



**BRIEFING NOTE PROVIDED BY THE STATE CLAIMS AGENCY TO THE
PUBLIC ACCOUNTS COMMITTEE IN ADVANCE OF ATTENDANCE ON THE
2 MARCH 2023.**

Background to the State Claims Agency

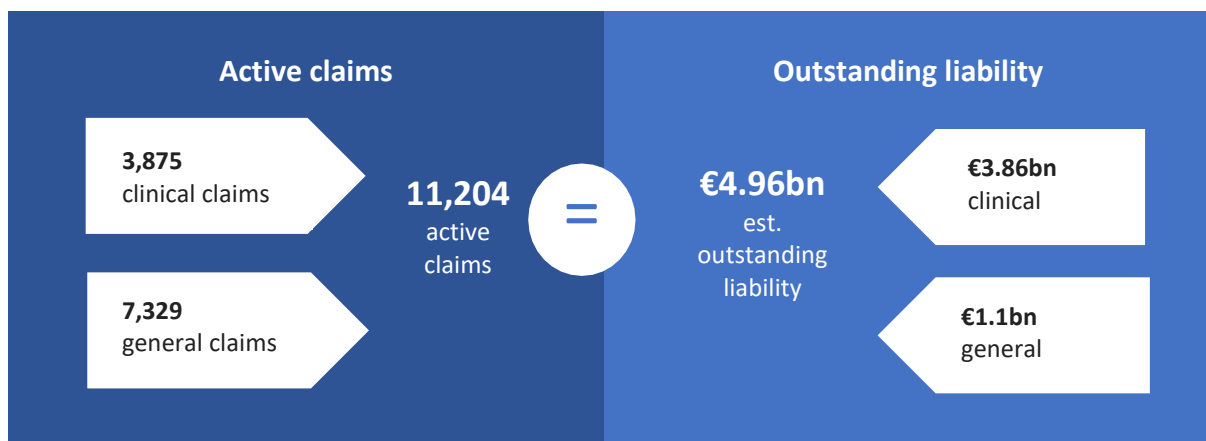
The NTMA is known as the State Claims Agency (SCA) when managing personal injury and property damage claims against the State and State authorities, as delegated to it, and in providing related risk management services. As the SCA, the NTMA also manages claims for legal costs against the State and State authorities, as delegated to it, however so incurred.

In performing this function, the Agency seeks to act fairly, ethically and sensitively in dealing with people and their families who have suffered injuries and/or incurred damage.

The SCA provides its claims and risk management services through two State indemnity schemes: the General Indemnity Scheme and the Clinical Indemnity Scheme.

The SCA remit extends across a wide range of bodies, known as State authorities, involved in the provision of public services, where management of claims is delegated to the Agency. State authorities include the State itself, Government Ministers and Departments, the Defence Forces, An Garda Síochána, the Irish Prison Service, Tusla, other State agencies, community and comprehensive schools, the HSE, and the voluntary health and social care sector.

The figures shown in the infographic below reflect the claims position as of 31 December 2022.



Clinical Indemnity Scheme

Under the Clinical Indemnity Scheme, the SCA manages clinical claims taken against State authorities in connection with the provision of professional medical services. When a claim is made against a State authority under the Clinical Indemnity Scheme, the State authority remains the legal defendant and the SCA takes over responsibility for resolving the claim.

The SCA approach to assessing the liability of the State authority and resolving the claims is informed by its investigation of the claim, including an examination of medical records, review of any incident or investigation reports and consultation with the relevant practitioners, as well as a review of the relevant case law, expert reports and legal advices, where relevant.

The SCA strongly favours mediation, where possible, as an alternative to the formal court process, particularly with regard to complex clinical claims. Thirty-four percent of claims concluded by the clinical claims team in 2022 where damages were paid involved a mediation process.

General Indemnity Scheme

Under the General Indemnity Scheme, the SCA manages claims taken against State authorities for injuries to people, such as a staff member, members of the public, or service users as a result of negligence on the part of the State authority, its servants and/or agents. This Scheme also provides indemnity to third-parties for damage to their property, where a State authority has been negligent.

The General Indemnity Scheme provides for risks similar, but not identical, to those covered by employer's liability, public liability and commercial third-party motor insurance. When a claim is made against a State authority under the General Indemnity Scheme, the State authority remains the legal defendant and the SCA takes over responsibility for resolving the claim.

Mass Actions

The SCA is managing a number of different mass actions against the State. Of the total 11,204 active claims at end-2022, 1,795 (16%) were in relation to mass actions. Some 575 (32%) of these mass action claims relate to lack of in-cell sanitation claims taken by current and former prisoners against the Irish Prison Service. The estimated outstanding liability associated with active mass action claims at end-2022 was €515.5m, approximately 10% of the total estimated outstanding liability of €4,957m. Examples of other mass actions include, Lariam, Mother and Baby Homes, H1N1 Flu Vaccination, Thalidomide.

Legal Costs Unit

The SCA's statutory legal costs management mandate is to manage claims for legal costs in such manner as to ensure that the liability of the State authorities is contained at the lowest achievable level. The SCA manages and resolves all categories of third-party legal costs claims, whether they arise in the course of the SCA claims resolution work or separately where the state has been sued. The SCA also provide legal costs advice to State authorities on third-party legal costs claims.

The legal costs unit carefully examine claims received and, wherever possible, negotiate to achieve the maximum reduction in legal costs to be paid by the State. In 2022 the Unit settled 1,225 bills of costs, with a total claimed amount value of €166.4m. These bills were settled at a reduction of 41% of the amount claimed.

Clinical Risk Management

The Clinical Risk Management unit provides risk management advice and assistance to State authorities in minimising their claims exposures under the Clinical Indemnity Scheme, that is, those risks arising from the provision of professional medical services. The Clinical Risk Management unit advises on risks related to the provision of clinical care, working with organisations to help them understand their litigation risk profile and target their risk management activities to enhance patient safety and minimise litigation risk.

Enterprise Risk Management

The Enterprise Risk Management unit provides risk management advice and assistance to State authorities in minimising their claims exposures under the General Indemnity Scheme. The unit works with risk, safety, facilities, fleet and human resources managers and other personnel in State authorities to help them better understand their litigation risk profile and target their risk management activities to prevent incidents which could lead to claims. The Enterprise Risk Management unit also advise on risk and corporate governance, indemnity and insurance, health and safety, facilities and fleet management, fire safety and environmental management.