

OPENING PRESENTATION

Madam Chair, Members of the Committee,

The Alliance for Insurance Reform brings together representative bodies from the not-for-profit, charity, sports and small and medium- sized business sectors across Ireland, representing 35,000 organisations, over 633,000 employees and 41,300 volunteers to demand rapid action to end crippling insurance costs. Full details of our membership are attached at Appendix 1.

The creation of the Alliance is a response to countless stories from small organisations where services and jobs are being affected by excessive insurance premiums, both Liability and Motor. You have heard many such stories already. But there is a great deal of fear out there among many organisations afraid to go public on their experiences because they are at the mercy of one underwriter only or because they are afraid to draw additional claims on themselves. So what you are hearing is only the tip of the iceberg.

However we do not intend to focus on the stories today. Rather we intend to cut to the chase and focus on analysis and solutions.

We are at a turning point in our approach to insurance in Ireland. The current system is dysfunctional to the extent that what is supposed to be a service industry that facilitates the operation of society has become an extractive industry, taking over €2bn in motor and liability premiums annually, protected and made compulsory in many cases by the State and so expensive that it represents a major threat to the viability of many of the organisations that form the backbone of our nation.

A survey of 950 organisations within the Alliance, carried out by Amárach Research in January, found that since 2013, nearly half (47%) of respondents have seen their premiums rise by over 30%, while over one fifth have seen rises of over 70%. This is in the broader context of a CPI increase of 0.9% in the same period. Two thirds of respondents also reported having increased excesses or new exclusions added to their policies - an equally damaging trend that severely restricts the ability of organisations to develop and creates additional exposure to cost.

Critically, 45% of respondents cited insurance as a threat to the future of their organisation. A summary of the research is attached at Appendix 2.

And yet our members feel that it is the insurance industry and the legal profession that have the strongest voices in the corridors of power. Policyholders feel that we have no voice. This is amplified by last week's Collins Institute report for Fine Gael which concluded that the Central Bank, the state institution charged with protecting insurance policyholders, is too focused on the needs of the financial services industry.

There is certainly a lot of activity around the area right now, but our big worry is that a lot will be discussed and little will be done. It is not in the interests of the insurance companies or lawyers operating in this market that anything changes. If we were them, we'd huff and puff as a show of empathy with our customers but we'd fight tooth and nail to stop real change. We'd cite constitutional issues, data protection issues or competition issues. We'd suggest self-regulation.

Agree protocols. Ease off on the aggressive profit-taking for a while until the fuss died down. Just string the debate to the next election. Anything to stop real reform.

In the last 6 weeks we have spoken to the Minister of State Michael Darcy and his civil servants, the Personal Injuries Assessment Board, the Data Protection Commission, the Personal Injuries Commission, the Legal Services Regulatory Authority and the Competition and Consumer Protection Commission and it is clear to us that many elements of the work of the Cost of Insurance Working Group are grinding to a halt with the dead hand of vested interests evident.

So the buck stops firmly with policy makers. If this Committee wants to have a real impact on sharply rising business costs, then it must act on the actions we are looking for with a sense of urgency.

The actions we are suggesting are in the areas of Prevention, Consistency and Transparency. We believe them to be just, proportionate, feasible, achievable within a limited timeframe and ultimately, effective.

They are as follows:

PREVENTION

To quote a member of the audience at a public meeting we held in Cork in February, "if I had a need for big money and I had a choice between robbing a bank and faking an injury, I'd pick the fake injury every day. More money and no consequences if I'm found out."

We absolutely acknowledge the right of genuine claimants to fair compensation. But people have accidents all over the world. It is the consequences for Irish policyholders that appear unique.

1. Link Sections 26 and 25 of the Civil Liability and Courts Act 2004

We want an amendment to the Act such that if a case is dismissed under [Section 26](#) of the Act because the plaintiff knowingly gives or adduces evidence that is false or misleading, it must be *automatically* referred to an Garda Síochána for a prosecution under [Section 25](#), which penalises such an offence with a substantial fine or imprisonment or both unless a defendant deliberately falsely accuses a plaintiff of giving such evidence.

2. Establish a Garda Insurance Fraud Unit

The CIWG Motor Insurance Reports promised a dedicated Garda unit to focus exclusively on the investigation of insurance fraud. We want the Unit established as a matter of urgency. The Minister tells us that there is not enough support in the House for this. If this is the case, we urge any opposing parties to clarify their concerns and resolve whatever blockages exist.

3. Regulate claims management companies (claims harvesters)

Our members tell us that claim harvesting websites are acting as the ambulance chasers of old, pursuing potential claimants with promises of money to be made, regardless of how dubious the claim is and with no costs or consequences. They are adding fuel to the fire of fraudulent, exaggerated and misleading claims and must be regulated by the State in order to protect policyholders and society as a whole. In particular, any referral fees they might charge to refer live cases onto solicitors must be banned outright.

It is not sufficient that Government pass this onto the LSRA which is still in the process of establishing itself. Regulation must be brought forward now.

4. Amend Sections 7 & 8 of the Civil Liability and Courts Act 2004

We ask that two amendments be introduced to the Act:

a) that [Section 7](#) relating to the Statute of Limitations on PI claims be reduced from 2 years to 1 year. As the average time for a claim to be registered with PIAB following an accident is 9 and a half months, this will not disadvantage claimants. But it will mean that policyholders' premium charges could only be based on potential new claims for one year rather than 2 as is currently the case.

b) the language of [Section 8](#), which purports to oblige a plaintiff to inform a defendant about an incident within 2 months, is so conditional as to be useless and is ignored in our experience. We ask that it is tightened up so that judges must take into account any delay in notification before allowing a case to proceed. The Department of Finance have said they are pursuing this with the Department of Justice but we want it done urgently.

CONSISTENCY

As documented elsewhere, the general damages awarded for minor injuries in Ireland bear no relation to those made in other countries which makes Ireland a very attractive place to have a minor accident.

Additionally, there is no consistency between awards for identical injuries within the jurisdiction which makes it very attractive in personal injury cases to reject a PIAB offer and head for the courts, safe in the knowledge that with the right judge, the rewards may be substantially better.

5. Change the Approach to Calculating the Book of Quantum

The Court of Appeal has already established that the ceiling on general damages for catastrophic injuries is €450,000. They have also established that the concepts of common sense and proportionality are central to the principles of proper compensation. We call for a revised book of quantum calculated on that percentage disability basis as a matter of urgency through the Personal Injuries Commission which is currently only looking at solutions for motor whiplash claims. Government should extend its remit to all injuries immediately.

6. Encourage Consistency Among the Judiciary

The 2004 Civil Liability and Courts Act should be amended to require judges who award damages in excess of the Book of Quantum to set out a detailed reasoning for doing so.

TRANSPARENCY

The insurance industry is of systemic importance to the proper functioning of Irish society and is enshrined as such in much legislation and regulation. And yet there is virtually no transparency in this market either at industry or individual policyholder level.

7. Control the data coming from the new National Claims Information Database

We demand that control of analysis and reporting of the **National Claims Information Database** be given to the Personal Injuries Assessment Board rather than the Central Bank. PIAB has the expertise and funding necessary and no additional legislation would be required as [Section 54](#) and [Section 55](#) of the PIAB Act of 2003 already allow for this function.

8. Reinstate the Blue Book

Equally, we insist that the *Blue Book* be immediately reinstated and enhanced to restore the only transparency there previously was in the market before the Central Bank discontinued it in 2016.

9. Scrap and revisit the agreed Large Increases Protocol

The very first Recommendation in the CIWG Motor Insurance Report was that Insurers set out reasons for large increases in premiums to consumers. The Protocol produced from this recommendation was one of the first actions to be ticked as completed in the CIWG Updates. However the Protocol as agreed between the Department of Finance and the insurance industry (example [HERE](#)) is a good example of how the CIWG is being strangled. We'd be better off without it as it only creates the impression that something has been achieved when it hasn't. We want a meaningful protocol agreed for both motor and liability insurance policyholders that individualises explanations with clear calculations showing the basis of premium charges.

10. Reinstate the 2003 IIF/IBEC Protocol on Dealing with Claims

Almost a year was spent by the Department of Finance and Insurance Ireland talking in circles about a protocol for notifying policyholders about the progress of claims against them before the Department discovered a pre-existing protocol agreed by Insurance Ireland's predecessor the IIF and IBEC in 2003. The insurance industry are now resisting it being implemented anew. We demand that it is implemented immediately, backed by legislation, for both the motor insurance and liability insurance sectors. A copy of this Protocol is attached at Appendix 3.

THANK YOU

MEMBERSHIP LIST

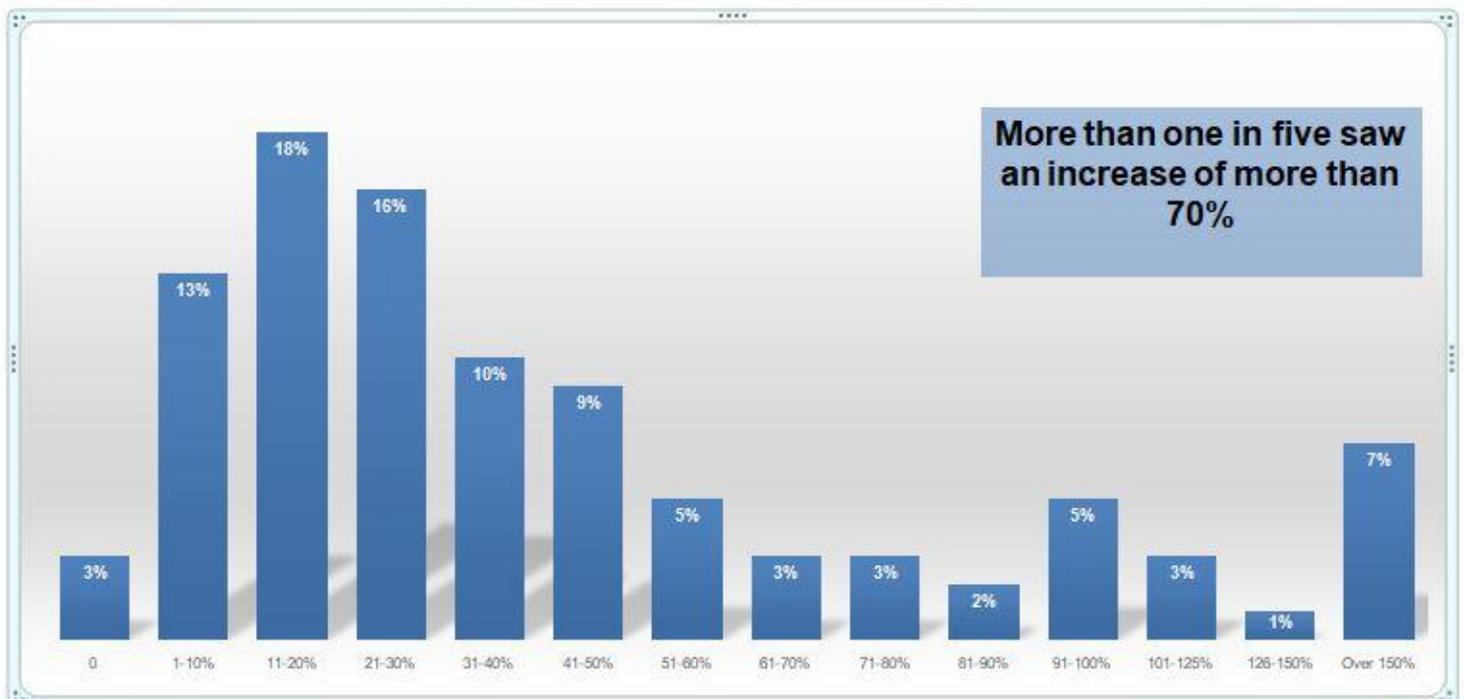
The Alliance for Insurance Reform brings together 20 civic and business organisations from across Ireland, representing 35,000 members, over 633,000 employees and 41,300 volunteers, highlighting the negative impact of persistently high premiums and calling for real action to tackle the issue. Its members include:

- AOIFE Ireland (Association of Irish Festival Events)
- Car Rental Council of Ireland
- Coach Tourism & Transport Council of Ireland
- Construction Industry Federation
- Convenience Stores and Newsagents Association
- Galway City Business Association
- Ireland Active
- Ireland's Association for Adventure Tourism
- Irish Road Haulage Association
- Irish Hotel Federation
- ISME
- Licensed Vintners Association
- Motorsport Ireland
- Playcentres Ireland
- Quick Service Food Alliance
- Restaurant Association of Ireland
- RGDATA
- Society of the Irish Motor Industry
- Vintners Federation of Ireland
- The Wheel (Ireland's national association for community, voluntary and charitable organisations)

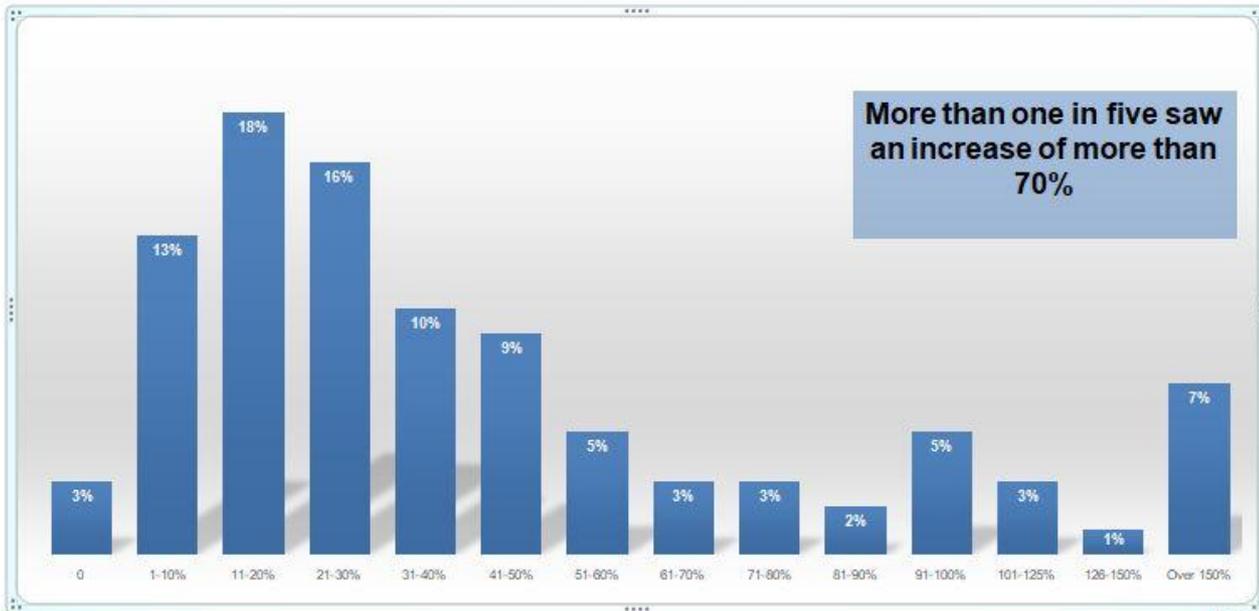
RESEARCH SUMMARY

- Email circulated to potential respondents, link to the survey attached
- Fieldwork dates were the 9th to the 19th of January 2018
- The final sample size was 949

Since 2013, costs have risen for 95% of those surveyed

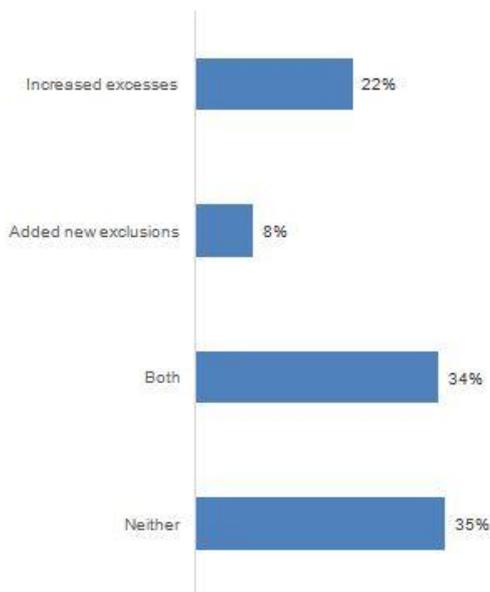


Since 2013, costs have risen for 95% of those surveyed



More than one in five saw an increase of more than 70%

Over half of policy holders have been being subjected to increased excesses



65% have been subjected to increased excesses, new exclusions or both

32. Policyholder Communications - IIF/IBEC Code

Most of the MIAB recommendations on claims issues apply equally to Employers Liability and Public Liability. A frequent complaint to MIAB related to policyholders finding out that a Third Party claim against them which they wished to defend had been settled by the insurer. This topic is also addressed in the chapter on Commercial Motor.

While the communication guidelines set out below were agreed between IIF and IBEC in April 2003, it is open to any other policyholder group to agree similar procedures. MIAB was not consulted in drafting of this code and has reservations about the symmetry in bargaining power between the respective parties but acknowledges that this is a good starting point which needs to be kept under review for both motor and liability.

IIF/IBEC COMMUNICATION GUIDELINES FOR INSURERS & POLICYHOLDERS

SAFETY AT WORK AND ON THEROAD HANDLING OF PERSONAL INJURY CLAIMS LIABILITY & MOTOR POLICY RENEWALS

INTRODUCTION

These guidelines have been prepared jointly by the Irish Insurance Federation (IIF) and the Irish Business and Employers' Confederation (IBEC) to help business and commercial insurance policy holders and their insurers to improve communication and understanding as to how arrangements in respect of insurances, especially the handling of personal injury claims, will be dealt with.

Premiums are principally driven by claims costs. Claims costs are determined by the frequency and average cost of claims (including both compensation paid and legal and other delivery costs). Policyholders have statutory and contractual obligations to take reasonable steps to minimise the risk of accidents, and it is in all parties interest to reduce claims frequency by improving risk management and the effectiveness of safety policy. Claims costs can be moderated by prompt and professional investigation of claims, a shared determination to defend suspected fraudulent and exaggerated claims - while at all times ensuring fair treatment of all claimants - and mutually agreed procedures for handling and settling claims.

GENERAL SAFETY POLICY

The **Policyholder** undertakes to comply with all relevant legislation , and in particular to adopt and abide by a safety statement. Adoption of the Workplace Safety Group's Voluntary Code of Practice is recommended and encouraged.

The **Insurer** will support policyholders' safety efforts with appropriate risk improvement and loss control advice .

AFTER ANY ACCIDENT

The **Policy holder** undertakes to:

- , notify the accident to the insurer immediately and submit to the insurer a completed accident report form as soon as possible. where required;
- >- record the accident as soon as practicable, incorporating all relevant details, and notify the *Gardai* in the case of road accidents where required by law to do so;
- ' , **preserve the *locus* of the accident for inspection wherever possible 'I or photograph the *locus* if it is not possible to preserve it for inspection by the insurer;**
- , **where applicable, preserve any relevant CCTV or video recording for inspection by the insurer;**
- ,- identify witnesses to the accident and take witness statements if possible and appropriate;
- >- pass on unanswered to the insurer any correspondence or other communication from the injured employee or his/her legal or medical advisers as soon as it is received.

The **Insurer** undertakes to:

- ,- where investigation of the circumstances of the accident is deemed necessary. carry out the investigation as soon as possible; when carrying out investigations, consideration will be given to any action which might prevent future accidents and any recommendations will be communicated to the policyholder;
- >- avoid undue disruption to the workplace or work processes of the policyholder during the investigation;
- :-, advise the policyholder on receipt of notification of the accident as to the claims reference and the identity of the person handling the claim in the insurer's claims department;
- }- make available for verification by the policyholder as necessary, any witness statements obtained by the insurers investigators or any other material documentation relating to the circumstances of the accident.

CLAIMS HANDLING AND LITIGATION

The **Policyholder** undertakes to:

- _, notify the insurer of any claim made or of any potential claim. If the claim arises from a gradually operating cause (e.g. illness which arises from exposure to a particular hazard over a period of time) all insurers who may have had an exposure at any material time should be notified;
- ,- provide all relevant information in relation to the plaintiff's employment and accident history. the circumstances of the accident, witness details etc. as soon as possible .

The **Insurer:**

- ,- will be available as and when necessary to confer with the policyholder in relation to the case and to discuss assessment of liability and damages:
- ,- undertakes to advise the policyholder of the issue of proceedings, and the solicitor nominated to defend the case.

SETTLEMENTS

The **Insurer** undertakes to:

- , consult with the policyholder in advance of proposed settlement discussions whenever practicable;
- , **explain its assessment of the case and the exposure/ risks associated with settling and/or**
defending the case: and
- , take into account any views expressed by the policyholder in finalising its approach to settlement negotiations.

The **Policyholder** may:

- , offer views as to the timing and amount of any settlement, which the insurer will take into account in approaching the settlement process;
- > provide and/or draw attention to any material facts relevant to assessment of liability and/or quantum of damages.

In cases deemed to be fraudulent (spurious OR exaggerated), the **Insurer** and the **Policy holder** jointly undertake to make every reasonable effort to defend the case fully and to recover costs.

Nothing in these Guidelines overrides or amends in any way the contractual rights of either party in relation to claims settlement or any rights of subrogation acquired and/or exercisable by the **Insurer** before or after payment of any claim.

LIABILITY & MOTOR POLICY RENEWALS

Where the insurance is arranged directly by the Policyholder with the Insurer, the **Insurer** undertakes to issue renewal terms to the Policyholder at least 15 working days in advance of policy renewal date.

Where the insurance is arranged through an insurance intermediary (e.g., insurance broker), the **Insurer** undertakes to issue renewal terms to the intermediary in time for the intermediary to provide the information to the Policyholder at least 15 working days in advance of policy renewal date.

If any information is required by the Insurer in order to calculate renewal terms it will be sought at least 25 working days before renewal. The obligation on the Insurer under paragraph one or two above is conditional on the Policyholder providing any such information in good time.

The **Policyholder** may, at any time within 15 working days of renewal date, contact the Insurer or insurance intermediary, as appropriate, to confirm renewal terms.

OTHER ISSUES

I. RREHABILITATION

In the case of a workplace injury to an employee of the Policyholder, the **Insurer** will, in accordance with the Workplace Safety Groups Voluntary Code of Practice, support appropriate measures to facilitate the injured employees rehabilitation from injury and return to work.

2. COMPENSATION FOR LOSS OF EARNINGS

Policyholders and **Insurers** will actively support measures to ensure that only earnings losses supported by proof of declared earnings history from the Revenue Commissioners and records of benefits sought under social insurance are payable in the event of a claim for personal injury covered by motor or liability insurance.

NOTE: In putting these guidelines into practice, insurers and policyholders should allow for and plan insurance intermediary involvement. All parties should be aware that corresponding *via* intermediaries may add to the time needed to communicate claims and renewal information. It is therefore necessary to define clearly the role of the intermediary in the claims and renewal processes. In suitable cases, regular reviews of all outstanding claims involving the policyholder, intermediary and insurer may be appropriate and should be scheduled.