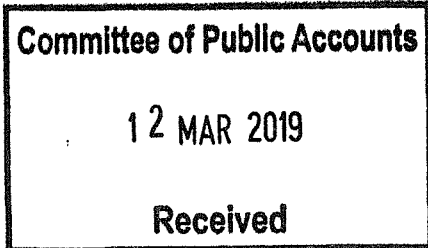


An Roinn Dlí agus Cirt
agus Comhionannais
Department of Justice
and Equality



Oifig an Ard-Rúnaí | Office of the Secretary General

Ms. Éilis Fallon,
Committee Secretariat,
Committee of Public Accounts,
Leinster House,
Dublin 2.



// March, 2019

Your ref: PAC 32-I-1284 and 1285

Dear Ms. Fallon,

I refer to my reply to the Committee of 7 February 2019 in relation to the Committee's request for information, following the hearing of the Committee on 17 January 2019. You may recall from my reply that there were three points from the original request which were outstanding, as information was awaited from the State Claims Agency. This information is now to hand.

For ease of reference the number referencing in your original correspondence is retained.

Your ref: PAC32-I-1284

- 1. The level of prisoner injury and compensation claims and how the Irish figure of approximately 5% compares against other prison services internationally and particularly in relation to the UK;**

As the Committee are aware, the National Treasury Management Agency (Amendment) Act 2000 allows the National Treasury Management Agency (NTMA) to be known as the State Claims Agency, (SCA) to manage certain claims against State authorities. In this respect, SI 69/2011 - Management Agency (Delegation of Claims Management Functions) Order 2011 allows for the delegation of certain claims to the SCA on behalf of the Minister of the Department of Justice and Equality.

The State Claims Agency (SCA) manages the following types of personal injury (clinical and non-clinical) and property damage claims on behalf of its client State authorities, their servants or agents:

- Injury to employees
- Injury to a member of the public
- Clinical negligence
- Third-party property damage

The State Claims Agency also manages claims on behalf of the Irish Prison Service in relation to slopping-out (lack of in-cell sanitation). These claims were delegated to the State Claims Agency in early 2015 in accordance with section 7 of the National Treasury Management Act, 2000.

Further, the Irish Prison Service manage certain personal injury claims which are not covered by the delegation to the State Claims Agency. If a personal injury claim involves an alleged assault between members of staff or an alleged assault by a staff member on a prisoner, these cases are managed directly by the Irish Prison Service in conjunction with the Chief State Solicitors Office.

The objective of the State Claims Agency is to ensure that the Irish Prison Service liability is contained at the lowest achievable level. In cases where the Irish Prison Service is considered liable (either wholly or partly) the approach is to settle as soon as possible in order to mitigate the associated legal costs. Conversely, if liability is fully disputed by the IPS all necessary resources are applied in defence of such claims.

The table below show the compensation paid to prisoners for the years 2014- 2018 and the associated legal costs. The Committee will note that legal costs vary substantially over this period with increasing costs mainly attributable to the defence of 'slopping out' claims, and in particular the lead case in this matter, Gary Simpson –v- Governor of Mountjoy Prison & others. To date legal costs in regard to the 'slopping out' claims amounts to €2.7m. These legal costs relate to the costs borne by the State in defending these claims.

Year	Compensation	Legal Costs
2014	€249,137	€834,462
2015	€468,059	€660,577
2016	€647,167	€2,235,464
2017	€492,126	€999,887
2018	€502,646	€1,183,305

I am advised by the State Claims Agency that there are no international comparators available to them in relation to this type of information.

4. Details regarding compensation paid in cases of prisoner harming themselves;

I can advise the Committee that payments for self-injurious behaviour for the years 2016 and 2017 were €50,000 and €51,737 respectively. The payments were made to the families of prisoners who had died from self-inflicted injuries while in custody.

5. The number of cases where, with or without prejudice, compensation payments were made by the States Claims Agency in cases relating to protected disclosure and non-disclosure agreements, including where payments were made, including pension time, for any of those claims;

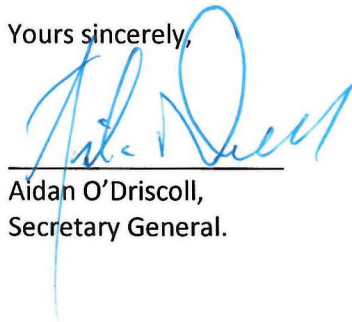
The State Claims Agency do not handle protected disclosures made to State Authorities, however a personal injury claim pursued by a person who has also made a protected disclosure in relation to a

matter related to his/her personal injury claim is managed by the State Claims. To date no compensation payments have been made in cases relating to protected disclosures.

In accordance with the Protected Disclosure Act, 2014 workers who feel they have been penalised may make a complaint under section 12 of the Act to the Workplace Relations Commission (WRC) who have the statutory authority to provide for the payment of compensation. There are currently two cases before the Workplace Relations Commission, one of which has been adjudicated upon. The outcome of this case has been appealed to the Labour Court. Secondly another case is currently at hearing stage and has been adjourned with a new date awaited.

Most settlements of prison-related claims by the State Claims Agency are on a without prejudice and without admission of liability basis. The State Claims Agency considers and treats all settlements as confidential as between the State Claims Agency and the Plaintiff. The State Claims Agency does not routinely request confidentiality agreements in relation to claims' settlements but does so from time-to-time as it deems it necessary and appropriate. In some instances, confidentiality agreements are sought by Plaintiffs. The States Claims Agency have advised that the National Incident Management System (NIMS) on which claims' data is recorded does not capture/record data on confidentiality agreements and so it is not possible to provide statistics on confidentiality agreements.

Yours sincerely,



Aidan O'Driscoll,
Secretary General.