by Arbitration. Please note that the Agency does not use Arbitration and we presume that the reference to Arbitration should be read as a reference to Mediation. In that regard, please note that 19 cases were settled during the calendar year 2013 by way of mediation. Many of the 19 cases were periodic payment sums in catastrophic injury cases. The average level of settlement was €776,000.

Finally, we attach also a copy of the relevant letter which issued from the Agency, to public hospitals, in relation to the issue of “adverse event reporting” – attachment 3.

/Continued....



Yours sincerely,



**Ciarán Breen,
Director.**

Encs.

Mr. [Name]
[Address]
[City]

Mr. [Name]

[Faint, mirrored text from the reverse side of the page, including phrases like "I am writing to you regarding...", "The Agency...", and "I am sure..."]

(Continued)

Attachment 1: Clinical Indemnity Scheme Claims Finalised in 2013

1: Clinical Indemnity Scheme claims which were contested in court and finalised in 2013

6 cases that went to trial and were finalised in 2013

No.	Case outcome	Settlement (€)	Plaintiff legal costs (€)	SCA legal costs (€)	Expert costs (€)	Total amount paid (€)
1.	Court judgement in favour of Plaintiff	204,000	157,500	80,214	7,726	449,440
2.	Court judgement in favour of Plaintiff	145,000	202,715	112,509	18,594	478,818
3.	Court judgement in favour of Plaintiff	170,850	137,323	65,595	5,028	378,796
4.	Court award in favour of Plaintiff - Apportionment	533,328	378,033	199,993	32,935	1,144,289
5.	Court award in favour of the State – Case dismissed	0	0	66,644	598	67,242
6.	Court award in favour of the State	0	0	0	0	0

Finalised means that all costs have been agreed and paid. Settlements may have been awarded in years previous to 2013.

- Average settlement in respect of court judgements: €175,530
- Combined legal costs as a % of total amount paid: 56%

2: Clinical Indemnity Scheme claims which were settled outside of court and finalised in 2013

There were a total of 389 cases settled out of court and finalised in 2013

No	Case outcome	Number of claims	Settlement costs (€)	Plaintiff legal (€)	SCA legal (€)	Expert costs (€)	Total amount paid (€)
1.	Cases with negotiated settlement	229	35,602,660	14,735,822	7,674,750	1,015,027	59,028,259
2.	Cases successfully defended by the State	160	0	0	1,050,398	103,688	1,154,086
	Total	389	35,602,660	14,735,822	8,725,148	1,118,715	60,182,345

- Average settlement in respect of negotiated cases: €155,470
- Combined legal costs as a % of total amount paid: 38%

Attachment 2: Clinical Indemnity Scheme Counsel Fees 2013

3: Clinical Indemnity Scheme Counsel Fees 2013

No.	Senior Counsel	Total amount paid (€)
1.	Murray McGrath	757,728
2.	Emily Egan	694,841
3.	Patrick Hanratty	468,413
4.	Declan Buckley	363,911
5.	Ronan Dolan	227,333

Top 5 Senior Counsel Clinical Indemnity Scheme fee payments 2013

No.	Junior Counsel	Total amount paid (€)
1.	Paul McGinn	179,357
2.	Brian Foley	143,764
3.	Conor Halpin	125,080
4.	Pearse Sreenan	97,621
5.	Denise Brett	91,982

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Attachment 3

TITLE
HOSPITAL NAME
ADDRESS 1
ADDRESS 2
ADDRESS 3
CO.XXXXXX

20th of February 2013

Re: Adverse Event Analysis Report for your hospital

Dear XXXXXX,

Please find enclosed an adverse event analysis report for your hospital which has been compiled by the State Claims Agency (SCA) using the National Adverse Event Management System database (NAEMS, previously known as STARSWeb). This follows from our recent correspondence in respect of the statutory requirement to report adverse events to this Agency and the current upgrade to the NAEMS database (see attached letter of 23rd of January, 2013).

International studies show that healthcare organisations that have a high level of reporting of adverse events have a better patient safety profile than those that report less. The SCA acknowledges the reasonably strong level of reporting across the HSE. However analysis indicates that a significant level of under reporting remains.

We have provided information in relation to your hospital's reporting levels and a comparison of your levels with a selected peer group of hospitals. In order to fully understand the adverse event reporting profile of your hospital both your hospital's reporting level trends and the peer comparison must be considered.

In your hospital's case adverse event reporting levels were generally poor and we noted significant decreases in reporting levels in recent years. We thus request that you formally revert to the SCA outlining how you hope to address this lacuna.

If you have any queries please forward them to Pat Kirwan, Deputy Director, State Claims Agency (pkirwan@ntma.ie, 01-238 4071).

Yours sincerely,

Ciarán Breen
Director
State Claims Agency

