

DÁIL ÉIREANN

AN COMHCHOISTE UM AIRGEADAS, CAITEACHAS POIBLÍ AGUS ATHCHÓIRIÚ, AGUS AN TAOISEACH

JOINT COMMITTEE ON FINANCE, PUBLIC EXPENDITURE AND REFORM, AND TAOISEACH

Déardaoin, 24 Bealtaine 2018

Thursday, 24 May 2018

Tháinig an Comhchoiste le chéile ag 10 a.m.

The Joint Committee met at 10 a.m.

Comhaltaí a bhí i láthair /Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
John Deasy,	Paddy Burke,
Pearse Doherty,	Gerry Horkan,
Michael McGrath,	Kieran O'Donnell.
Tony McLoughlin.	

* In éagmais / In the absence of Deputy Peter Burke.

I láthair /In attendance: Deputies Noel Grealish and Maureen O'Sullivan.

Teachta /Deputy John McGuinness sa Chathaoir /in the Chair.

The joint committee met in private session until 10.28 a.m.

Insurance Costs for Community Groups: Discussion

Chairman: We are dealing with No. 6, a discussion with representatives from the Alliance for Insurance Reform, Donegal Co-Operative Livestock Mart, Irish Men's Sheds Association and the Gaelic Athletic Association, GAA. I welcome all the representatives to the meeting.

Before we proceed to the business of the meeting, I wish to advise witnesses that by virtue of section 17(2)(l) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to do so, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person, persons or entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

We will hear opening statements from Mr. Peter Boland, Ms. Eimear McGuinness, Mr. Barry Sheridan and Mr. Tom Ryan. We will begin with Mr. Boland's statement.

Mr. Peter Boland: I thank the committee for inviting the Alliance for Insurance Reform to this meeting. I am joined by Mr. Ivan Cooper, director of public policy with The Wheel, and also a director of Alliance Insurance Reform; Mr. Colm Croffy, director of the Association of Irish Festival Events, AOIFE; and Mr. Alex Sinclair, chief executive of Motorsport Ireland. Unfortunately, Mr. Cooper has to attend the annual conference of The Wheel today so he will have to excuse himself at approximately 10.50 a.m. As I forwarded the presentation to the committee last week and members may have read it, I propose to stick to the key salient details today.

The Alliance for Insurance Reform brings together representative bodies from the community, charity, sports and small and medium sized business sectors across Ireland, representing over 35,000 organisations, 645,000 employees, 41,300 volunteers and, with the joining of the Irish Co-operative Organisation Society, ICOS, this week, 150,000 co-operative members, to demand rapid action to end crippling insurance costs. Full details of our membership are available 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, liability and motor. Members will have heard many such stories already. That said, there is a great deal of fear among many organisations. They are afraid to go public on their experiences because they are at the mercy of one underwriter or because they might draw additional claims on themselves. What members are hearing is only the tip of the iceberg. However, we do not intend to focus on 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 €2 billion 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 of respondents have seen their premiums rise by more than 30%, while more than one fifth have seen rises of over 70%. This is in the broader context of a consumer price index, 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 community 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 available at Appendix 2.

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 the recent 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 great deal of activity around the area right now, but our concern is that much 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 would huff and puff as a show of empathy with our customers but we would fight tooth and nail behind the scenes to stop real change. We would cite constitutional issues, data protection issues or competition issues. We would suggest self-regulation, agree protocols, ease off on the aggressive profit-taking for a while until the fuss died down or just string out the debate until the next election. We would do anything to stop real reform.

In the past eight weeks we have spoken to the Minister of State at the Departments of Finance and Public Expenditure and Reform, Deputy D'Arcy, and his civil servants, the Personal Injuries Assessment Board, PIAB, the Data Protection Commission, the Personal Injuries Commission, the Legal Services Regulatory Authority, the Competition and Consumer Protection Commission, the Department of Justice and Equality and An Garda Síochána. It is clear to us that many elements of the work of the cost of insurance working group, CIWG, are grinding to a halt with the dead hand of vested interests evident. The buck stops firmly with policy makers. The actions we are suggesting are in the areas of transparency, consistency and prevention. We believe them to be just, proportionate, feasible and achievable within a limited timeframe and that, ultimately, they will be effective. They are also practical ways of solving the insurance crisis and we hope the committee will consider and support them.

I do not intend to go through all of the actions in detail but I will go into some detail on the transparency issue. The insurance industry is of systemic importance to the proper functioning of Irish society and is enshrined as such in much legislation and regulation, yet there is virtually no transparency in this market, either at industry or individual policyholder level. In regard to control of the data coming from the new national claims information database, we demand that control of analysis and reporting of that data be given to the Personal Injuries Assessment Board rather than the Central Bank. The PIAB has the expertise and funding necessary and no additional legislation would be required as sections 54 and 55 of the Personal Injuries Assessment Board Act 2003 already allow for this function. Even if this legislation is cleared, and with the best will in the world, we will not have any useable data for at least another five years. This creates an enormous vacuum. With this in mind, we are calling for the reinstatement of the blue book. We insist that the blue book be immediately reinstated and enhanced to restore the

only transparency which previously existed in the market before the Central Bank unilaterally discontinued it in 2016.

We are also asking that the agreed large increases protocol be scrapped and the issue revisited. The 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 - an example of which I sent as a link in the document - is a good example of how the CIWG is being strangled. We would be better off without it, as it only creates the impression that something has been achieved when it has not. 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.

In the transparency area, we are seeking the reinstatement of the 2003 insurance industry IBEC protocol for 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 between the insurance industry and IBEC in 2003. The insurance industry is now resisting its implementation 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 available at Appendix 3.

I will briefly outline the other six asks we have of this committee. In terms of consistency, we are seeking a change to the approach used in calculating the book of quantum. The Court of Appeal has already set the parameters for this changed approach. We ask that they be put in place. We also ask that judges who award damages in excess of the book of quantum set out detailed reasoning for doing so, such that we know what is going on in the courts when it comes to sky high awards.

In terms of prevention, we are seeking the linking of sections 25 and 26 of the Civil Liability and Courts Act 2004 so that where a person's claim is dismissed because he or she has presented exaggerated or misleading information, the case would be automatically referred to the Garda Síochána for potential prosecution. We are awaiting the establishment of a Garda insurance fraud unit, which has been stalled now for six months. I understand the file has been with Insurance Ireland for the past six months. We want this unit put in place immediately. We are also seeking regulation of claims management companies, also known as claims harvesters. We believe these companies are adding fuel to the fire of fraudulent, exaggerated and misleading claims. The UK has legislated for these companies with just cause since 2007. We are asking that parallel legislation be introduced in Ireland.

We are also seeking amendment of section 8 of the Civil Liability and Courts Act 2004, to bring us in line with the data protection legislation. Currently, our members are caught between a rock and a hard place in that they are obliged to delete bulk CCTV footage within a month yet claims can come in for up to two years. We want that amended as a matter of urgency.

As an alliance we have put a lot of work into addressing this crucial issue for our members, their employees and volunteers. We hope that the committee can help us get action quickly and we are happy to take questions.

Ms Eimear McGuinness: I thank the committee for the invitation. I am the manager of the

mart in Donegal town. I am also the chairperson of the Donegal Mart Society and of the Associated Livestock Marts throughout the country. I have been a manager in Donegal town for 12 years and have been there for about 15 years in total. We have faced many challenges over the years but these insurance hikes are one of the greatest we have ever had and if we do not do something on this, and quickly, marts will close.

Livestock marts annual premiums are rising at a shocking rate. My submission to members includes a table with figures from various marts across Ireland which show what is happening. There are approximately 85 to 90 marts in Ireland, some open and closed and we may see a reduction in number in the next couple of years, although I hope not. An estimated 1.7 million cattle and 800,000 sheep go through them annually, with a value of €1.2 billion. FBD is the mart sector's primary insurance provider. We cannot get so much as a quote from any other insurance company so we are at FBD's mercy. Insurance providers view marts as having high significant exposure with injuries to employees and members of the public. We have had many meetings with FBD over the years. In 2016 we were asked to a meeting in Letterkenny where we were told that it was taking new safety measures, that an insurance assessor would be dispatched to all the marts and that we would have to make all these changes for health and safety reasons and to keep the premiums down. We had no option but to take out a loan and we spent about €15,000 at the time to undertake these works. Lo and behold, the premiums increased anyway the next year.

I should add that we had two claims in 2014 and 2015 which I felt should not have been settled. From speaking to most marts across Ireland, every manager will say the same thing, namely, that claims are being settled that should not be, and money is being handed out. However, that is not something we will fix today. Public liability claims are our biggest problem.

This year the accident in Mohill mart brought everything to a head. It was a horrible accident and the man involved was very badly injured. Changes had to be made. The Irish Co-operative Organisation Society, ICOS, one of the leading bodies in the marts, had talks with different organisations, including with FBD, and many ICOS marts decided on a no-access policy into the marts or the corridors. Some mart managers feel that does away with the whole reason behind a mart in the first place, that one cannot go down the yards to see the cattle, but there is agreement that something must be done and we cannot have people getting injured. We are stuck between a rock and a hard place, we do not know where to go with it.

There is also the cost of changing the marts around. The mart in Donegal town is an old building and was 50 years in operation last year. We need to put in a walkway across the yard which would be a large expense, and it is money that we do not have. My job is to try to make sure that the mart breaks even each year. It is impossible to get money like that now and when one operates from a 50 year old building, one spends a great deal of money all the time.

There are also many marts which have seen huge hikes despite having no claims. That is very unfair and I would like to know the reason for that.

I am with Associated Livestock Marts, Donegal Marts Association and we are very fearful for the future of the marts. Marts are needed in every town and village. There was a reason they were established in the first place, to trade livestock, but it is also a social thing for farmers who might not see anyone from one end of the week to the next. They go to the mart every week to discuss the price of cattle, but it is also hugely important for communities, villages and towns. When a farmer comes to town, he spends money.

I included a lot of background information in the note I gave to members. I do not want to keep members all day but if we get nothing else from this meeting, I hope we get full disclosure from insurance providers on all mart annual premiums, their rate of increase, the factors contributing to the rising costs and details of claims, both contested and paid out by the insurance providers over the last five years throughout the country. If we see that, we might see another side of what has been happening. We are not being told it all. Deputy Pearse Doherty checked this for me last year and we were told something that obviously was not true. I have included part of a response I received in the briefing document I prepared for members. We would also like assurances from FBD or whatever other providers. We need to talk to them. The marts cannot close but they cannot pay what is currently being asked of them. I understand that we have to make changes, whether it is a viewing period for cattle or something else, and we must come to some agreement but insurance companies cannot say that they will wait five years for changes to be made, they must reduce the premiums back down now. A mart which was paying €22,000, for example, is now being asked to pay €87,000. That mart will not be open in five years. We need to act now. I want to stress that as long as I have worked in the mart and dealt with FBD, I have always found the staff very helpful and courteous but this must be addressed.

Finally, I ask the Government to give serious consideration to a funding scheme to help marts. It is the only thing that we can do as we must make these changes. In the case of smaller marts, it could be CCTV cameras. If, as my colleague noted earlier, we could change that so it would be in the 30 days and it would not be deleted, that would be very important. We need funding for a scheme like that or for overhead walkways in the bigger marts because we are just about breaking even now.

Mr. Barry Sheridan: On behalf of the Irish Men's Shed Association, I thank the committee for inviting us to this meeting about instance costs for community groups. The availability and cost of insurance are important considerations in developing and sustaining Men's Sheds.

Men's Sheds provide a valuable and welcomed service to local communities. The initiative was introduced to Ireland in 2011 and there are now more than 400 sheds located in communities across the 32 counties, with more than 10,000 men in regular attendance. A shed should be a safe environment where men can meet and participate in various activities. In this way, they can overcome social isolation, improve personal well-being and contribute to the community.

The rapid growth of Men's Sheds in Ireland indicates its value to members and their families as well as their wider communities. The Irish Men's Sheds Association offers an umbrella organisation to affiliated sheds, in particular to those in the early stages of development. Our priorities include sustaining sheds, individually and collectively, improving the well-being of shed members, co-ordinating volunteers and communicating key messages. In this capacity we have heard countless inspirational stories from shed members and their families about the benefits of participation in a shed, sometimes life changing experiences.

Once a shed has overcome the challenge of finding a suitable property, it must then obtain suitable insurance. While this may be a common challenge for many community groups, the nature of activities in a shed may incorporate particular risks, such as undertaking workshop activities like carpentry.

It is a precondition of the Irish Men's Sheds Association, IMSA, membership that affiliated sheds have appropriate insurance in place for the activities they undertake in order to protect the health and safety of shed members. Unfortunately, our experience to date indicates limited availability of insurance and volatile insurance premiums. In response to these issues, which

we believe threaten the sustainability of sheds, IMSA is continually exploring insurance options on behalf of affiliated sheds. While we have had some success, the issue continues to frustrate many sheds, most recently the perceived growth in insurance premiums. The pain is particularly acute for small sheds challenged by low economies of scale and with limited capacity to raise subscriptions or attract donations. In addition, standardised policies do not accommodate the diversity of activities in local sheds and their very different insurance risk profiles.

We are just coming towards the end of a nationwide engagement programme with our sheds, which we call “cluster meetings”, where we bring together all the sheds in each county for open dialogue on key issues. We are halfway through that process at the moment. Insurance is one of the main issues we discuss, including how different sheds overcome the challenge. The cost of insurance brings significant pressure on many sheds with limited financial resources. We have recently developed a good working relationship with one particular insurance provider, FBD Insurance, for which we are very grateful. This is a practical partnership. FBD Insurance has local agents on the ground who can meet members of local sheds to discuss ways to make the shed a safer place.

It is also important to acknowledge that insurance underwriting is a complex discipline of which we and our affiliated sheds have limited direct experience. We can only speak from the perspective of a community group that requires insurance and struggles to obtain it at a cost we believe to be reasonable. We recognise the role of this committee in advising relevant Ministers on proposals that promote and co-ordinate economic and social planning. While we are not making a specific proposal today, we welcome the opportunity to speak as an interested party with practical experience. We also recognise the commercial needs of the insurance industry and our obligations as community groups providing services to the public. However, we simply wish to express a real concern that the availability and cost of insurance may needlessly restrict important community services such as ours. By their nature, most community groups are thinly spread across the country and, unlike commercial enterprises, they find it difficult to consolidate in pursuit of scale without negatively impacting on their reach into communities. In this context, the threat of continually rising insurance costs could threaten the sustainability of men’s sheds in Ireland.

Mr. Tom Ryan: I thank the committee for inviting me to speak this morning. I work with the GAA and I am joined by my colleague, Ms Ciara Clarke. I do not come to the committee with solutions to the difficulties it faces and I do not have specific proposals. However, I will offer some context and background on how the GAA organises its insurance affairs. What focuses our minds in this context is the fact that the single biggest bill a GAA club faces every year is its insurance bill.

The GAA provides a range of insurance cover for its units and members. Cover is a combination of externally procured insurance policies and self-funded insurance. It applies within the Twenty-six Counties and internationally, and is compulsory. We negotiate and buy whatever insurance we require centrally and then recharge the costs to the units. We take that approach because in the past we found that without central co-ordination, we were not in a position to guarantee that each unit would obtain insurance, in the first instance, or that, where insurance was provided, that it was adequate. For this reason, we manage the programme centrally.

The GAA has two separate subsidiary entities, one governing insurance and the other governing the injury fund. They are accounted for and audited separately, and each of the entities discharges the insurance premiums and recharges the costs of those premiums back to the units. They meet these costs by recharging premiums and by levying a predefined percentage of gate

receipts into those funds. Typically, when one pays €20 or €30 to go to a game - and hopefully many members of the committee will be at matches over the summer - some 5% of the gate receipt goes into our insurance fund and 6% goes into a fund specifically for injured players. We are in the fortunate position of having two people working on insurance affairs for us, one of whom is Ms Clarke. We also have a national insurance and risk committee which is chaired by Mr. Sheamus Howlin. Some members of the committee may know Mr. Howling, who was unable to join us today and sends his apologies.

We provide three main strands of insurance and challenges apply to all three. The first is property insurance. GAA property is defined as property held in trust under the rules of the association. By definition, once a club has vested its facilities in the GAA, it will be covered in respect of property under the insurance programme we provide. The scale of the programme means that our policy does not name every individual ground. It names the four or five big grounds we are all familiar with, but thereafter it kicks in automatically for every other ground.

We go to tender annually, either in October or November. We go to the market seeking insurance to cover our properties. As previous speakers noted and others will confirm, this is not an easy process. However, we have been able to secure appropriate cover in the past and we are grateful for that. The cover applies to every ground in the country, which in turn causes issues for us. The fund pays its insurance premiums to the insurance providers. It may be one provider or a portfolio of providers. Over the course of the year, central council will recharge to each county an insurance premium based on its size, relative scale and claims history over the preceding five years. The claims are managed by the insurance company and a loss adjuster under the direction of the GAA insurance staff. This type of insurance is almost self-insurance. The first and very substantial portion of annual claims cost is borne by the GAA fund and it is only when the claims cost goes above a particular threshold that the insurance cover kicks in. It is an attempt to manage the insurance premium costs by manipulating and managing that threshold and the individual excesses that apply to each club when it makes a claim.

Liability insurance is perhaps our biggest challenge in terms of insurance. We provide cover centrally and globally for all of our clubs, but the key point we reiterate to clubs all the time is that the cover provides protection in the realm of playing and promoting hurling and football for the most part. That is what the GAA is about at a community level. All the other activities in which the GAA engages are either covered by permission or not covered. Clubs can apply to us for insurance for fundraising events, club days and events and we consider whether we are able to provide cover. There are some items for which we cannot and do not provide cover. For example, and contrary to what people may believe having seen them in various clubs around the country, we do not insure bouncy castles. These are a particular problem and a particular form of risk and we cannot and do not offer cover to people who place bouncy castles in clubs. Where a club extends the use of its facilities to third parties, we always ask that the organisations in question in turn provide cover to us, show evidence of cover or offer some kind of an indemnity to protect the club.

Liability cover applies in exactly the same way as property insurance. The bills are charged centrally. Central council, as an entity, contributes a lump sum to that fund and collects a levy from the gate receipts and we in turn levy the counties and the clubs.

The third strand I will discuss is not technically insurance, although it is referred to colloquially as such by our members and the organisation. It is the injury fund, which we provide on a self-funded basis for players, referees, coaches and team mentors who might unfortunately suffer an injury during the course of the playing year. The fund differs significantly from the

liability and property programmes I explained earlier in that it is entirely self-funded. We collect a premium or levy from each club based on the number of teams it fields in each competition over the course of the year. We also hive off a small portion from every gate receipt of every game through the course of the year. This income goes into the injury fund. If a person is unfortunate enough to suffer an injury and it is verified by a referee or club official a claim will be submitted to us and benefits are paid out on a pre-ordained scale. The costs must be vouched. We provide a very modest level of compensation for loss of wages and such things. We are proud of that scheme and we guard it jealously. We think it is core to the benefits that we are able to offer our members. The operation of the scheme on a day-to-day basis is run by an outsourced service provider.

If it is in order, I might offer a number of metrics, which were not included in the material provided to the secretariat, such as recent trends and specific challenges under the headings I have mentioned.

In regard to our property insurance in the course of the past five years, from 2012 to 2017, we have had a cumulative total of 340 property insurance claims at a total cost to the association of €8.5 million. By and large those claims relate to storm damage. It is an odd facet of the organisation. We are very proud of the scope and reach we have but by definition, that means we have a pitch in every parish and in every corner of the country. Any time there is an adverse weather event, one can be sure that a GAA pitch somewhere will suffer. Related to that, members will have ball nets and they signify that there is a GAA pitch somewhere. They are a constant source of worry and claim because they are difficult to maintain and again in high winds, they are the first casualty.

In terms of liability insurance, our claims reserves total €12 million. Our annual premiums have doubled during the course of the past five years but the disheartening thing about the claims experience here is that of the €12 million reserve, some €7 million of those claims relate to things we do not consider to be at the core of what we do. They are not related to hurling and football but to other events that took place in clubs, be they fundraising or social events and so on.

As for the injury fund, we manage about 6,000 claims for players over the course of the years. That is typical and it has been a fairly stable figure during the past five years that approximately 6,000 people will suffer an injury or approximately 6,000 injuries will be incurred. The cumulative cost to the association during that five-year period was about €45 million, of which €30 million is funded by team subscriptions and by clubs and the remaining €15 million is funded by the central governing body. I hope that gives members the scale and context of what is an issue for every GAA club around the country, no matter how big or small in scale.

The challenges we face fall into three categories. I will not labour this point because it will arise in the context of the discussions. The challenges are the increased volume of claims, the increased cost of claims and some difficulties we perceive as an outside party with the legal process and how that operates. We also would be the first to admit there are challenges in the insurance realm for ourselves, in terms of how we conduct our own business. We are trying to manage things and to improve all the time. I am happy to deal with any questions from members.

Chairman: I thank Mr. Ryan. I call Deputy Doherty.

Deputy Pearse Doherty: Cuirim fáilte roimh na finnétithe uilig agus gabhaim buíochas leo

fá choinne a gcur i láthair. I welcome the witnesses to the committee and thank them for the presentations, which are very informative. Later on we will have a session with the insurance company FBD, where we will be able to tease some of this issue out.

I will begin by raising a concern that has been raised with me in County Donegal about the Irish Men's Sheds Association. I also am aware that a number of men's sheds have closed down recently, in Cork for example. Some of the established men's sheds groups have told me that the cost of insurance is a potential contributory factor for them having to make an imminent decision to close their shed. Mr. Sheridan mentioned in his opening statement that there are 400 sheds at present. Arguably, the areas that have a low subscription base, as they do not have the level of population, have a greater need for such a facility in the first place. Will we now see a reverse trend with some sheds having to close?

Mr. Barry Sheridan: We carry out an annual survey that gives us raw data and evidence. In the past five weeks, I have seen probably 200 sheds and probably have been in ten to 12 counties and so I have seen every shed, including all the sheds in County Donegal. While the cost of insurance is a threat and a potential risk, the sheds have not closed because of insurance at present. From day one, we have always seen that some sheds might come and go but that can be for a variety of reasons. Sometimes, getting a premises can be a real issue, sometimes it is the ability to attract members and at other times, it can be a question of getting the funding, which includes being able to pay for items such as insurance. Insurance directly is not a core issue for the sustainability of sheds but is a potential threat which could really threaten the sustainability of sheds throughout the country. We are looking at it very closely. Sometimes smaller sheds with fewer than 15 members must pay more per head for insurance than a large group in an urban area with 40 to 50 members. We have raised our concern about this with the insurance companies and the companies are looking at that issue because it is a real issue. It is in small communities in rural areas that the men's sheds have a profound impact on the members and their community.

Deputy Pearse Doherty: Has the Irish Men's Sheds Association looked at group insurance, which is available across the board in different organisations?

Mr. Barry Sheridan: That is a facility we are considering. We are expecting proposals from insurance companies on that at present. We are also consulting with experts in the field. Again we have limited expertise in our team. We have five staff members for more than 500 sheds. We are a young, constantly-evolving organisation but we are looking at how a group scheme might work for an umbrella organisation. It is also important to stress that no two sheds are exactly the same. We might have a shed in Ballinteer in Dublin, who have just social meetings. They come together and they meet. It is important to remember that first and foremost, sheds are social spaces in which the activities are decided by empowering the men to make the decisions. If a shed that is meeting purely on a social basis is compared with a shed with a large workshop where the members might be creating bits and pieces, they are not the same. It is difficult for insurers to categorise them as one. That is a real challenge for us. We hope to make considerable progress in the next few months on the matter of insurance and see the options available for sheds. One of our main priorities is to try to see what we can do and what the insurance companies can do to arrive at an option. We hope that raising the issue today will help to bring the issue of insurance to the fore and help us in that journey to try to find affordable and reasonable rates of insurance in order that sheds can continue to have the impact at a local community level they have had to date.

Deputy Pearse Doherty: My colleagues will come in with other questions. I will be brief

but I have questions for other witnesses. Ms McGuinness from the Donegal Co-operative Livestock Mart gave us a very helpful table, which shows the dramatic increases in insurance in the past three years from 2015 to date. I see the cost of insurance for three of the marts in my constituency, namely, the Donegal, Stranorlar and Milford marts, all three of which experienced increases in excess of 100%. The increase for the Milford mart was 114% and yet it had no claims. It is difficult to see how this can be justified. Ms McGuinness mentioned that she had a meeting with an insurance company back in 2016 or 2017. What justification has Ms McGuinness heard from the industry in respect of the levelling of such increases? In particular, I wish to reference the response of the Minister of State, Deputy D'Arcy, which in fairness to him would have been provided to him by Insurance Ireland and is provided in the supporting documentation. Insurance Ireland has advised that it is not aware of any recent major increases in the cost of insurance for agricultural mart owners. That concerns me because if they do not think that a 100% increase over a three-year period is a major increase we have a problem with the insurance industry. How has the industry been able to justify such levels of increases?

Ms Eimear McGuinness: When we went into our first meeting in May or June 2016 in the Donegal area the insurance assessor examined how to improve health and safety, which was an issue. I have been told by other mart managers that the same thing happened throughout the country. When he came to our mart we had to put in safety pens for people to step into to avoid cattle on the passageways. They cost a lot of money. The insurer also wanted handrails and spoke about many other issues that day. It was basically a question and answer session on how we could improve things because they explained that the claims were drastic and something had to change. We felt the only thing we could do at that time was implement the safety measures, which we did. I told the committee at the time that we had no choice but to do this and we took out a loan and did the work. We cannot afford to pay any more insurance year on year. That was the first meeting.

I had a second meeting with the insurance company when it paid out on a claim of ours which I was totally against at the time. We had a field across from the mart and a man said he had been bitten by a horse in it. A livestock mart does not own or keep any animals but there was a horse in this field. I felt that claim should not have been paid. I wrote a letter stating that to FBD as our insurance provider. The company felt it had to pay out because that was cheaper than going to court and trying to argue the case. I was angry over that. I met the underwriters in Cavan town. The same happened that day. I brought my colleagues from Stranorlar and Milford marts with me and we spent the whole day discussing different ways to stop these public liability claims. That is what is causing the problem, not animal injuries or anything like that. The underwriter talked about not letting anybody into the yard. Many mart managers feel that cannot happen but I feel unfortunately because of the way the insurance system works that is all we can do.

We probably cannot fix everything today but I would like to come to some sort of understanding that the premiums have to come down. In answer to the question the insurance companies say the public liability claims are too drastic and they are losing money on the mart sector. It is of no benefit to them to have it. My feeling is that they take a lot of money from farmers throughout the industry and they should be able to absorb the cost into their companies.

Deputy Pearse Doherty: Ms McGuinness said there is a fear of marts not being able to absorb these costs in the future if they continue to rise. She has given us the data and how, for example, the premium for the Tuam co-operative has gone from €34,000 to €79,000. I am not familiar with the profit margins of the mart. Ms McGuinness said her job is to break even. I do

not know if that cost is easily absorbed. If the marts continue to see this type of increase, which is in excess of 100%, with some increases of 255%, repeated over the next three years, would we definitely see the closure of marts?

Ms Eimear McGuinness: Most definitely. We are a service. We do not set out to make a lot of money. Suckler cow numbers are reducing drastically throughout the country. That is a major issue for us too. There has been a drastic reduction in the number of cattle coming through our doors already this year. That has not spread throughout the country yet but in Donegal there has been a drastic reduction. That will eat into profits. The Property Services Regulatory Authority, PRSA, now regulates us as well. We have to do more book work. Marts are 50 years old. We put up a new office last year and before that we had to put on a new roof. Cattle abuse livestock pens. There is constant work to be done. Everything is increasing in price. We work to accommodate the different costs each year but we cannot accommodate for something that jumps so drastically. We are a very small mart and that has to be taken into account. We make our money on whatever stock comes through the door and that is reducing each year. I set up a separate business last year sending sheep direct for slaughter and I had to do that to make up for the drop in numbers coming through. It is eaten up every year, and that is all down to insurance.

Deputy Pearse Doherty: I know the Alliance for Insurance Reform has many very practical proposals to deal with the issue of reducing liability. The mart sector is part of the fabric of rural Ireland. It also deals with isolation. Ms McGuinness has made several helpful recommendations. I want to focus on the idea of a grant funding scheme to help marts cover the costs associated with bringing their necessary operational changes into line with the proposed health and safety policies. It is a recognition from the sector that we need to do something different to improve health and safety in anticipation of insurance costs coming down, which has not happened in the past. I mentioned that proposal briefly to the Minister of State at the Department of Finance, Deputy D'Arcy, when I saw the opening statement. Over many years there has been State and EU support for the agricultural sector, for slatted sheds and so forth, some of which has been quite generous because we understand the importance of the agricultural sector to our economy and to the fabric of rural Ireland. I was interested to see that such support did not already exist for marts, which are the end point and sometimes the starting point in the process. Have there been any discussions with the Department or the Minister on this or does Ms McGuinness want to start the process of getting this committee's support to have a grant-funded scheme bringing the marts up to a safer standard?

Ms Eimear McGuinness: I am just the mart manager in Donegal. I am sure the Irish Co-operative Organisation Society has had talks with different bodies. I believe it has met the Minister of State, Deputy D'Arcy, and I hope this issue was discussed with him. I am bringing it to the table today because it is necessary. I hope maybe it would start here. If we can get nothing else out of today's meeting we need that. It has to happen. Where would I get the money to start making more changes in the mart? I do not know how much safer I can make it. I could put in extra cameras but that would cost another few thousand euro. There are health and safety issues. I met a company recently that will go through all our human resources for more insurance costs. It would protect us and do our health and safety work for us. That would cost us is in the region of €3,000 or €4,000. Where do I come up with all this money? At the same time there is no way around it. I know that is what the insurance companies will ask us to do this year. I have not received my renewal notice although I asked for it. The table I gave the committee dates from the end of 2014 but we are discussing 2018. My insurance does not expire until July. I do not know how much my premium will be. Some other marts are in the

same position. I hope the Government will do something about that.

Senator Kieran O'Donnell: It is a bit like groundhog day. We have been dealing with insurance for many years. To be honest, I hope this gets coverage as it reminds me of other issues. As a group, the witnesses are bringing to the table something that we did not get with various other presentations. They are at the coalface. We had a similar experience with mortgages, which came about with four excellent witnesses. I hope the same happens here and I hope the media cover this meeting. The witnesses went back over the past number of years. By how much did premiums increase in 2017 and 2018? I want to get some context. Are we seeing different premiums now? We know they have been increasing but how much are they now? Will the witnesses give a brief overview of the percentage increase and whether it is affecting members?

Mr. Tom Ryan: There has been no dip.

Senator Kieran O'Donnell: What was the increase?

Mr. Tom Ryan: The increase is approximately between 20% and 25%. We are in a slightly different position from colleagues in that the predominant cost we bear is a claims cost rather than a premiums cost.

Senator Kieran O'Donnell: I am dealing with the premium. I am assuming all the bodies work on a calendar year basis.

Mr. Tom Ryan: We do not. The increase is approximately 20%.

Senator Kieran O'Donnell: That increase is in over one year.

Mr. Tom Ryan: Yes.

Senator Kieran O'Donnell: What has been the incremental increase over the previous years?

Mr. Tom Ryan: It was not as stark as that. We can influence the premium cost by absorbing more of the claims cost ourselves and varying the degree to which we are self-insured.

Senator Kieran O'Donnell: In that case, why has the cost increased by 20% in the past year?

Mr. Tom Ryan: It is down to our claims experience, which has been very adverse.

Senator Kieran O'Donnell: How many insurance companies are involved?

Mr. Tom Ryan: We have a variety of covers. They would be for directors and officers, travel, etc. Our principal strand, as I mentioned, would have two insurance companies.

Senator Kieran O'Donnell: Are they generally known?

Mr. Tom Ryan: Our main insurance programme is managed in the first instance by Allianz. We change providers.

Senator Kieran O'Donnell: Allianz is the underwriter.

Mr. Tom Ryan: Yes.

Senator Kieran O'Donnell: This is a hard question but I will ask it. Is the GAA being ripped off by Allianz?

Mr. Tom Ryan: Pardon me.

Senator Kieran O'Donnell: Is the GAA being ripped off by Allianz?

Mr. Tom Ryan: I do not believe so, although I could not attest to that. We get a good service from the company. Our insurance difficulty is driven by claims more than by premium costs, to be fair.

Senator Kieran O'Donnell: Will Ms McGuinness comment on the marts?

Ms Eimear McGuinness: There are so many different marts and they are different kettles of fish. The most worrying are the marts with no claims. The Senator is asking about increases and a brief examination indicates it is approximately 20% or 30%.

Senator Kieran O'Donnell: Would that apply across the board to all marts? Are marts insured centrally or do the managers go to their own company?

Ms Eimear McGuinness: We only really have one company that all the marts deal with.

Senator Kieran O'Donnell: Which company is that?

Ms Eimear McGuinness: It is FBD.

Senator Kieran O'Donnell: The increase was between 20% and 30% in the past 12 months. Is FBD ripping off the marts? We will have its representatives in later and will ask them the same question. At this stage there is too much tiptoeing around. The bottom line is the witness has told me insurance premiums have gone up by 20% or 30%.

Ms Eimear McGuinness: Yes.

Senator Kieran O'Donnell: Does she know why?

Ms Eimear McGuinness: Yes. It is down to public liability claims and how the company settles them.

Senator Kieran O'Donnell: Does the witness believe marts are being charged excessively or being ripped off?

Ms Eimear McGuinness: Yes.

Senator Kieran O'Donnell: What about the men's sheds?

Mr. Barry Sheridan: Yes.

Senator Kieran O'Donnell: Have the premiums increased in the past 12 months?

Mr. Barry Sheridan: There have seen significant increases over the past two or three years.

Senator Kieran O'Donnell: By how much have premiums increased?

Mr. Barry Sheridan: That would depend as each shed has its own insurance.

Senator Kieran O'Donnell: What about generally?

Mr. Barry Sheridan: It is very hard to say.

Senator Kieran O'Donnell: Has there been an increase in the past 12 months?

Mr. Barry Sheridan: In the past 12 months we have heard from individual sheds. FBD has only offered insurance for men's sheds in the past 12 months so we cannot compare it with what went before.

Senator Kieran O'Donnell: Is FBD the main insurer?

Mr. Barry Sheridan: It is at the moment.

Senator Kieran O'Donnell: Did the most recent premium change for men's sheds go up or down?

Mr. Barry Sheridan: It is the first year.

Senator Kieran O'Donnell: The witness does not know.

Mr. Barry Sheridan: I cannot say what happened before. I have heard of sheds having insurance issues.

Senator Kieran O'Donnell: When will FBD renew the premiums?

Mr. Barry Sheridan: It will be around October and November of this year. We hope to see consistent results given all the work that has gone into this issue.

Senator Kieran O'Donnell: Were insurance companies ripping off sheds before?

Mr. Barry Sheridan: We have heard stories of insurance going up by more than 100% over two or three years, even where no claims were made.

Senator Kieran O'Donnell: Mr. Boland is part of an alliance. I am interested in the past 12 months. There have been many reviews but I am interested in the trend and where it is currently going. If the trend is downwards, we can work with that.

Mr. Peter Boland: I thank the Senator for asking the question as it is valuable. From a global perspective, there are no available data. It is one of the scandals of the issue.

Senator Kieran O'Donnell: Will Mr. Boland explain that comment?

Mr. Peter Boland: We know that between 2014 and 2016, motor insurance went up by 70%. It is a well-aired point at this stage. We have no comparable data for liability. We all have our personal experience and anecdotes but there are no data available. This is effectively a secretive market as far as we are concerned.

Senator Kieran O'Donnell: Has the European Commission consulted the alliance in its review of the insurance market?

Mr. Peter Boland: Not yet but we would be very happy to engage with that. We have spoken at length to the Competition and Consumer Protection Commission about this.

Senator Kieran O'Donnell: I will cut across the witness. I am interested in the past 12 months and I would like to see the trend.

Mr. Peter Boland: I will refer the question to Mr. Cooper.

Mr. Ivan Cooper: I work with The Wheel, the national association of community and voluntary organisations. As Mr. Boland indicated, we are an association of charities and the last thing we want to do is invest time in trying to understand the complexities and vagaries of the insurance market and how it operates. The issue is so severe that The Wheel asked me to leave a conference to come along and tell members about what is going on. A crisis in communities is coming with insurance costs. The Senator asked about immediate insurance rises-----

Senator Kieran O'Donnell: We have heard of reviews but I want to know what has happened in the past 12 months.

Mr. Ivan Cooper: I have information from our members. One premium tripled this year from €2,000 to €6,000.

Senator Kieran O'Donnell: Who are the parties involved?

Mr. Ivan Cooper: I cannot give the names of the organisations.

Senator Kieran O'Donnell: What type of organisations are they?

Mr. Ivan Cooper: They are small community groups or charitable organisations.

Senator Kieran O'Donnell: The premium has increased to €6,000.

Mr. Ivan Cooper: I am only starting; I can go further.

Senator Kieran O'Donnell: It is public liability insurance.

Mr. Ivan Cooper: It is public and employers' liability insurance.

Senator Kieran O'Donnell: It is with an Irish company.

Mr. Ivan Cooper: To my knowledge, it is. Another premium increased from approximately €4,000 to €13,000 in the past 12 months. Another one increased by a factor of ten in the past three years. In 2017, it tripled from €4,500 to €15,000. In 2015, it was €1,000.

Senator Kieran O'Donnell: Do these policies have claims attached?

Mr. Ivan Cooper: No. That is the important point.

Senator Kieran O'Donnell: There were no claims.

Mr. Ivan Cooper: In general there were huge hikes and no claims. I have a specific case that I wish to refer to.

Senator Kieran O'Donnell: Could some of the relevant groups appear before the committee?

Mr. Ivan Cooper: There is another problem as there is a big fear. Community groups and charities are not prepared to come forward because there is only one supplier in the market. The Senator asked witnesses to name the insurance providers but nobody in this case would be prepared to do so because these organisations only have one bite at the cherry, which is a problem.

Senator Kieran O'Donnell: Is there only one provider because companies are operating

a cartel?

Mr. Ivan Cooper: We do not know. The problem comes back to Mr. Boland's point. There is a deficit of information in how this market functions. I have a few concluding remarks I would like to make but I would like to describe a case. There was an email sent internally by one of our members to another staff member looking after the insurance side of the shop.

Senator Kieran O'Donnell: When was that?

Mr. Ivan Cooper: This year.

We heard yesterday from a children's charity in the south east that its premium increased from €9,000 in 2015 to in excess of €16,000, or almost a fifth of its grant income, this year. This is the key to the issue. According to the email in question:

I received a telephone call from [a person] in our office on Friday afternoon informing me that you had sent on the premium for 2018. My first reaction was that I thought she was joking but when it emerged she was not, my sentiments turned to shock and anger. I have taken the weekend to reflect on this and discuss with my colleagues and directors, and we are all in agreement that this premium is an outrageous amount and cannot be justified in any way. Our board cannot and will not pay this. I have checked back on the premiums since 2015 and it has emerged that these have increased by almost 100% in just four years. The figure in 2015 was €8,900 and they are now seeking €16,300, which amounts to almost 17% of our total grant allocation from the funding authority.

Senator Kieran O'Donnell: I assume this charity had no claims.

Mr. Ivan Cooper: It had no claims. The increases that these organisations are having to contend with are not being catered for by the funding authorities. This is putting such organisations in a real and serious bind. Contrary to what has come forward so far, we have evidence of organisations that are cutting back, suspending services and even closing down. I will conclude on this point. The email in question continues:

It is the view of the board that the insurance company has no justification whatsoever for these levels of increases, either on a professional or ethical level. Such increases are morally reprehensible. It amounts to legalised extortion. [The organisation] has conducted its operations, programmes and projects for the past 39 years to the highest levels of professionalism, compliance and health and safety. Our governance exceeds the required levels of all Government funding Departments. What makes this massive increase more astonishing and appalling is the fact that the organisation has an exemplary track record in terms of its insurance and claims history. There is no history of claims, other than one outstanding "spurious and unproven" claim relating to the lifting of a table.

That is what is going on. I am under terrible pressure. I thank the committee for accommodating me in this way. There have been huge hikes in the absence of claims.

The issue here is that insurance costs are beginning to strangle the life out of community and voluntary organisations. A social enterprise that provides much-needed transport services to people with disabilities has seen its insurance premiums double from €65,000 to €130,000. As a result of these increased costs, the organisation has cut back on its services and reduced its workforce. It is paying more for insurance than it is paying for petrol as it provides disability transport services, if members can imagine that. It appears that what is everyone's responsibility appears to be nobody's responsibility.

Our view is that there is a market failure here. It is incumbent on our Legislature to get to grips with it, understand it and put in place the correctives that are needed. The character of our local communities is at risk here. It is virtually impossible to raise funds to meet the cost of insurance. State funders are not prepared to increase the amount of funding required to meet insurance costs. As a result, our communities will be degraded by reduced activity or the cessation of services. Voluntary board members give freely of their time and have to cope with ever-increasing compliance requirements across the board. The cost of insurance has brought some of them to breaking point. I thank the committee for accommodating me.

Chairman: I would like to ask Mr. Cooper about the statistics he quoted when he spoke about increases. We do not have that document. Is that correct?

Mr. Ivan Cooper: Correct.

Chairman: We do not have a redacted copy of the email.

Mr. Ivan Cooper: I will have to talk to the people who provided me with that information to see if they are prepared to have-----

Chairman: We do not need to have the details.

Mr. Ivan Cooper: I understand that.

Chairman: If we could get the redacted document, it would be helpful to us.

Mr. Ivan Cooper: We will do our best to comply with that within the confines of confidentiality.

Chairman: Thank you very much.

Senator Kieran O'Donnell: This is a watershed. As a result of the information that is coming forward here, it is incumbent on us to dig deep. We need facts to do it. I would like Mr. Croffy and Mr. Sinclair to answer the question I have asked about the last year.

Mr. Colm Croffy: In the past 12 months, the sector I represent has been involved in approximately 850 community not-for-profit festivals and celebratory events throughout the Twenty-six Counties. Indeed, we also have involvement in Northern Ireland. Premiums have increased by between 16% and 18% in the past 12 months.

Senator Kieran O'Donnell: Others have said today that the increase has been in the order of 20%, or one fifth.

Mr. Colm Croffy: From our perspective, it is not just the premium issue. It is also the restrictions and limitations that the insurance providers are now asking our groups to undertake. A family festival, an Irish festival or a cultural celebration would traditionally have involved some form of participatory action, perhaps on a lake shore or a pier, and might have involved pyrotechnics, children or animals. All of these activities are now being excluded or limited by the insurance companies.

Senator Kieran O'Donnell: How recently did that start to happen?

Mr. Colm Croffy: Three or four years ago.

Senator Kieran O'Donnell: Okay.

Mr. Colm Croffy: As a result, people are deciding to reduce the programmes for their week-long carnivals or weekend family activities by eliminating certain items. They are deciding that there is no point in doing certain things if they want to have reduced premiums. Festivals and events take place in locations like town squares, town plazas, urban parks and areas that are controlled by local authorities. In the good old days before the recession and the increase in personal injury claims, the level of public indemnity or public liability for a local authority would have been in the order of €1.3 million or €1.6 million.

Senator Kieran O'Donnell: Mr. Croffy is going back a bit.

Mr. Colm Croffy: Indeed I am. IPB Insurance has advised city and county managers that for some level of celebratory community event, such as a Hallowe'en celebration, a community parade, a civic engagement or a heritage re-enactment in a town square, a public indemnity of between €6.3 million and €10.5 million is required. For every extra €1 million in indemnity that a festival committee has to come up with, the insurance premium increases by approximately €1,500. When AOIFE was founded in 1993, the two midwives to our association were the Irish Music Rights Organisation, which was looking for ridiculous copyright charges, and the insurance industry of Ireland. There was just one provider in the system at the time. In the early 1990s, some 28% of every €1 being raised by not-for-profit festival committees was being spent on insurance.

Senator Kieran O'Donnell: What is it now?

Mr. Colm Croffy: It is nearly back at that level again. It was interesting to hear my colleague from the livestock co-operative sector discussing all the changes and regulatory improvements in health and safety that her members are prepared to make. When we were formed in 1993, we went down the road of getting a combined insurance policy to look after all the members in the country. At that time, we agreed with the industry as part of the scheme that we would improve health and safety standards. Every festival that was going to approach a city or county hall would have a health and safety officer, a health and safety statement and a risk assessment done by volunteers. We have done all that now. We were told 25 years ago that this would involve reductions in premiums and in claims. What is happening now? It does not matter how many pages of health and safety assessment or hours of risk assessment we have done. Even though the insurance companies insist that we appoint safety officers and we photograph incidents when they occur, they settle when the book of evidence is provided. If our insurers are ultimately going to write a cheque anyway, what encouragement is that for the 40,000 volunteers throughout the country who are running safe and compliant events regularly?

Senator Kieran O'Donnell: I ask Mr. Sinclair to speak on the same topic.

Mr. Alex Sinclair: I am afraid the starting figure for us is not a good one. We have suffered increases of approximately 188% since 1 January 2017.

Senator Kieran O'Donnell: That is in the past year.

Mr. Alex Sinclair: Correct. The Senator might reasonably ask why such an increase has taken place. The reason for it is our claims experience. Nobody in this country is prepared to discuss the matter of insurance with us. When we go to Lloyd's of London, which is the only group that is prepared to put together a syndicate to provide cover for us, we are told that Lloyd's will not go into that market because it cannot predict what way claims will go if it has to deal with them. It is a complete lottery.

We have lost four major events this year, including the Galway International Rally, which brought significant business to the Galway region in February, a time of the year when there was nothing else taking place in the region. All of our sporting activities are run by volunteers who cannot take the risk of taking on this huge premium. It is just not there. We do not have the reserves to provide for it. As a result, we are running on a week-to-week basis at the moment. That is unsustainable.

Senator Kieran O'Donnell: Are we in an insurance crisis as we speak? I refer to all of Mr. Sinclair's members.

Mr. Alex Sinclair: We are, undoubtedly. At the beginning of last year, when we got this increase, we had to cancel everything for a month while we all tried to figure out what we were going to do. We cannot quantify the situation, as my colleagues have said. We cannot figure out how the business is operated in respect of facts, figures, numbers and claims and why the insurance companies seem so reluctant to go into court to defend claims.

Senator Kieran O'Donnell: The problem with insurance is that a multitude of solutions have been mentioned. We need to get that down to a couple of key things that need to be done now. If Mr. Boland was in control, and if doing anything was within his gift, what would he like to see being done now?

Mr. Peter Boland: Senator O'Donnell has a good question. The scale and scope of the cost of insurance working group report is massive. On the other side, there is no silver bullet. We have provided a list of ten solutions which we feel would be quick and effective. If I am being asked to cherrypick from them-----

Senator Kieran O'Donnell: Yes, Mr. Boland is.

Mr. Peter Boland: I will give one under each of the three headings. On transparency, my colleagues are correct. We are in a crisis. However, it is a crisis in a dark room because there is no data and as long as the insurance industry resists the presentation of comprehensive data, then it will continue to be so. From that point of view, the most immediate thing would be to reinstate the blue book.

Senator Kieran O'Donnell: That is fine.

Mr. Peter Boland: Any other data is going to take five years to become useful. In respect of consistency, the book of quantum is going to take a while to rework. The personal injuries commission is working away on that now. It is critical to ask judges to set out detailed reasoning as to why they are awarding above and beyond the book of quantum. It does not interfere with the Judiciary. We are just looking for reasons.

Senator Kieran O'Donnell: That is fine.

Mr. Peter Boland: Prevention is the one ready to go. We met the Garda on this and the Garda insurance fraud unit is ready to push the button. We are at a loss to understand why it has been sitting around for six months now.

Senator Kieran O'Donnell: That is fine. I thank Mr. Boland.

Deputy Noel Grealish: I have a number of questions and I will ask them together to the various groups. I thank the stakeholders for coming in and giving us their presentation. I know Mr. Boland for a while. I was elected in 2002 and insurance was an issue then also. The then

Minister, Ms Mary Harney, established the Personal Injuries Assessment Board, PIAB, to try to deal with the issue. I was a businessman myself and I saw my insurance go from €14,000 up to €78,000 at that time. In reference to Mr. Tom Ryan, the director general of the GAA, I am chairman of my local hurling club. We have a health and safety officer within our club to ensure the grounds are up to standard so we do not have a claim. It is a big issue with GAA clubs.

I raised this issue during Leaders' Questions recently. A meeting was to take place between Mr. Boland, the Taoiseach and the Minister of State, Deputy Michael D'Arcy. Will Mr. Boland brief us on the outcome of that meeting? Was he confident coming out that something will happen or was he deflated? I think there is a box ticking exercise going on at the moment. Public meetings are being held by the Minister of State, Deputy D'Arcy, and the Government seemingly behind closed doors from what I can gather. I got my invite to go to the one in Galway at the last minute. I wanted to go but unfortunately I was unable to change my diary to attend. Was the Alliance for Insurance Reform invited to the one in Galway or was there any engagement regarding the agendas of the meetings?

Is PIAB working or does it need reform? Is it too influenced by the legal profession on claims going through? My final question is for all of the witnesses. I was sorry to see the Galway Rally cancelled. My nephew used to be involved in that, God be good to him. He passed away. How many events, roughly, are being cancelled around the country now due to insurance issues? I know the GAA is probably the second largest landowner after the State. The Irish Public Bodies Insurance scheme - which insures all the public bodies, public streets and public parks - needs to get involved. It needs to start working with groups such as the men's shed association and charitable organisations to provide insurance cover. Many of these events take place in public parks where people are charged and €1.2 million or €1.5 million of insurance cover must be shown upfront. Has there been any engagement with the Irish Public Bodies Insurance scheme to see if it can work with the groups present? I think it should. I am not a member of this committee but perhaps it should be brought in here to answer if it can work with the witnesses on various events.

What engagements do the groups present have with the major insurance companies? Will they engage and talk? I know they are answerable to one person and that is their shareholder. At the end of the year, when they publish their accounts, all they want to do is show what profits have been made. That is their goal and objective. I met with the insurance regulator some years ago and, to be honest, it was a waste of time. He told me his hands were tied and that he had no control or influence over insurance companies. Perhaps that should be reformed.

I compliment the tremendous work the GAA does. It is an organisation in every village, town and parish in the country. It is a huge issue, as Mr. Ryan said, to make sure every ground and facility is up to standard. What inspections does the GAA carry out? Does someone go out, are the county boards under instructions or are there county board health and safety officers to make sure all grounds and pitches are up to a high standard? The quick fix question was asked. Is it getting more difficult for the GAA to insure all of its grounds and are more stipulations being put in the way in respect of the huge amount of property under its vested control? It will come to a stage where an audit of every single property will be needed before insurance companies will start insuring. I think the Irish Public Bodies Insurance scheme has a major role to play with events like the Galway Rally and with the men's shed association and organisations like that. I compliment Mr. Boland on the tremendous work he is doing to try to achieve reform.

Chairman: I thank Deputy Grealish. I will let the panel take whatever part of those questions it wishes, starting with Mr. Ryan.

Mr. Tom Ryan: If I can remember the questions in sequence, I will start with PIAB. We do have certain reservations as to how that operates. The biggest one is the permissible lapsed time between an incident happening and it being reported to PIAB. That presents a practical difficulty for us because - and this has been mentioned - clubs are run by voluntary people and we are imposing a significant burden on them with risk management and reporting and recording adverse events.

Deputy Noel Grealish: Health and safety officers.

Mr. Tom Ryan: Typically, what happens is that if a club is unfortunate enough to suffer an adverse event and it takes some years for that claim to materialise, it will be in a weakened position in respect of being able to defend itself. It is purely because the clubs are run on a voluntary basis. People get involved in GAA clubs because they are interested in hurling and football and not because they are insurance professionals. The elapsed time is our difficulty with respect to PIAB.

Deputy Grealish also asked about Irish Public Bodies Insurance. It did, in fairness, engage with us at the point of our insurance renewal. We did have discussions but we did not pursue that course. There was also a question on health and safety officers and insurance officers in counties and in clubs. We have a designated insurance officer - or we have a position of an insurance officer - in every county. I cannot attest 100% that all of those positions have been filled. It is difficult to get people to fill voluntary positions and that is one of the direct manifestations of the difficulties that the other organisations here have mentioned. The burdens of time and responsibility pose a challenge for the GAA as much as any other organisation. However, we do have that position. There will also typically be a health and safety person in a club. However, again, it is voluntary, it is subject to the constraints on people's time and it is not the core activity in the club. Deputy Grealish mentioned the concept of an audit of properties. This is something in which we are trying to engage in partnership with our insurers. We are in the throes of going from club to club, recording all the particulars of the particular property. This was mentioned in the context of the men's sheds. GAA clubs are the same. They can vary hugely. In some cases it will just be a pitch; in other cases it will be a significant leisure complex and so on. That exercise is ongoing.

Was there another specific question?

Chairman: Does Ms McGuinness wish to take up any of the points Deputy-----

Ms Eimear McGuinness: They do not apply to us because we are a mart. However, regarding health and safety, as part of our new licence with the Property Services Regulatory Authority, PSRA, all our staff must do drover training each year. We also have a health and safety officer and a health and safety manual that we must check each year. We also have departmental inspections each year. The rules for marts are changing. The Department's new licensing laws will come into effect in October. That is all kept pretty much up to spec.

Chairman: I call Mr. Sheridan.

Mr. Barry Sheridan: Deputy Grealish touched on the engagement with insurance companies. It can be difficult regarding men's sheds. Many insurance companies will not even provide quotes, which can be an issue. There is, therefore, limited availability, which skews the marketplace as well. If there are more options, there is more competition and better choice for groups. This is a challenge not only for us as a national body, but also for individual sheds

when they look for a policy from an insurer.

Mr. Peter Boland: I thank the members for their questions. Regarding engagement with the Minister of State, Deputy D'Arcy, we met him and his civil servants in March. We were not aware of the roadshow meeting in Galway at the start of this week. We are well aware of the one in Cork next Monday, and quite a few of our members are anxious to attend it. We have been keeping a close eye on the cost of insurance working group's updates. It has been a little dispiriting because what was a good initial report seems to have run out of steam. We did an analysis of the CIWG's latest update, which was issued quietly the Friday before last, and of the 48 actions which are ticked at this stage, 22 essentially amount to meetings or consultations. They are not actions as such; they are additional consultations. We, therefore, do not sense the urgency that is required on this issue. It is an issue now, not an issue in five years' time.

We believe the PIAB is worthy and deserves our support. It is a model for what might be done to reduce the cost of court cases in many ways but it is being undermined constantly, and we have a serious concern in this regard. For example, two new directors are to be appointed by the Minister, one of whom will be a lawyer with experience in personal injury claims, but there is no specific representative for policyholders on the board. It looks to us a little like throwing a fox into a chicken coop. That is an issue from our point of view.

Regarding engagement with the insurance companies, as the Deputy pointed out, we were involved in this very issue in 2002 and 2003 and engaged significantly with them at that time. It really got nowhere and I was not surprised. Their job is to protect the interests of their members, and part of which is their profits. We do not expect them to vote for Christmas. It is down to the members as policymakers to implement the change that needs to be made because it will not be implemented by either the insurance industry or the legal profession.

Regarding IPB and its use, it sounds like a very worthy issue. It will be a long-term issue, but we are looking for immediate actions which will address this situation.

On the cancelling of events, I will defer to Mr. Colm Croffy from AOIFE to give a little insight into events being cancelled.

Mr. Colm Croffy: Approximately 75 festivals and community events have collapsed in the past 36 to 48 months. We do a national advice tour in the Twenty-six Counties. We have 22 counties done since January and we met more than 180 festival and community event organisers. Invariably, in the top three issues they bring up with us is what we are doing about insurance and what they can do as community organisers and community event organisers to reduce these increasing burdens. This is why we are involved with the alliance.

Senator Kieran O'Donnell asked whether we are at crisis point. We are at crisis point from two points of view: first, the industry is fashioned the way it is. However, in the community and voluntary sector - Mr. Tom Ryan mentioned this - it is increasingly difficult to find volunteers to come into the space, animate committees, take responsibility for the regulatory framework that is in place and then go raise the money when almost a third to 40% of what is brought in from the hospitality industry, sponsorship, fund-raising and ticket sales on the gate is handed over for a premium that is of no value to us in one sense. Communities are caught in a bind because they cannot even be a member of a local public participation network, PPN, or apply to a local authority for a small community assistance scheme unless they have evidence of insurance and adequate cover for the activities being undertaken. They are caught between the Devil and the deep blue sea, which is deeply frustrating. I have been involved in this sector for 27 years.

There are no lifers left in the festival event scene in this country. The Brendan Flynnns, Harry Hughes and Willie Clancy's of this world are as scarce as hen's teeth now given the level of difficulty forced on us by, in particular, this issue, and I wish it was not so. It is incumbent on policymakers to change the playing field; otherwise, we will have an island which will not be as animated or as vibrant as we tell the world it is.

Chairman: I call Senator Paddy Burke, who will be followed by Senator Horkan. We still have FBD to bring before the committee. I ask members to be conscious of this because we want to get them in on time.

Senator Paddy Burke: I will be brief. I welcome all the witnesses to the committee. My first question is for all the witnesses. They may not need to answer it directly, but they can reflect on it. Do they think everyone should have his or her own insurance? Most people who go on holidays go on multiple trips and have multi-trip insurance. Other people get insurance every time they go on holidays. I firmly believe everyone should have his or her own insurance policy. I do not know whether the State should help to pay for poor people in this regard but we should have a debate on this.

I wish Mr. Ryan the best of luck in his new job with the GAA. It seems that 11% of the GAA's overall take goes towards insurance. Mr. Ryan has an interesting model as to how to farm out some of that with some of the other costs borne by the GAA itself. Various companies have gone down this route, including Supermacs. Mr. Croffy referred specifically to the Twenty-six Counties. Is there a different insurance model in Northern Ireland?

Mr. Tom Ryan: No. Our insurance programme covers the Thirty-Two Counties. There is a slight difference in the injury benefit fund for players. Players in the Republic of Ireland and players in Northern Ireland avail of different health services. The benefits are slightly different in the Six Counties. The way in which that scheme is structured - and this is relevant to the Senator's first point about personal insurance - is such that we ask players, referees or mentors if they have their own personal private health insurance, to bear the first instance of any claim. The GAA's voluntary scheme will kick in after that and after whatever services are available to the particular player but those will vary depending on which jurisdiction he is in. It was in that context that I mentioned the Twenty-six Counties. The liability on the property programme extends throughout the island.

Senator Paddy Burke: Apart from the capital insurance claims because of the storm and one thing and another, are the other claims for people who were injured on GAA grounds?

Mr. Tom Ryan: There are two strands. We operate a benefit scheme for players which is entirely self-insured and there is no concept of a premium there. We collect levies from clubs and gate receipts and we use them to fund that programme annually. The 5% and 6% are constant year on year because we try to insulate the scheme from the vagaries of claims in any particular year. We try to build up a fund to use in the event of an adverse year. Typically, the property claims are weather-related, and, typically and unfortunately, the liability claims are not related to injuries on the playing field but to events happening in the club, perhaps in the fundraising context. We also find increasingly, as the cost of maintaining facilities increases, clubs have to have recourse to hiring out their facilities, making them available for parties, 21st birthdays and so on. Those kind of events give rise to the slips, trips and falls claims which we are finding an increasing financial burden.

Senator Paddy Burke: Are these claims for people falling or getting injured bigger than

those for injuries on the playing field?

Mr. Tom Ryan: They are, yes.

Senator Paddy Burke: Is there a difference in the claims for hurlers or footballers?

Mr. Tom Ryan: There is, and the Senator will have to forgive me because I cannot give the statistics off the top of my head, but I do know that, contrary to what we might think, football claims outweigh hurling claims. That might well be to do with the geographic spread or the number playing that code but, in absolute terms, more claims arise from football injuries than from hurling.

Senator Paddy Burke: Football has become more physical than hurling over the past few years. Is there pressure on the GAA to change the physicality in the games because of insurance costs?

Mr. Tom Ryan: Not really, to be honest. We see approximately 6,000 injury claims over the course of the year and that number has been relatively constant over the past five or six years.

Senator Paddy Burke: Some communities have developed football fields and the GAA uses them for hurling or football on different occasions, whether for training or playing games. GAA players are not covered if they play on those fields. Did I understand correctly from Mr. Ryan's earlier comments?

Mr. Tom Ryan: No, I certainly did not mean to convey that impression. The property is covered under the GAA's insurance programme and anything done on that property which is in accordance with our liability programme is also covered. If people who are not members of the association are coming in to use association property, we will ask them to provide an indemnity to us or provide evidence of their own insurance cover if it is an organised third party group.

Senator Paddy Burke: If the GAA activity is taking place in a community games facility that is not vested in the GAA, it is not covered. Is that right?

Mr. Tom Ryan: That is right. That is not our property and that is not covered under our property scheme.

Senator Paddy Burke: There are places where people facilitate the GAA by allowing it to train on their facilities, so they are not covered.

Mr. Tom Ryan: It is the corollary of the little situation I mentioned where we facilitate people coming onto our property and ask them to indemnify us. Typically, if we use facilities owned by somebody else, the property owner will ask us to provide an indemnity to it and we do that so they will be covered.

Senator Paddy Burke: In respect of marts, it would seem the owners or managers have done everything to facilitate the insurance companies reducing the risk. Is there anything further they can do?

Ms Eimear McGuinness: Not a thing. I feel after talking to many mart managers over the past year or two, but especially in recent weeks as I knew I was coming here, about their claims, many that were falsified were like an open book on what is happening in marts. Why are these claims suddenly a big issue in the past three or four years? The number seems to be growing. It is an easy way to get money. In the case of one of our claims, which I will not go into in detail,

the gentleman had claimed off two other companies within the past ten years. That was not justified. It was never examined. He was just offered a settlement. There were no breakages; he had a sore toe.

Senator Paddy Burke: Is there anything we can do as legislators to amend the law to address instances like that?

Ms Eimear McGuinness: The amount paid out for many of these claims is drastic. That man had a sore toe. A solicitor was not even involved in that case. The insurance company approached him and that came into us. Approximately €13,000 was paid out. I do not know who got that money or how much of it the man got. That is a major issue.

To fix it we need to consider what is being paid out because we are probably not going to stop people coming into marts and being hit by gates or getting a kick from their own cattle. They have probably recovered within a week but I do not know what the claim is for. That should be addressed. The nature and extent of the injuries should be considered and what they get for those.

Senator Gerry Horkan: I thank all the witnesses for attending. The discussion is quite enlightening. We all know insurance has long been a problem. I recall during an election campaign in 1997 motor insurance for young people was a major issue.

Mr. Boland referred to the book of quantum being revised. Is it fair to say that the book of quantum is just the historical, statistical analysis of what has happened? If so, I do not know how it can be redrafted. Can he tease out his point on that?

He made a point about the Garda insurance fraud unit, saying the Minister tells us there is not enough support in the House for this. Did he give any evidence for this, or any suggestion as to why? I commend all the witnesses but particularly the Alliance for Insurance Reform because it covers not only community bodies, which we are talking about today, but also the Vintner's Federation of Ireland, VFI, and the Licensed Vintners Association, LVA, which is my nominating body, the Construction Industry Federation, CIF, RGDATA and the restaurant associations. There are businesses all over the country.

I was speaking to an insurance broker last week and he was more on the side of the client than of the insurance companies. He deals with a business of significant size that is wondering if it needs to close because insurance costs have increased so much that it cannot afford to exist if it continues to have to pay out this dead money. I have certainly heard that after people have made a claim for a trip or fall, two years later the CCTV in the premises is gone and half of the staff has changed. The same people are not in the building for two years. That happens a lot in the hospitality industry.

Will Mr. Boland touch on the Garda insurance fraud issue and why the Minister said that? The VFI and the LVA, which are alliance members, were before the committee a year ago to discuss, in particular, public liability in pubs. We are hearing all that we heard from them again. It is shocking, particularly in respect of the settling of claims, and their members not even being told they are being settled. They are being settled because the insurer discovers a different judge is sitting and pays out a bit more because that judge is more generous than another one. I know the witnesses cannot provide solutions for everything but they have highlighted some of them. Is there anything else they want to say to us? What percentage of claims do they think are spurious or vexatious? Ms McGuinness touched on that in referring to the mart. Could that

apply equally to festivals? Is there an industry in this? A total of 8% of motor insurance claims relate to material damage. Some are entitled to it but what percentage of the claims does Mr. Boland think are vexatious or spurious and not justified across all sectors?

Mr. Peter Boland: I will take the Senator's questions in order. I will not go into the details of the book of quantum. It is a matter of public record that awards in Ireland, particularly for minor injuries, are far in excess of awards in other jurisdictions. I am sure the GAA, with its cross-Border presence, has an insight into that. The Senator asked how it can be reset. He is absolutely right when he says that as it stands, awards are based on precedent. The Court of Appeal has set a cap of €450,000 on catastrophic awards. It has introduced the principles of proportionality and, more importantly, common sense to the calculation of awards below that level. We would argue that the basis of a framework is already there. There is a process for looking at that, particularly through the Personal Injuries Commission. We have a feeling that the commission has been shunted off towards whiplash injuries and is focusing on such injuries. We believe it should have a much broader remit in looking at awards as a whole. As another part of the current process, the working group is looking at the constitutionality of applying individual caps down the way. That is a long way down the road as we work through the various stages. We are in favour of the broadening of the remit of the Personal Injuries Commission. Its second and third reports will come out in July. We would like its work to be extended to areas beyond whiplash.

The Senator is correct when he says we were told by the Minister that there is insufficient support in the House for the Garda fraud investigation unit. We do not know what the background to that is. I suggest that the Senator should talk directly to the Minister about that.

Senator Gerry Horkan: We might ask him that question directly on Tuesday when he is in.

Mr. Peter Boland: Okay. We have had discussions with the Garda Síochána and the Department of Justice and Equality. Our understanding is that the unit could be established without any legislation. We understand that the facilities and resources are available to get it up and running almost immediately. We would be in favour of that. The UK model on which the new unit would be based is the similar unit within the City of London police. That unit is funded by the insurance industry, which is what is proposed here. Our understanding is that it seems there are no obstacles to setting this up.

The Senator asked what percentage of claims might be fraudulent, exaggerated or misleading. A solicitor from Limerick suggested in an article in the *Limerick Leader* in January that the relevant percentage is 8%. That would be in line with the experience in Europe, where a figure of between 8% and 10% is normally given for claims that are fraudulent or - more substantially - exaggerated or misleading. Mr. Sinclair has an insight into this matter.

Mr. Alex Sinclair: The exaggerated sense of many claims is of concern. We went through a period when whiplash was the standard claim that went through the courts. One was pretty much guaranteed a handsome reward if one was unfortunate enough to suffer whiplash injuries. A claim being made by a person with a sore toe now typically includes claims for loss of sleep, depression, anxiety, issues with hearing, taste, smell and vision and headaches. None of those complaints is quantifiable, but all of them are being included when a claim is being made for what might be no more than a sore toe. That is a major issue now.

Senator Gerry Horkan: How would these claims arise in the case of Mr. Sinclair's indus-

try? Are they being made by people who were participating in races or by people who were standing at the side of the course when they fell into a ditch or something?

Mr. Alex Sinclair: Claims are made in all of those circumstances. These things are not predictable in any real sense. We have a Road Traffic Act insurance policy which covers all of our members because we want to make sure everybody has the correct insurance. Without naming names or venues, we recently received a claim relating to a collision in the centre of a small town between a rally car and a road vehicle driven by a member of the public. A car pulled out in front of our member. The indicator on the car in question was not working. To cut a long story short, the damage to the third party vehicle was estimated at €700 and that was the claim. Now, from nowhere, we have received a claim for personal injuries to a mother and three children.

Senator Gerry Horkan: How much is that claim?

Mr. Alex Sinclair: We do not know. There is no assessment on it.

Senator Gerry Horkan: Okay. Do any of the other witnesses want to share their perception of the extent to which claims are fraudulently being made in respect of trips and slips? People can trip when a piece of carpet is in the wrong location or a step has been damaged. Could we get an indication of the percentage of the claims being dealt with in GAA venues or in marts that fall into this category?

Mr. Tom Ryan: I genuinely cannot say. I would only be speculating. That would probably be of limited value.

Senator Gerry Horkan: Does the GAA analyse each claim that is made to determine whether it was completely its fault?

Mr. Tom Ryan: I do not doubt that there are claims which are our fault. We have a responsibility to our members and to the public to operate safe facilities. If it is our fault, we have an obligation to compensate people for our shortcomings and that is what we do. As Mr. Sinclair has mentioned, exaggeration or embellishment might well be a feature. To be fair, I would be speculating if I were to put a percentage on that. The volume of cases or claims has increased significantly in recent years. In previous years, there was an ethos or attitude that people did not really sue the GAA. It was not a feature. We might have been a bit naive or complacent, but we are now finding that this attitude does not really prevail anywhere. I hope committee members and others will have noticed that we are trying to broaden our commitment to local communities outside hurling and football, for example by encouraging walking groups and others to use our facilities. When people who are not a core part of the GAA as an organisation suffer something adverse, they might be more disposed towards taking a claim than our own members might have been.

Senator Gerry Horkan: I assume Mr. Ryan is talking about the use of GAA facilities for activities like zumba, slimming classes, 21st birthday parties and residents' meetings. Is it the case that the GAA is sometimes not indemnified in such circumstances?

Mr. Tom Ryan: That is not the point I am making. I am saying that when something happens to someone who is a member of a GAA club, he or she might think twice before making a claim against that club. Perhaps a visitor to a GAA club might be more predisposed towards-----

Senator Gerry Horkan: Mr. Ryan said earlier that people using GAA halls would often

need to have their own indemnity.

Mr. Tom Ryan: Yes, if they are involved in something that is happening on an organised basis. If an organisation is coming in-----

Senator Gerry Horkan: If someone at a 21st birthday party slips on the stairs-----

Mr. Tom Ryan: That is ours.

Senator Gerry Horkan: Is the GAA getting more of those cases?

Mr. Tom Ryan: If a small local community group wants to use a meeting hall in a GAA club, we are there to facilitate all of those people and we are not overly onerous in terms of insurance.

Senator Gerry Horkan: My final question relates to residents' associations. I do not know if anybody here covers that kind of thing. I have heard about scenarios in which the residents' association of a local housing estate where 300 people are living decides to have a summer barbecue on a big green space within the estate, but is asked to stump up €1,500 for insurance. I do not know whether Mr. Croffy's organisation covers such events. This kind of stuff is probably below his level. I am talking about an event at which two or three people bring out their barbecues from their back gardens on a Saturday or Sunday afternoon to cook a few sausages. They are sometimes asked to cough up €1,500 for the privilege of being careful.

Mr. Colm Croffy: One of the phenomena associated with the recent growth of new conurbations or villages of 400 to 600 houses is the desire of residents to come together to have barbecues or family fun days. I know of cases in which the local authorities that are in charge of these open spaces have asked residents for indemnities of between €3.5 million and €6.5 million, which equates to between €1,500 and €2,800 for a two-day event, or even an event at which people bring out a couple of barbecues and a few deckchairs from their own houses. There might be a small stage, a public address system and a bit of bunting. Such costs are discouraging people from congregating and organising events in a civic-minded manner.

Senator Gerry Horkan: To conclude, I thank the witnesses for the effort they are putting in and if they have any questions they want us to put to the Minister in public session on Tuesday we would be happy to do it. I thank all the witnesses for their contribution to Irish society generally, particularly the GAA but all of the witnesses in their different ways.

Chairman: We will now ask FBD to come into the meeting so we will suspend for a few moments. The witnesses are welcome to stay in the Public Gallery if they wish to hear the next part of the meeting. I thank each and every one of the witnesses for coming before us today. Their stories are similar to ones we have heard before and I am particularly thankful to them for being so direct. It is an issue that needs to be overhauled and dealt with immediately and there has been far too much lip service given to the work that needs to be done. This committee intends to revisit this as part of its agenda. We have the responsible Minister before us on 29 May and all of this will be put to him. Then it will be up to each and every member and political party to pursue the matter through the House because it is having a grave effect on every single one of us in society, in business and in the voluntary sector. I thank the witnesses for putting their case.

Sitting suspended at 12.21 p.m. and resumed at 12.26 p.m.

Chairman: We are now back in public session. We are dealing with insurance costs for community groups. I welcome Mr. Jackie McMahon and Mr. John Cahalan to the meeting. I advise the witnesses that by virtue of section 17(2)(1) of the Defamation Act 2009, witnesses are protected by absolute privilege in respect of their evidence to the joint committee. If, however, they are directed by it to cease giving evidence on a particular matter and continue to do so, they are entitled thereafter only to qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against any person or an entity by name or in such a way as to make him, her or it identifiable.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the House, or any official by name or in such a way as to make him or her identifiable.

I call Mr. McMahon to make his opening statement.

Mr. Jackie McMahon: I thank the committee for inviting us in to discuss insurance within the community. This is something that is very close to our heart in FBD. We submitted a presentation and I would like to bring the committee through the first slide of that presentation. From a distribution point of view, FBD is very much in the heart of every community. We have a business model that supports that and we have 34 branches spread right across the island of Ireland. We have grown our branch network. We have gone from 32 to 34 so we see the branch network as a key differentiator in FBD to support our communities and that is different to our competitors' view of their business model. That is the first thing.

Second, in terms of a product perspective, we have protection products that are there to meet our customers' requirements. Thankfully we have 500,000 customers and we feel that we have very good products that meet their requirements locally, within the communities. Our people that staff the branch network are living in the community so they are very aware of what the issues are locally within the community and we think that is a great strength. Our good people in our branch network and our actual distribution reach puts us apart as being in the community and offering good products to our customer base. We support many initiatives right across the country within FBD, like the Ploughing Championships, the Tullamore show, the Young Farmer of the Year, Bloom in the Phoenix Park and also local shows with Charleville and shows in County Cavan, for example. Supporting local communities through our branch network by staff who are embedded in the community is hugely important to us.

From a risk management perspective, we offer more than just protections, solutions and products. We want to listen to our customers and work with them locally to come up with solutions that meet their requirements and by that I mean having good risk management practices so that we can ultimately reduce the frequency of claims within businesses and correspondingly reduce the level of premiums that we charge. FBD is the only Irish indigenous insurer and it is very important for us as the executive team that we support businesses locally. As a business we feel we are set up to do that.

Senator Gerry Horkan took the Chair.

Mr. John Cahalan: I thank the Chairman and members of the joint committee. In my experience the relationship is straightforward. Accidents cause injuries and injuries, real or imagined, cause claims. The cost of insurance is determined by the number of accidents and the cost

of the accidents. The cost of an accident has two key components, the cost of the compensation payment - that is how much we settle for - and the cost it takes us to agree that settlement. If we want to reduce the price of insurance, we need to simply reduce the number of accidents, reduce the cost of the compensation payout and reduce the cost of getting to that compensation or payment decision. There is a role for the customer, for the insurer and the State. The role of the customer is to run a tight ship, so that he or she is health and safety conscious, understands his or her risks and manages those risks. We as the insurer play a very important part in terms of giving the right cover, making sure that we provide the protection that they need. We need to price it because we need to pay for the claims, but we also provide a great support in terms of helping them to survey their enterprise, understand their risks and put steps in place to mitigate to those risks. The third component is the role of the State. There is a role for the leadership of the joint committee to address the chronic and costly deficiencies that are inherent in the present system.

From FBD's perspective we fully support the endeavours of the working groups that are considering insurance matters. We have thrashed through quite a lot in the years 2016 to 2018. What we have highlighted in the slide on the screen is a summary of all of the important recommendations. I will identify two or three of the areas that we see as very significant in terms of that endeavour. The first is the need to strengthen the Personal Injuries Assessment Board, PIAB. We need to tackle what I would consider the really widespread non-co-operation and gaming of the Personal Injuries Assessment Board process. I am referring to solicitors who do not provide sufficient detail, wait for an award, reject it so that it is released so that they can then issue court proceedings and essentially turn on their money machine. We also need a much more efficient process before litigation and during litigation. In the legal system, delays are everywhere and those inefficiencies cost the insurance company money. It is in the interest of the legal profession to have those delays. In my view, they profit from the procrastination. The legal system needs fundamental reform. We welcome the review by the President of the High Court, Mr. Justice Peter Kelly which I think needs to be radical and rapid.

In regard to the Personal Injuries Commission, we simply put too high a value on injuries in this country, in particular I am referring to soft tissue injuries. We know that in Ireland we pay about three times more for soft tissue injuries than they do in the United Kingdom. We know that in France, the system does not pay on soft tissue injuries unless it appears on a scan. I can guarantee that the vast majority of soft tissue injuries in Ireland would not appear on a scan. A minor ankle injury cost up to €54,700 in Ireland compared to €12,554 in the United Kingdom. We need to have internationally benchmarked awards and a consistent and objective approach to the assessment of injury.

We need to improve data sharing. In the fight against fraud, we need to share much more data and make the sharing more timely. We need to make it easy for insurance companies to access and interrogate the data.

There is a lot the customer can do that the insurance company can do and I believe the leaders in Government can do a great deal. I ask the Chairman that the joint committee stay the course and drive home the reforms in a meaningful way. The choice is straightforward and clear. We can have high-cost insurance because of high-cost claims or we can have low priced insurance but low cost of claims. We cannot have low priced insurance and a high claims cost.

I thank the Chairman.

Vice Chairman: I thank Mr. McMahon and Mr. Cahalan from FBD for their presentations.

I now invite Senator O'Donnell to put his questions.

Senator Kieran O'Donnell: I thank Mr. McMahon and Mr. Cahalan for their presentations. We have been dealing with insurance all day.

We have been considering the insurance industry for years. Premiums appear to be continuing to rise and the cost increasing. An issue that arose in the course of earlier contributions is the process by which claims are settled. There is a perception that the insurance companies are not going to court to fight cases but are settling them outside court. In the event of an accident, a person takes an action against a policyholder, but the perception is that in most cases the insurance company will settle rather than fight the case in court. Will the witnesses elaborate on whether that is a myth or the reality? What percentage of claims are settled outside court and what percentage are settled in court?

Mr. John Cahalan: FBD has a long and proud history of paying claims. We are in the business of being there for our customers when things go wrong. We are the company that provides the backstop for them. Our motto in FBD is to be fair to the customer and fair to FBD. What we try to do is a very thorough assessment of each claim. We are looking for the following: are they on cover; are we liable and what is the quantum? If we can answer that they are on cover, that FBD is liable and we can agree a quantum, it is in our interest and the interest of the insured party and the customer's interest to settle the claim as fast as possible for a fair price. If that is not the case, we fight the case through a lengthy litigation process. Part of the difficulty, as I have mentioned in my presentation, is the length of time it takes to go through that process and how much it costs.

Senator Kieran O'Donnell: Will Mr. Cahalan give the committee an outline of the process? We have had a general discussion but we never get into the detail of the process.

Mr. John Cahalan: Of everything that we pay out in claims, about 40% of the total is spent on legal costs.

Senator Kieran O'Donnell: Let me give an example. If FBD is paying out €20,000 on a claim, how much of that will go on legal fees?

Mr. John Cahalan: At this level of claim, the case would be heard in the Circuit Court. There are many cases in the Circuit Court where the cost to the insurance company-----

Senator Kieran O'Donnell: What is the limit of the District Court? When a case goes from the District Court to the Circuit Court what is the limit?

Mr. John Cahalan: The Circuit Court deal with cases from €30,000 to €68,000.

There are many examples of cases in the Circuit Court where FBD's costs are the same as the compensation payment.

Senator Kieran O'Donnell: Where a judge rules that a case is awarded €25,000.

Mr. John Cahalan: We would be paying another €25,000 in costs. It will be 100%. We have cases where we are paying out 70% in costs in cases that go into litigation. In the case of a very large payout, the percentage may be lower.

Senator Kieran O'Donnell: Where would that case be heard?

Mr. John Cahalan: It could go to the High Court.

Senator Kieran O'Donnell: When a payment of €100,000 is made to the claimant, it would mean that FBD would be paying €70,000 in legal fees on top. Is that correct?

Mr. John Cahalan: Yes.

Senator Kieran O'Donnell: Does FBD take a pragmatic decision that it would be better to settle with the claimant? Is this done on the basis that it will cut down the cost of legal fees?

Mr. John Cahalan: There are two parts; we are essentially making economic decisions on the likelihood of the insurance company being successful in the trial and the weight of the evidence we have. There are many cases that we would like to fight in court right to a judgment but it would be foolhardy because of our system. We see this in situations where there is relatively no damage to a vehicle but four people who are all suffering from soft-tissue injury are saying they are in pain. It is very difficult for us to defend that because if the accident has happened and if liability is not in question it is down to the question of how much pain they are feeling. What we need to do in that instance, to have any chance of winning, is to be able to attack the credibility of the claimant, which is extremely difficult. In those cases, it is foolhardy to bring the case. The costs will increase quite significantly for us. The payout will be the payout. We fight many cases and in those cases two things generally happen. One is the defendant will actually withdraw it on the steps of the court. Interestingly, the negotiations on the steps of the court, when the case is being withdrawn, are all about the solicitors' fees.

Deputy John McGuinness resumed the Chair.

Senator Kieran O'Donnell: Will Mr. Cahalan explain his last point that it is all about solicitors' fees?

Mr. John Cahalan: The negotiations at that stage are about not paying anything to the compensation payment and the solicitors want their fees covered if they withdraw the claim.

Senator Kieran O'Donnell: When Mr. Cahalan is on the steps of the court, he makes an offer and the solicitor says he or she accepts it so long as his or her fees are paid, which are 50% of the claim.

Mr. John Cahalan: Not quite. We will say we are not paying anything and that we are taking it to court and the solicitor will try to negotiate fees from us.

Senator Kieran O'Donnell: They will negotiate more on their legal fees than on the compensation payment.

Mr. John Cahalan: At that stage they are going to withdraw it.

Senator Kieran O'Donnell: Ultimately they are only agreeing to withdraw it on the basis that their legal fees will be paid.

Mr. John Cahalan: In certain instances, that is correct.

Senator Kieran O'Donnell: Does FBD operate in any other jurisdiction besides the Republic of Ireland?

Mr. John Cahalan: No, just the Republic.

Senator Kieran O'Donnell: Does it have any sister organisations or bodies which would allow it to compare a claim in Ireland with one in France, Italy or the UK, and look at an absolute carbon copy of an accident and how the system deals with it and how much the payment is? Has FBD been able to look at that level of detail?

Mr. John Cahalan: We have engaged in stories. We have had a lot of conversations with our reinsurers around it. Nobody would say our payouts are not extremely high in this country. The fundamental point is how that drives the price of insurance.

Mr. Jackie McMahon: Insurance Ireland, as the spokesperson for the insurance industry in Ireland, has given good examples. The one I am familiar with is whiplash. A lot of people-----

Senator Kieran O'Donnell: I have spoken to solicitors involved in personal injury cases. They tell me the awards in court have gone down, not up. If the awards have gone down in court, why are the insurance premiums not coming down?

Mr. Jackie McMahon: What we can do is speak on behalf of FBD. If one looks at our business in the accident year 2017, one notes we made a margin overall of 7%. That is our margin. I find it hard to reconcile that with that statement. We know for a fact that the cost of claims have increased over the last-----

Senator Kieran O'Donnell: I am talking about the individual claims. I have sat down and gone through it with solicitors because I want to understand it. They are telling me the amounts that have been awarded in court for things like whiplash have gone down.

Mr. Jackie McMahon: That is certainly not what we are seeing in our business.

Senator Kieran O'Donnell: At all.

Mr. Jackie McMahon: No.

Senator Kieran O'Donnell: So the amounts have gone up.

Mr. Jackie McMahon: I have a view that the amounts are stabilising but they certainly have not gone down.

Senator Kieran O'Donnell: What about the legal fees?

Mr. John Cahalan: Legal fees have gone up significantly in the more recent past.

Senator Kieran O'Donnell: Is that not per individual case?

Mr. John Cahalan: I will take for example-----

Senator Kieran O'Donnell: When Mr. Cahalan says legal fees have gone up, what does he mean by that?

Mr. John Cahalan: For example, in the High Court, in terms of the taxing system for-----

Senator Kieran O'Donnell: The Taxing Master.

Mr. John Cahalan: There was a backlog and the office of the Taxing Master has been re-staffed. There was an appeal decision that was recently clarified and since that has happened, the awards for our plaintiff costs have increased by 15%.

Senator Kieran O'Donnell: Was that a case taken by a barrister or solicitor for their legal fees to the Taxing Master?

Mr. John Cahalan: It was on what information the solicitor needs to provide in terms of billing, so billable hours as opposed to-----

Senator Kieran O'Donnell: Did the insurance company go to the Taxing Master?

Mr. John Cahalan: We go to the Taxing Master regularly when we cannot agree an invoice.

Senator Kieran O'Donnell: Was the outcome of that case to set a benchmark where legal fees have gone up?

Mr. John Cahalan: The original decision was that fees had to be accompanied by information supporting the work that was done on the case.

Senator Kieran O'Donnell: What is the position now?

Mr. John Cahalan: That was appealed and is no longer required.

Senator Kieran O'Donnell: If there is a solicitor acting on behalf of someone who is taking a case against an insurance company, what details is such a solicitor required to provide to the insurance company?

Mr. John Cahalan: The solicitor will present us with a bill. We will argue that bill. We will go through it line by line if it is done line by line. If we cannot agree the bill, we put it to the Taxing Master, who adjudicates on how much the bill is worth. Since the appeal of that case, our plaintiff costs have increased by 15%.

Senator Kieran O'Donnell: Why have they gone up by 15%? I am fed up of all this discussion. No one is actually telling us what is the real position. We have been around this. FBD is a good company and great employer. We had a wide spectrum of people in this morning. I know from dealing with it myself that insurance costs are only going one way. We have solicitors and barristers telling us awards have come down. Mr. Cahalan is telling us awards have gone up. Ordinary people are saying their insurance costs have gone up. We had an array of business people in this morning from the marts, the GAA, the motor industry and voluntary bodies. Every single one of them has seen a 20% increase in their premiums in the past 12 months. FBD has taken over in respect of the men's sheds and I hope something can be worked out there. Someone is not telling the truth on this. At the end of the day, we cannot have three or four different stories. The only result is the insurance premiums are going up. We are being told by representative bodies that insurance companies are trying to get a protocol that was in place back in 2003, to which IBEC agreed. That is 15 years old. As we have had no blue book since 2016, we do not know what the results are in terms of the relative costs. We have no protocol in place because there is a fight between the insurance industry and the Department of Finance as to what is agreed. The Garda fraud unit is not up and running. The insurance industry is looking for a revised book of quantum. My worry is we have less data available to us than we had previously yet we are looking for ways of reform. Mr. Cahalan and Mr. McMahon have a job to do for FBD. The problem is I am no wiser than I was two or three years ago. I am not a stupid man but I am no wiser. What is going on?

Mr. Jackie McMahon: The Senator referred to the marts. There are 77 marts in Ireland. We insure 52 of them. We have a good handle on them. The reality at the moment is that every

€1 we underwrite on the marts costs us €1.30. We are losing money on marts.

Senator Kieran O'Donnell: Why?

Mr. Jackie McMahon: It is because the cost and frequency of claims have gone up. The marts are fundamentally important to us as a farm insurer. This is where our customers trade. In FBD we want to work with our customers, the mart owners, to put in good risk management practices. The Irish Co-Operative Organisation Society, ICOS, the mart owners and the HSA have put in a voluntary code of practice to try to improve work practices.

Senator Kieran O'Donnell: That is fine. Does FBD publish data to show the number of claims in any one year has gone up? Mr. McMahon is basing that on the number of claims going up. The marts told us that average rates have gone up by about 20% in the past year. If the number of claims has increased would FBD be willing to publish that level of data, to show that the claims and legal fees FBD is incurring have increased and would substantiate that increase in premium? The view among the public is that is not the case.

Mr. John Cahalan: Just follow the money on this one. In accident year 2017, FBD made a margin of 7%. In the past four years, we had two years in which we made a loss. There are published audited accounts. FBD is not making the money. Where is the money going? It is going to the claimant and to the people who get the fees in getting it to a stage where a decision is made.

Senator Kieran O'Donnell: I presume the company's year end is a December year end. Can Mr. Cahalan provide the figures for the level of claims FBD paid out in 2017, 2016 and 2015 and the make-up of that in respect of paying the claimant and paying the legal fees?

Mr. John Cahalan: To the-----

Senator Kieran O'Donnell: The company is saying that its premiums are going up because the levels of claims and legal fees are increasing every year. A 7% margin is low. Obviously, if the volumes are very high, turnover is high. Mr. Cahalan said the company made a loss in 2015 and 2016. It made a 7% profit in 2017. He said we should follow the money. I am asking him to show me the money. I wish to see the make-up of total claims and I want it broken down between legal fees and claims paid. That would give us something tangible that would link in to what Mr. Cahalan is saying.

Mr. John Cahalan: They are all in our published accounts - the amount of revenue we take in, the amount of claims we pay and the breakdown between the compensation-----

Senator Kieran O'Donnell: With due respect, the witnesses are here because we do not physically have time to go through a pile of reports.

Mr. John Cahalan: I am just saying-----

Senator Kieran O'Donnell: I would love to have time to pore over FBD's published accounts for the last three or four years but I do not have that kind of time. I am asking this on behalf of the committee. I am trying to drill down into this. Everybody says the claims and legal fees are going up. By how much are they going up?

Mr. Jackie McMahon: I tried to give the Senator the example of the marts. Currently, the marts are loss-making for us. However, the marts are places where our customers transact and despite the fact that they are loss-making, FBD is willing to write those risks. We can only

speaking for FBD. We are not here to speak for the wider insurance markets but specifically for FBD.

Senator Kieran O'Donnell: However, there is a lack of transparency about it. If it were the case that the levels of claims and legal fees had gone up significantly, I would be able to say, "that is the case". The problem is that no matter what information we seek, it is never forthcoming. Various groups appear before the committee. My sugar levels are low today and I am calling it as I see it. When people appear before the committee they just hold the line for the hour or two of the meeting and we are none the wiser. There is an onus on the insurance industry to show us the money. FBD is a great employer. My car insurance is from FBD and it is a good, reputable company to deal with. It is Irish and nationwide. However, there is a perennial issue with the industry. If the insurance industry came forward and gave us the hard data, that would be that. The problem is that the insurance industry is not giving us the hard data. If anything, it is fighting it every inch of the way, so we cannot get down to the facts. Can the witnesses give me any indication in terms of figures?

Chairman: Senator Paddy Burke wishes to speak. Perhaps the witnesses will comment on that before I call on Senator Burke.

Mr. John Cahalan: We support that. We are open to transparency. My point was that we publish the figures and we are open to sharing that information. As I said, we are a very efficient company. Our expense ratio is one of the lowest in the market. Our margin is low, yet premiums are high. The premiums are high because the compensation payments and the cost of getting to a settlement are very high.

Senator Kieran O'Donnell: The company's legal fees have gone up by 15%.

Mr. John Cahalan: Yes, in the High Court.

Senator Kieran O'Donnell: By how much have the claims increased?

Mr. John Cahalan: On our claims at present as a percentage, or our loss ratio, we are writing to 78% on a loss ratio basis.

Senator Kieran O'Donnell: What does that mean?

Mr. John Cahalan: It means 78 cent in every euro is to do with claims.

Senator Kieran O'Donnell: At present.

Mr. John Cahalan: Yes.

Senator Kieran O'Donnell: What would that have been in previous years?

Mr. John Cahalan: It has been 92 cent and 93 cent.

Senator Kieran O'Donnell: That means to cover overheads and margin the company is working off a 22% base.

Mr. John Cahalan: We were loss-making.

Senator Kieran O'Donnell: Only 22 cent of every euro of every premium is available to cover overheads and to make a margin.

Mr. John Cahalan: That is correct. Our overhead would be 23%. That is our expense ratio.

Senator Kieran O'Donnell: Okay.

Senator Paddy Burke: I welcome the witnesses. People from the marts who appeared before the committee and a letter from another mart stated that they have had no claims but their premiums have gone way up. Why would the premiums of the ones that have had no claims have gone up so much compared with the ones that have had claims and whose premiums have also gone up?

Mr. Jackie McMahon: We look at the mart as a bucket of risks. We insure 52 of the 77 marts. The core principle of insurance is that the premiums of many pay for the claims of the few. Unfortunately, as a business we are losing money in marts. Everybody has to carry a rate increase to pay for some marts that have a very poor claims history. That is what we are funding.

Senator Paddy Burke: I welcome some of the comments in the opening statement. Some of what was said is new to the committee. Chairman, we should ask the witnesses to make a submission to the committee, which we can forward to the Minister, on the different ratio of claims in France, England and Ireland. It is interesting that in France there is no claim unless there is a tissue scar or the like. Is that the case?

Mr. John Cahalan: In the case of a soft tissue injury, unless it appears on a scan they do not-----

Senator Paddy Burke: I would welcome if the witnesses would make a submission to us which perhaps we could forward to the Minister.

Chairman: The witnesses are always welcome to send in an overview they might have relative to other countries. We would welcome that submission as it helps to inform us.

Senator Paddy Burke: Almost everybody concerned, ranging from road hauliers to legal personnel, has appeared before this committee. Nobody seems to accept responsibility as to who is the cause of insurance claims going up. The witnesses have put it quite firmly in the court of the legal people, saying they are the biggest factor in the cost of claims rising. They said that the legal people get exactly or almost the same as whatever the claimant gets. When the company receives a claim, whether it is an ankle injury, a soft tissue injury or whatever, who determines what the level of claim is in Ireland? Is it the blue book or the book of quantum? What does the company use? We have been increasingly frustrated with all the insurance companies settling claims rather than letting them go to court. We heard people from the marts and other people who have appeared before the committee say that they would love to have gone to court to fight the case but the insurance companies settled. They settle regardless of what type of injury is involved and because so much is allowed for an ankle, leg or soft tissue injury. Who decides what the level will be?

Mr. John Cahalan: The book of quantum is a very good guide but ultimately the price is set by the court system. We are weighing-----

Senator Paddy Burke: If it does not go to court who settles? What does the company settle for or how does it settle?

Mr. John Cahalan: We have many cases that are adjudicated by the Injuries Board, first,

and, second, by the courts. That sets the value. We are then looking at the question of whether liability is a question. There can be wide variance between our view of the value of that and the plaintiff's view of the value of it. Ultimately, if we cannot reach an agreement on it, the judge will decide. Another part of the problem was the underlying variability in taking cases to court. I have expressed the difficulty, particularly with soft tissue injury, in defending against it. If someone says they are injured, they are injured unless I can tell them they are not. We are not talking about anything that is evidentially based.

Senator Paddy Burke: Mr. Cahalan made great play earlier with regard to risk management and putting risk management in place between communities and marts. We have seen where the GAA and various other bodies have put risk management in place. Even though all this risk management has been put in place, however, the cost of insurance is going up even though risk management is working in a lot of places. We have seen from the GAA that there are more claims now outside the playing field than on it. I do not know the answer to it.

Mr. Jackie McMahon: I cannot comment on the GAA. We work closely with our customers to implement risk management practices that will over time lead to safer marts. This was a huge initiative. From an FBD perspective, this is one where we were very proactive in going to our customers to implement. Unfortunately, not all marts are where they should be from a risk management perspective. We are working very closely within the branch network to reach a standard that will help reduce the frequency of claims because that is in all our interests. It is in the interests of the mart and us. This is where our customers trade. We have a huge interest in driving a risk management agenda to reduce the frequency of claims.

Senator Paddy Burke: When FBD settles a case, is it not saying that the business was negligent? That is really what FBD is saying when it settles a case. In many cases the business would like to see the case go the whole way, but when FBD settles, it is saying that the business is negligent even though the marts and all those people have put risk management in place to reduce the risk. FBD is telling them that despite everything they have done, they are negligent.

Mr. Jackie McMahon: We look at each case individually. Each case must stand on its merits. One could have very good risk management practices but an individual case might show that something has gone on despite the risk management practices where the person is liable for that accident in the mart. We are trying to work hand in hand to eliminate the instances of that and are taking a very proactive approach in doing so.

Senator Gerry Horkan: I thank our witnesses for coming before us. It is quite helpful to have an actual industry player before us because usually it is Insurance Ireland that appears before us and it usually has to defer back and say it is just here as a representative body but is not on the ground doing the claims, so it is good that FBD is here. We heard a lot this morning from the community groups, especially the marts. I asked what percentage of claims they believed were spurious. Do the witnesses have a figure for what they believe are spurious or vexatious claims out of all the claims coming into FBD? Is there a difference between those at marts versus motor insurance versus public liability?

Mr. John Cahalan: Perhaps I will put it slightly differently. Once the claims made to FBD are investigated, about 40% of claims settle for nil. We do not pay on that number.

Senator Gerry Horkan: Of all the claims coming in, 40%-----

Chairman: Forty percent.

Mr. John Cahalan: Settle for nil. We will investigate them and they are either not on cover or not liable or they do not proceed to a full claim stage.

Senator Gerry Horkan: Does Mr. Cahalan have a breakdown between them? Sometimes an insurance policy says someone is covered for one thing and he or she is claiming for something else. Is there a breakdown of that 40% that might give us some information? Does some of it involve FBD discovering that a person who says he or she is very injured is on Facebook doing rock climbing or mixed martial arts?

Mr. John Cahalan: There is another question around pure fraud, the level of fraud, what we define as fraud and gross exaggeration, which I would certainly put into that.

Senator Gerry Horkan: There is a difference between something not being covered because the policy rules say one thing and blatant fraud. Does Mr. Cahalan have a figure for blatant fraud?

Mr. John Cahalan: Obviously, blatant fraud is hard because, unfortunately, we do not know about the stuff that gets through.

Senator Gerry Horkan: Of the 40%-----

Mr. John Cahalan: I would certainly say that in terms of what is being claimed against us, of the order of 20% of the claims would be fraudulent. We are probably capturing and catching half of that.

Senator Gerry Horkan: So FBD captures 20% and Mr. Cahalan reckons it does not get another 20%?

Mr. John Cahalan: I would say about 20% is fraud and about half of that, we would-----

Senator Gerry Horkan: I do not want to be overly mathematical about it but is it 10%?

Mr. John Cahalan: About 10% of what we pay is probably fraudulent in my view.

Senator Gerry Horkan: FBD is catching 20% and there is another 10% it is not getting. Does Mr. Cahalan think that half of the 40% of cases FBD rejects involve fraud?

Mr. John Cahalan: I used two different parts. Of all the claims we get in the first instance, 40% do not result in a compensation payment. That is largely to do with investigating it, whether liability is a question here and whether the claimant proceeds to a claim on it. Four out of ten cases fall into that bracket, which is very important to remember because it is very important for us and our customers to know that we investigate very thoroughly and we have very strict controls and systems around the investigation of claims. Many claims that come to us do not result in payment. That is very important.

Chairman: There is a cost to all of that as well.

Mr. John Cahalan: There is a cost to the investigation but my view is that a thorough investigation up front is well worth it because it allows us to make the correct decisions on liability in particular.

Senator Gerry Horkan: I am still trying to get a handle on that 40% because some of it involves technical rejections. Sometimes people realise they were not insured for water damage or some kind of act of God. Of that 40%, has Mr. Cahalan a breakdown as to how many of

those cases are rejected because FBD knows they are trying it on?

Mr. John Cahalan: I do not have the figure off the top of my head. Of all the claims that are submitted to us, I would say 20% of what is submitted is fraudulent and 10% slips through. That is why we need better information sharing, better police investigative powers and more resolve from the Director of Public Prosecutions, DPP, to press charges.

Senator Gerry Horkan: I will come on to some of that stuff. I am just trying to get my head around this 40%. If Mr. Cahalan is saying that 20% of the total is fraudulent, 10% of it is in the 60% and 10% of it is in the 40%. That is what I think he is saying. What is in the rest of the 30% that is rejected for other reasons if it is not fraud?

Mr. John Cahalan: They do not have cover, we are not liable or the claimant withdraws it.

Mr. Jackie McMahon: As a company, we are very focused on settling claims fairly and quickly because that is ultimately what customers want at the claim stage. There is a degree of time pressure to make sure that in the event of a motor accident, the customer is back on the road quickly so they can conduct their business. There are different variables within the process coming back to the customer that we try to do well in FBD.

Senator Gerry Horkan: In terms of motor insurance in FBD, what is the breakdown - the percentage payouts - in respect of personal injury versus material damage?

Mr. John Cahalan: We would-----

Chairman: I have to ask Senator Horkan to take the Chair because I am due at another meeting.

Senator Gerry Horkan: May I still ask questions from the Chair?

Chairman: Yes. I apologise for having to leave. We will be taking it up next Tuesday anyway.

Senator Gerry Horkan resumed the Chair.

Vice Chairman: I am multitasking. The Minister of State is to appear before us on Tuesday. The delegates have been working with him on the cost of insurance working group and so on. My question was on the costs associated with material damages and personal injuries from a car accident. Legal fees are part of the total bill but there are also material damages and personal injuries. What is the breakdown?

Mr. John Cahalan: Personal injury costs are about twice the cost of all property costs combined. I am referring to both motor damage and property damage from storms, etc.

Vice Chairman: Has Mr. Cahalan a figure for the motor sector?

Mr. John Cahalan: I do not have one off the top of my head. It certainly would be-----

Vice Chairman: We were hearing at some stage that, industry wide, 8% of costs was attributable to material damage and 92% was attributable to personal injuries. People with little scratches on their car were putting in claims because they had four children who were not able to sleep at night and that there was mental trauma. Maybe that is the case-----

Mr. John Cahalan: It does not sound too far off. I just have to double-check the figures.

Where we find very little damage to the vehicle but with some very injured occupants with soft tissue injury, which-----

Vice Chairman: If Mr. Cahalan has the figures and is happy to submit them to us, we would appreciate them as a committee because we want to go back to the Minister of State and give a reason. I take the point totally on low prices and low claim payouts, and on high prices and high claim payouts. The circle has to be squared, or whatever way one wants to put it. However, most of us drive the same car and do not make any claims. We over-labour the point on motor insurance because we are hearing about many other issues but we just feel our premiums are going up and up. The industry says it is not making a great deal of money, or has not been making any for a period, but somebody is making money out of this, whether it is the lawyers or the claimants. Clearly, some people are genuinely injured and discommoded by their accidents but it seems to be the case that there are many more not in that category. I would really like to hear from the delegates what the problem is in motor insurance terms. Is there a concentration of incidents in a particular part of the country? Are they related to a particular age group? What is causing all the accidents? The delegates are saying only approximately 20% of them are fraudulent. Maybe 10% are getting through and 10% are not. Maybe that is a figure for the industry overall but it is a lot of accidents. Is there a way of reducing the number of those accidents? Drink-driving is probably not the factor that it was. Is it speed?

Mr. Jackie McMahon: There is an argument that in 2006, when we had new entrants in the market, motor insurance was chronically underpriced, and insurers followed new entrants in. For the customers and public, it is important that insurance companies return a profit. We have mentioned that in the accident year 2017, our margin was 7%. By no means are we getting super-normal profits out of our business.

Vice Chairman: When consumers go from paying €290 to €600 or €700 over a relatively short period, although driving the same car with the same claims history, and not having made a claim, they feel aggrieved.

Mr. Jackie McMahon: Absolutely. We completely empathise. As a customer and family man, I understand that but it is important that we charge the appropriate price for the risk. We have come from a position in which the market was chronically underpriced. All insurers had to significantly pump money into their reserves. That is not a good position; it is not a position we want to be back in. From FBD's perspective, it is important that we be competitive. The market dynamics will dictate such. It is important that we can cover our costs so that in the event of a claim, we can make the payments. We have seen the cost and frequency of claims increasing over the years. That is beginning to stabilise, which is good for our customers and society as a whole.

Vice Chairman: The Minister of State will come in next week. We had many motor insurance modules in the earlier part of this committee's proceedings in 2016. We published a report in late 2016. We value the fact that FBD is the only indigenous company in the motor insurance market. The rest are owned by multinationals. They are welcome as we need competition. Is it correct that FBD is the only Irish company operating in that sphere?

Mr. Jackie McMahon: That is correct. We are very proud of it.

Vice Chairman: We probably all are.

The Minister of State is coming in to us next Tuesday to discuss insurance costs generally.

Has the delegation anything it wants us to put to him or to tease out with him regarding where we go next? The delegates have their points on strengthening the PIAB, personal injuries compensation and improved data sharing. If they were the Minister in the morning, what would they do?

Mr. John Cahalan: In fairness to the committee, it has thrashed through the matter in great detail and has made many recommendations. I hope the committee can stay the course and drive the reforms through in a meaningful way. We need to benchmark awards; we are simply paying too much. We need an objective way to assess what an injury is and means. Once we are paying that much, it is a fundamental problem. The second key driver is the system we go through and how long it takes — three, four, five, or six years in litigation where people can profit from the procrastination.

Senator Kieran O'Donnell: Why does it take so long? Why does it take three or four years to deal with a case?

Mr. John Cahalan: The legal system is slow and archaic. Every twist and turn is inefficient. That is why I welcome the review, which needs to be prioritised. There are interested parties and it is difficult to change the system. That is the challenge for our society. The insurance industry exists to pay when something goes wrong. We want to get to the settlement as fast as possible and have a settlement that is fair to the customer and FBD. The fundamental problem is how long it takes and the cost involved in getting there. There are interested parties who profit from that.

Vice Chairman: If there were two or three actions the delegates would like to implement first in the next six or 12 months, what would they be?

Mr. John Cahalan: The first is to benchmark to bring down how we value injury, and having an objective basis on which we assess the injury.

Vice Chairman: That is No. 1.

Mr. John Cahalan: The next is to reform the PIAB. My only concern with the recently published heads is that appeals go back into the court system, and everything is taken into consideration at the courts' discretion. Will that create a real and meaningful change? I fully support it. The people should come to it with all the evidence they have. It should not be adversarial. It should be shared and assessed objectively, and the payment should be made. We should value that at a reasonable rate.

Senator Kieran O'Donnell: Mr. Cahalan does not believe the PIAB is working.

Mr. John Cahalan: No, it is not. It is driving the prices up.

Senator Kieran O'Donnell: What percentage of the cases taken against FBD on behalf of policyholders is settled by the board?

Mr. John Cahalan: About 6%.

Senator Kieran O'Donnell: What percentage of the remaining 94% of cases is settled outside court and in court?

Mr. John Cahalan: A small percentage goes to court. The court system is structured in that way.

Vice Chairman: Is FBD settling because court is such a problem?

Mr. John Cahalan: No. We will fight where we believe we have a case to fight. We have to make sure we have that case to fight and the appropriate evidence for it.

Vice Chairman: That is what results in the 40% disappearing.

Mr. John Cahalan: The longer we leave it, the more it costs us, and those costs are significant.

Senator Kieran O'Donnell: Consider the delays of three or four years. If someone makes a whiplash claim, both sides can request consultants or others to carry out an examination and produce a medical report. Why does it take so long? Does such a case go in and out of court? Are there adjournments? What is the process that makes it take so long?

Mr. John Cahalan: It is all games. Let me outline the interesting aspect of medicals. First, we may receive a basic medical from a general practitioner that may state the guy is not too bad. We get nothing else. The claimant will not attend the injuries board medical, nor will he allow our medical practitioner to examine him. An award will come out and the injuries board will come out and, very close to settlement, years down the line, we will be looking at a completely different set of facts and information that was probably available three years previously. However, what is happening is that each of those years is creating extra expenses, extra income and extra cost in respect of the claim.

Another really interesting point, from my perspective, is that the injuries board might make an assessment that a person should recover from his or her injury, let us say, within six months, and that is rejected, goes into litigation and lasts three, four or five years. The claimant is still suffering from the injury three, four or five years later, so the injury is no longer a year-old injury, but a five-year-old injury with a lot more pain and suffering. The interesting question, though, is how many of those people miraculously recover the day on which the case is settled? How many of them get physio the following day? How many of them continue their general practitioner appointments once the case is settled?

Vice Chairman: Does Mr. Cahalan have those figures?

Mr. John Cahalan: It is practically nil in the studies that have been done.

Senator Kieran O'Donnell: Finally, Mr. Cahalan said 78 cent in every euro FBD takes in goes towards claims. Regarding the breakdown between the claim and the legal fees, he is saying legal fees are now on average 50% of the value of the claim. Am I correct? Therefore, if a claim-----

Mr. John Cahalan: Forty per cent.

Senator Kieran O'Donnell: On average.

Mr. John Cahalan: Forty per cent.

Senator Kieran O'Donnell: Is Mr. Cahalan telling me, then, that the breakdown of the 78% is about 60:40. I am bringing it down-----

Mr. John Cahalan: Yes. The Senator's logic is correct.

Senator Kieran O'Donnell: Then, Mr. Cahalan is saying-----

Mr. John Cahalan: The Senator is saying the split is 60:40. That is correct.

Senator Kieran O'Donnell: On average, how long does it take to settle a claim, even if it does not go into court? Is it three years?

Mr. John Cahalan: Cases in litigation only start to settle after three years. The majority of them settle within three, four or five years.

Vice Chairman: The Minister of State, Deputy D'Arcy, will be before the committee on Tuesday afternoon. Are there any points the witnesses want to make to him or want us to ask him?

Mr. John Cahalan: No. We recognise the effort the committee is making. It is playing a great leadership role. This is a societal issue. The State has a really important part to play, and it is only through the committee's leadership that we can drive the change across what are systemic issues.

Vice Chairman: I have one final question. There are anecdotal stories of businesses that are literally unable to continue in business because their insurance premiums have risen so much. Are the witnesses aware of any businesses that have had to fold and have just said they could not keep going? It may not be FBD's fault as such, but have any of its customers, having received a figure, found they just cannot continue and cannot pay the premium, and they cannot run an uninsured business, so they just close up shop?

Mr. Jackie McMahon: No. Thankfully, in the markets we are in - agri, farm, consumer and commercial, and small commercial - we do not come across that. However, I go back to the example of the marts, where we are losing money. We are genuinely trying to work with our customers to stay the course and to work with them on good risk management practices. That is a key message I would like to leave with the committee. From the perspective of FBD, as an Irish insurer supporting Irish businesses, we are doing everything we can to be there locally through our branch network providing products and a service that helps businesses grow and prosper. That is what we want to do as a business and that is what we will continue to do, despite the fact that in some risks we are not making money.

Vice Chairman: Are marts inherently more risky, or is it just a matter of the claims history? Has there been a recent spike in claims? We had representatives from the marts before the committee earlier saying that in recent years they had a serial complainant who seems to have got two or three payments from a sore toe or something. I am not saying it was necessarily one of FBD's marts, but are marts becoming a target for people to make claims?

Mr. Jackie McMahon: The risk management practices of marts are evolving. The customer base that goes to marts, that age demographic, is getting older. Obviously, one is interacting with live animals, and measures such as ensuring the public cannot access the pens are a big issue. Therefore, it is a matter of putting up proper viewing galleries and ensuring that the drovers are there to take the animals from the jeep into the pen and from the pen into the ring. It is a matter of trying to come up with practices that allow the customers to look at the animals but in a safe way. The marts are working hard with us to implement those practices, but we are on a journey with them.

Vice Chairman: On behalf of Senator O'Donnell, myself and all the other members of the committee, I thank Mr. McMahon and Mr. Cahalan for their presentations and their presence.

JFPERT

Scrutiny of EU Legislative Proposals

Vice Chairman: Before we adjourn, I wish to announce that the committee has agreed that EU legislative proposals COM (2018)134 and COM (2018)135 warrant further scrutiny by the committee. The committee also agreed that EU legislative proposal COM (2018)163 does not warrant further scrutiny.

The joint committee adjourned at 1.25 p.m. until 5.30 p.m. on Tuesday, 29 May 2018.