

**Opening statement by representatives of the Law Society of Ireland, Senior Vice-President, Stuart Gilhooly, and Director General, Ken Murphy, to Oireachtas Select Committee on Finance, Public Expenditure and Reform, and Taoiseach**

**13 September 2016**

Thank you, Chairman and members of the Committee, for the invitation to address you.

The question in your minds and those of everyone else is simply this – What has caused this extraordinary, shocking and excruciating increase, reportedly an average of 38% per annum, in motor insurance premiums in Ireland?

The answer lies inside the closely guarded books of the insurance industry which each insurer seems remarkably reluctant to open to anyone outside of their own company. What we do know is that for years all insurers engaged in a price war which saw them quote unsustainably low premiums while insuring bad risks. The inevitable upshot has been an increase in premiums to restore profits and thereby compensate for these poor business decisions.

It is also common knowledge, though rarely admitted by the industry, that much of their profits emanate from the investment of the premium income. It is abundantly clear that recent returns have not been at remotely the same levels that they would have experienced in the past given the recent volatility of global markets.

While studiously ignoring these obviously significant factors in the manner of how they have conducted their business, the industry has conducted a long running and widespread PR campaign in which they have sought to blame everybody but themselves. Part of this has been a campaign of snide innuendo about the bona fides of personal injury victims while reserving particular ire for the easy target of the courts and the lawyers who seek to obtain compensation for the innocent victim.

The campaign has seen a number of stock phrases and pseudo facts which are either completely untrue or greatly embellished and which appear to have gone largely unchallenged. For example:

- 1. Lawyers have found a way of bypassing the Injuries Board** – This is quite simply not true. All cases must go to the Injuries Board and in fact only an insurer can decide not to allow the case proceed through the board. The vast majority do and the acceptance rate of awards has not changed in any meaningful way in the 12 years of operation of the Injuries Board.
- 2. Lawyers have infiltrated the system** – Again, completely wrong. Almost since the beginning of the Injuries Board, over 90% of claimants have been represented by solicitors, at their own cost. This figure has not changed at all and, given the fact that it is the claimant who pays for the involvement of their solicitor, it has no effect whatsoever on either awards or premiums.
- 3. Claimants don't show up for medical examinations** – there is no evidence to suggest this is true and while the odd person misses an appointment, it is usually rectified by arranging another. Law Society representatives meet the Injuries Board twice a year to discuss matters of mutual interest and this has not been raised as an issue.
- 4. Lawyers are persuading claimants to turn down awards and there is no penalty if they get less in court** – legislation was passed in 2007 which clearly states that if a claimant fails to beat an Injuries Board award in court, they will receive no costs at all and may have costs awarded against them.
- 5. Damages are going up and the judges ignore the Book of Quantum** – this is another myth. High Court damages, when huge medical negligence awards for

tragic birth injuries are removed, have not increased and, in fact, have reduced slightly over recent years. The judiciary are obliged to have regard to the Book of Quantum under Section 22 of the 2004 Act and the Court of Appeal has repeatedly reduced damages in cases where it felt such amounts were unmerited.

The one unheard voice in this debate is that of the most vulnerable and the least represented. The victims of road traffic accidents have no representative organisations and no PR juggernaut to constantly enforce their message in the media.

The impression given is that a large number of claims are fraudulent and that many whiplash claims are exaggerated. No evidence is produced to support these assertions. The reality is starkly different.

The provisions of the 2004 Act ensure that any exaggerated or fraudulent claims must be dismissed and provide for a mechanism for prosecuting anyone found to have so done. While the judiciary have dismissed claims in those circumstances when the appropriate case appears, there have been practically no prosecutions. Why is this?

The truth is that personal injury claimants suffer genuine and often hugely debilitating injuries and have only one voice – that of their own solicitor. The pejorative term ‘whiplash’ that is used to dismiss the significance of neck and back injuries is hugely insulting to the many citizens of this country who have had their lives damaged if not ruined by such injuries caused by the negligence of others.

What is to be done? We must uncover the truth. The Law Society calls for a new Task Force, along the lines of the Motor Insurance Advisory Board, to establish the real reasons why premiums are rising at an unsustainable rate and to make recommendations to deal with the problem. Real and accurate data is the key. The insurance industry’s black box must be prised open in the interests of everyone.