

**Joint Oireachtas Committee on Finance, Public Expenditure and Reform,
and Taoiseach**

Insurance Issues

Tuesday 29th May at 17:30

Opening Remarks

Introduction

I wish to thank the Joint Oireachtas Committee for this invitation to discuss issues in the insurance sector.

We are here to discuss an important and at times emotive issue for people and businesses across the country. The Government is aware that the cost of insurance is having a serious impact on some businesses across Ireland and acknowledge that some premiums are very difficult to justify. Many individuals are also experiencing increases with their own premiums. I have personal experience of this too as a business owner.

As indicated by both the Oireachtas Committee Report on motor insurance and the Working Group's Motor Report indicate, there is no legislative silver bullet to immediately enable the Government fix this problem. I believe that there are considerable efforts being made to try and address many of the issues in the insurance sector and I will highlight some of them today. I look forward to hearing your views and responding to the questions you may have.

Context – The Cost of Insurance Working Group

By now all of you will be aware of the Cost of Insurance Working Group, which has been meeting since 2016. This Group has published two Reports –

the first in January 2017 focusing on the Cost of Motor Insurance and a second on the Cost of Employer and Public Liability which was published in January of this year.

As part of the development of the two Reports, the Working Group consulted with a wide variety of stakeholders. In addition, I and the Department of Finance have met and engaged with many groups, including the Alliance for Insurance Reform who you spoke to last Thursday. This ongoing consultation continues to inform the debate and the actions being taken.

Between the two Reports the Fifth Quarterly Update shows that of the 58 separate deadlines set across the two Reports up to the end of Q1 2018, 48 have been met. Substantial work has also been undertaken in respect of the ten incomplete Action Points, the nine Action Points which are classified as “ongoing”, and the remaining Action Points with later deadlines.

These Recommendations cover a wide scope and aim to address issues such as the lack of transparency in the insurance sector, protecting the consumer, tackling fraud, improving the personal injuries claims environment and reducing costs in the claims process. The Reports also emphasise how important it is for industry to play a very active role in contributing to this process through greater transparency, more active engagement with policyholders in relation to claims and greater challenging of questionable claims etc. To date 40 of the 71 action points in the Motor Report have been completed and 8 of the 29 from the EL&PL Report.

Overview of issues and actions taken

I will now highlight a number of issues which have been the focus of a lot of the discussion recently and outline what is being done to address those issues.

Personal Injuries Claims Process

I acknowledge that many people are dissatisfied with the personal injury claims system and have sympathy with the view that too many claims are being settled in such a way that we know little about the value of such settlements e.g. where they take place on the court steps.

Both the Motor and EL&PL Reports recognise this unhappiness with the system and there are a number of relevant recommendations to try and address these general concerns. I will now provide a number of examples of what is being done.

PIAB process

The General Scheme of the Personal Injuries Assessment Board (Amendment) Bill 2017 is currently being drafted to address the issue of non-attendance at medicals and failure to provide particulars of special damages. The purpose of this legislation is to strengthen the operational powers of the Personal Injuries Assessment Board (PIAB) in order to ensure greater compliance with the PIAB process and encourage more claims to be settled through it.

Book of Quantum

Calls are frequently made for changes in relation to the Book of Quantum, particularly in relation to the size of awards and I am sure this issue will be touched upon today. Whilst I accept this argument, I also believe that as important an issue in containing the cost of claims is to try and ensure consistency of award levels through the regular use of the Book of Quantum by all parties. This should mean that no matter what way a claim is settled, whether directly by an insurer, through PIAB or as a result of a court decision,

the outcome should be broadly the same. A number of recommendations from both Reports are relevant to this general area:

- Reviews of the Book will be conducted every three years when a new statutory requirement in the PIAB (Amendment) Bill 2017 becomes law.
- The Personal Injuries Commission is undertaking a benchmarking exercise which involves a comparison between international awards for personal injury claims with domestic equivalents.
- In addition, Recommendation 5 of the EL&PL Report asks the Law Reform Commission to undertake research and analysis on the issue of whether it is (i) justifiable and in the common good and (ii) legally and constitutionally permissible for the Oireachtas to enact legislation to delimit or cap the amount of damages which a court may award in respect of personal injuries.

The Courts

The way in which personal injuries claims are processed within the court system attracts much criticism. The EL&PL Report references the issue of specific training in the assessment of damages in personal injuries cases. What we are seeking here is to ensure that the judiciary have access to appropriate training through a proposed amendment to the Judicial Council Bill and through other training mechanisms already in place.

It is acknowledged that the Civil Liability and Courts Act 2004 has not been as effective as originally envisaged. In this regard, a key recommendation of the EL&PL Report relates to section 8, where an amendment is being proposed to enhance the effectiveness of the statutory requirement to notify the defendant within one month of the incident by way of the initial ‘warning letter’ and to align the provision with data protection legislation in terms of the retention of evidence, such as CCTV footage.

Section 14 of the 2004 Act has the potential to be a powerful tool in fighting fraud as, if the provision is used, it should ensure that all parties to an action consider more carefully the evidence they are including in their pleadings, as there will be a greater understanding that including false or misleading evidence, which they know to be false or misleading, may attract criminal proceedings and potential conviction. We have proposed an amendment to this section to allow for the court to draw inferences from non-compliance with the 21-day deadline to lodge the affidavit verifying that there is no false or misleading allegations in the affidavit sworn to ground the personal injuries claim.

The Report also calls upon defendants to raise section 26 where they believe fraud and exaggeration has taken place in the claim. In this regard, work is ongoing to ensure there is a clear procedure in cases where a judge determines fraud has taken place. A 'Fraud Roundtable' has been established and is progressing the development of this procedure so it is clear what insurers should do where they believe the case is fraudulent, and what should be done in instances where the judge comments on fraud on conclusion of the case. The overall aim is to ensure there is a visible deterrent to fraud and exaggeration taking place.

Engagement with insurance industry

We have heard time and again how frustrating the lack of cooperation or engagement between insurers and policyholders is with companies agreeing to settle without the involvement of the policyholders. We must be mindful that under an insurance contract, the decision to settle or not is in the hands of the insurance company. That is the essence of the contractual relationship between insurer and policyholder. However, both Reports clearly recognise the impact it

has on a business when there is no engagement on claims against the policy. The Motor Report includes a recommendation in this regard and the EL&PL Report has a mirrored recommendation targeted at businesses. It is imperative that we get the cooperation of industry in this regard.

Transparency

In relation to data transparency, substantial progress has been made to develop legislation to establish the National Claims Information Database. The aim of the database is to improve the availability of data in the insurance sector. The Working Group believes that it is necessary to get the motor part of the database up and running first before considering its extension to the EL&PL area, as we need to get the foundations right. Undertaking too much at once we believe would be counterproductive.

Conclusion

As stated already, there is no quick solution to this issue. The Working Group have substantially progressed work in many areas. While we have a way to go yet, I would like to confirm the Government's commitment to tackling the cost of insurance. I understand why many believe that the pace of reform is not sufficiently quick. While I am not unsympathetic to this view, it is important to point out that there is a lot of work being done across a number of Government Departments and Agencies, tackling a multitude of issues which unfortunately take time, particularly where legislation is required.

There is certainly no diminishing of my determination, nor that of the Working Group, to continue to push for all of the proposed measures to be put in place in their entirety as soon as possible. I believe it is important to maintain the momentum of the work to date in order to ensure a more stable insurance market generally and to make improvement to the personal injuries framework.

I am happy to take any questions or to provide clarifications to assist the Committee in relation to the work of the Cost of Insurance Working Group.

Thank you.

ENDS