



McLarens

Ireland Review 2025

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EXECUTIVE SUMMARY

Economic development in Ireland continues to grow as does our population. Unemployment is at its lowest and we have a difficult problem to solve. We need to build many thousands of homes however we don't have the construction workers to do so. We therefore need to import the skills, but we have nowhere to house them. Quite a challenge.

There is a plan of action, the National Development Plan, and for those Insurers looking at Construction and Engineering risks, we review that plan and identify an opportunity. Construction must be fundamental to our continued growth over the next decade and therefore there will be many risks to consider and rate.

Our niche specialties of Construction & Engineering and Private Clients continue to grow. Two factors are impacting in that regard. Firstly, the increase in property values particularly in Dublin over the last 2 to 3 years have pushed many more holdings into the "high net worth" category. Secondly, as mentioned above (and will be detailed later) construction is fundamental for the continued growth and stability of our economy and society and momentum in that regard is starting to build.

Our experts in both fields have detailed some opinions and observance within this document that we hope you will find to be of benefit.

In our second last publication I commented that ***"The implementation of the personal-injury guidelines has been the greatest advancement surrounding personal injury claims over the last 20 years however more recently there has been some traction in relation to the fact that the level of legal costs has also been a driver in relation to the increase in premium rates."***

The Personal Injury Guidelines are most definitely having an impact on the landscape however given the "long tail" nature of personal injury claims in Ireland a greater impact is to be anticipated into the future. During 2024 only 37% of those cases that were before the courts were governed by the Personal Injury Guidelines with the Book of Quantum (pre-April 2021 cases) still holding sway. Currently, we are also dealing with a substantial increase in the level of Plaintiff Legal costs which has "eaten into" much of the saving created by the Guidelines. We will discuss further in this document.

We have seen substantial legislative reform over the last number of years in the afore mentioned Personal Injury Guidelines and the positive changes under the Occupiers Liability legislation. 2025 has seen some further positive developments in this field which we will review and discuss.

We hope the information and opinion given will be of benefit and should you want to discuss in greater detail please do not hesitate to make contact.



Glenn Goggin FCII Dip.L BCL CIP CID | McLarens

Managing Director - Ireland

ACTION PLAN FOR INSURANCE REFORM 2025 TO 2029

In July 2025 the government of Ireland issued a documented plan to provide a stronger insurance market for Ireland. This has been signed off at the highest level with the Taoiseach (Prime Minister) Micheál Martin spearheading the reform. The initial plan was published back in 2020 and since then there have been quite a number of successes in relation to achieving that fairer market.

Such successes to date include the rebalancing of the duty of care which we detailed in previous documents issued to the market, the reform of the Injuries Resolution Board to include mediation, psychiatric injury and more high-value complicated injuries.

The introduction of the Personal Injury Guidelines which have had a marked impact on the level of damages being awarded as we have already referred to previously in this document and undoubtedly will see a greater benefit over the coming years as to date and in particular for the first half of 2024 (reports come out bi-annually now) only 42% of the awards made fell into the personal injury guidelines category as the other 58% related to incidents or accidents that occur prior to the introduction of the injury guidelines on 1 April 2021.

The enhancement of the National Claims Information Database is also of great benefit. Our clients have always sought such statistical information to assist with underwriting and reserving and what the NCID has now provided is a much greater “statistical pool” of information. This is an independent body drawing information and subsequently providing statistics from the various settlement streams i.e. direct, Injuries Resolution Board, litigation etc.

It is also clear that the government is focused on the insurance market. More recently those insurers involved in the provision of motor products will have seen an increase in the cost of claims particularly damage claims where vehicle technology, supply chain disruptions, labour shortages etc have increased the repair costs overall. As a result, in the budget the Motor Insurers Insolvency Compensation Fund levy has been reduced from 2% to nil to provide some assistance.

There are however challenges remaining and whilst there has been an increase in capacity for some sectors, there are still others that are finding obtaining cover difficult and the level of legal costs is a concern that is continuing to grow.

Ireland is one of the largest insurance export markets in Europe and we believe that given our connections with the UK and the US there are opportunities to grow in that regard, providing products into mainland Europe and providing solutions for the settlement of claims across all jurisdictions.

Competition continues to be important and through the office to promote competition in the insurance market (OPCIM) the government is addressing barriers to market entry and working with IDA Ireland to attract new providers. It must also be remembered that competition is not just about price. It could be argued that presently in some sectors the premium being charged is too low and this is not helped by the cyclical nature of insurance premium. It is important to identify gaps in coverage and the OPCIM is also facilitating solutions for specific business needs.

As in every aspect of life today climate protection is a key priority. Losses resulting from weather volatility, flooding (most recently Storm Chandra) and extreme heat etc poses significant challenges for insurers and opportunity in relation to some form of protection for these risks. Parametric insurance is perhaps one area that may begin to take hold, but undoubtedly other innovations will also develop. Reducing the climate protection gap will require collaboration between all relevant stakeholders of which the insurance profession will be key.

The necessity for legal reform in relation to costs is perhaps the most transparent aspect presently. I would

argue that this is currently perhaps the major driver for increasing insurance premium for certain risks in Ireland and whilst the Injuries Resolution Board and of course the Personal Injury Guidelines are an option we don't believe that there will ever be any scenario where a party will never seek legal representation.

It is also important to note that that availability is important to ensure transparency across the market however it must come at a reasonable cost. As we have shown following a review of the NCID data the level of costs has grown substantially (and in this regard I refer to plaintiff's solicitor's costs in particular) and this needs to be controlled.

What the figures are showing us is that in relation to litigated cases settled outside of Court, the legal costs totalled 43% of the total settled cost (or 79% of compensation cost), split 15% own legal costs and 28% third party legal costs. For those who settled with a court award, legal costs totalled 55% of total cost (or 132% of compensation cost), split 17% own legal costs and 38% third party legal costs.

We are now dealing with scenarios where the level of costs particularly in the lower Circuit Court realm are higher than the actual settlement. As part of the future actions identified in a further reform plan there is a suggestion that consideration be given to how a scale fee-based system could be applied to civil litigation, and particularly the personal injuries arena. This of course will promote transparency, competitiveness and fairness in legal costs.

As part of the plan there is also an action in relation to examining the level of awards in relation to the minor/moderate personal injury which will include the possibility of introducing a cap for certain categories and the introduction of a dedicated model for the resolution of minor soft tissue injuries. This may be something like what is currently in place for England and Wales and as referred to elsewhere in this report.

The plan has also reinvigorated some outstanding actions going back to the 2020 plan in relation to:
Pre-accident protocols for personal injuries commencing with clinical negligence,
Regulations to set the discount rates for future financial loss and future costs of care
Period payment orders.

These were all identified in the Kelly Report back in 2020. We previously reported on this report but to synthesise at this stage, this report was compiled by Justice Peter Kelly (former President of the High Court) drawing on the experiences of other jurisdictions (such as England and Wales, Scotland, Northern Ireland, Canada, Australia, and EU developments) and many domestic stakeholders. The report analysed the Irish civil justice system and made recommendations to include procedural reforms, court structure and jurisdiction, discovery and disclosure, judicial review, multi-party litigation, litigation costs, court user experience, and the use of technology in the courts.

Civil Reform Bill 2025

The **Civil Reform Bill 2025** now seeks to implement some of these recommendations to include:

- The introduction of a "production of documents" procedure to replace the discovery procedure. Under the new rules as recommended Plaintiffs will be required to produce all documents, they intend to rely on within 28 days of service of the Claim Form (currently the Personal Injuries Summons). Defendants have 42 days from the service of their defence. The procedure will there be "front loaded".
- In relation to Judicial review the recommendation is that a court shall not grant a relief sought unless it is satisfied that several conditions as follows have been met:
 - The applicant must have suffered prejudice,

- The granting of the relief will significantly benefit the applicant
 - The granting of relief is in the interest of justice.
- There are also a number of criteria detailed in relation to Case management to include the fact that where possible alternative dispute resolution methods should be used and a presumption against the granting of adjournments however from a defence perspective the most beneficial change in my view is that in relation to **Presumed discontinuance**.
 - By means of this mechanism a party may serve notice of an intention to lodge a discontinuance application, where no steps have been taken to progress proceedings for 6 months or more. If the party upon whom the notice is served takes no steps within the following 28 days, a discontinuance application can be lodged in the court office. The court office can then notify the party of the discontinuance of the proceedings. Any application to set the discontinuance aside must be made within 3 months.
 - We have recently seen Judges in both High Court and Supreme Court using delay as a weapon to throw cases out and this will put such a decision on a statutory footing. In **Murphy - v - Aer Lingus Group PLC & Anor [2025] IEHC 589**, which had over seven years inactivity, the High Court dismissed the Plaintiff’s personal injuries claim for want of prosecution, citing inordinate and inexcusable delay. This decision follows the Supreme Court’s recent restatement of the law in **Kirwan - v - Connors & Ors [2025] IESC 21** where the court held that a cumulative period of complete inactivity exceeding five years empowers the court to dismiss proceedings unless there is a “pressing exigency of justice.” The Court also highlighted the prejudice inherent in attempting to try a fact-dependent case so many years after the events in question.
 - National Claims Information Database data confirms that the average duration from the reporting of a claim to settlement of a litigated claims took on average 5.7 years in 2024 whereas claims settled directly and via the Injuries Board had an average duration of 1.8 and 2.1 years respectively in 2024.

Table 27: The average time (years) between claims being reported to the insurer and claims being settled between 2015 and 2024 by channel.

Years	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Injury Claims										
Direct	1.5	1.4	1.7	1.8	1.5	1.9	2.2	2.1	2.3	1.8
Injuries Board	1.6	1.7	1.7	1.7	1.7	2.1	2.1	2.1	2.2	2.1
Litigated	4.4	4.5	4.4	4.4	4.4	4.5	5.1	5.2	5.8	5.7
All Claims										
Injury	3.1	3.1	3.3	3.3	3.3	3.6	4.1	4.3	4.7	4.6
Damage	0.8	0.9	0.9	0.7	0.7	0.7	0.7	0.7	0.6	0.6

- Jurisdiction and costs have also been identified as requiring scrutiny. The proposal is to increase the monetary jurisdiction of the District Court from €15,000 to €20,000 and the monetary jurisdiction of the Circuit Court from €75,000 to €100,000.
 - Like the Presumed Discontinuance mechanism there is also a proposal to impose a 3-month time limit from the conclusion of proceedings and an award of a costs order to provide a bill of costs to the other party and any failure to do so will result in the forbearance of court interest.

All in all, if nothing else the proposals under the legislation should see cases dealt with more quickly, efficiently and reasonably thereby reducing what can be a very long tail for Employers Liability and Public Liability insurance claims.

Construction & Engineering

National Development Plan

The National Development Plan is the government scheme to develop and expand national infrastructure to include roads, rail, electricity connections, sewage schemes and water etc. The first plan began in 1988 and there have been many iterations since then with the current plan running up until 2040.

We are currently at a pivotal point in this plan as the lack of domestic housing is having an impact on many fronts. The view is that we need approximately 80,000 qualified tradespeople to hit our construction plans in the next 15 years however we need to house these experts and of course we need these experts to build houses. Almost a "Catch-22 situation".

There is little point in building houses unless we have the infrastructure i.e. water supply, sewerage connections, electrical supply etc and we are lagging well behind in what we require, and this is also impacting on the construction of new homes.

In addition to the actual physical constraints there will also be legal constraints in the form of our planning laws with many applications being the subject of objections going before the High Court. This of course also leads to delays. This is also on the Governments agenda as the number of invalid planning appeals is affecting progress.

The government plans to spend €97 billion over the next 15 years to bring the plan to fruition however irrespective of how much is spent, the challenges, as already mentioned, will remain and are a concern.

We do however need to catch up with our peers in the European Union with the suggestion being that we are over 32% behind in relation to investment and infrastructure. This however is understandable bearing in mind the financial crisis which began in 2008 and took over 10 years to return to some semblance of normality.

As mentioned earlier structural investment has been lagging and as a result there is now a specific focus on improving water, sewerage and electricity services around Ireland. Water services particularly in the Dublin area are reaching crisis point with plans afoot to pipe water from the River Shannon (in the West of Ireland) to the metropolis.

One of the challenges we have, is in relation to the recruitment of a qualified workforce and this is being hampered by the provision of housing. Infrastructure deficits, particularly in the sewage and water supply have hindered housing projects and resulted in delays in critical projects particularly around greater Dublin area. The electrical infrastructure will also have to expand to accommodate a growing population with an ever-increasing demand in energy not to mention the very divisive presence of Data Centres.

As in every field, Climate change and environmental effects also pose risks, and Project Ireland 2040 identifies sustainable development in addition to economic growth as key. The project which can be seen from the title is a long-term strategy designed to prepare the country for a significant population growth which will entail the required improvement in infrastructure, housing and of course public services. The projection is that by about 2040 our population will increase by approximately 1,000,000 and hence the necessary infrastructure demands.

The plan outlines a number of key objectives as follows:

1. Sustainable growth through which any transition will move Ireland towards a greener economy using renewable energy thereby reducing carbon emissions. Undoubtedly any eco-friendly industries will be promoted developed and supported.
2. As mentioned, housing and infrastructure are key to ensure that this plan is a success. Without this we will not have the trades people to ensure that the plan is realised. Affordable housing is a key aspect with the infrastructure surrounding same including transportation and digital connectivity are also vital.
3. The plan is to endeavour to create a balanced strategy for regional growth revitalising rural communities in addition to those urban areas around the country. Again, for this to happen accessibility between these rural areas surrounding those central hubs will be vital.
4. Going hand-in-hand with this development will be the necessity to ensure that the public services keep pace and as a result the plan caters for investment in education, healthcare and public transport.

Current Developments

So that is the plan for the next 15 years - but where do we stand today bearing in mind that the construction sector in Ireland will be expected to be a significant part of the economic growth of the country over the next number of decades.

To date there have been several successes to include the completion of over 330 school building projects and investment in healthcare facilities, major road improvement and of course the national broadband plan.

The primary focus at the moment is in relation to housing shortages along with the associated infrastructural demands and of course sustainability growth surrounding same. We currently have a "Housing for All" plan which aims to increase home supply especially in urban areas, not only Dublin but also Cork, Waterford, Limerick, Galway etc. Modular construction has been identified as a method to meet targets due to its speed and cost efficiency.

The commercial construction sector is also growing particularly in Dublin with a demand for modern office space. Technology of course is also playing its part in relation to digitisation including building information modelling (BIM) which is enhancing efficiency to construction projects.

There are however challenges and whilst plans are in place and the outlook is extremely positive, we do need to consider the rising material costs and insecure supply chains which are affecting project timelines and budgets. In an economy such as we have in Ireland, global events can have a major impact.

We learned lessons during the Celtic Tiger in relation to construction and the impact of defective workmanship. To ensure that this is not repeated, there continues to be increasing regulatory focus to include safety standards. Whilst required, this will complicate matters and will impact the speed of implementation and cost which in the short-term of course is a concern, but in the longer term given historical learnings, will have benefits.

To take this one step further, it will be important that all the relevant stakeholders, government, construction, regulatory and finance ensure efficiency however that in itself may also be a challenge despite what plans we have in place.

Whilst we have challenges, we always seem to rise to and deal with these, and innovation in that regard will be key. There is no doubt but that the green agenda and in particular sustainability is here to stay and therefore developments in relation to smart energy systems and sustainable construction techniques are paving the way. As part of the national framework, we do have a construction industry that is willing to adapt which suggests that once the manpower can be provided the future will be strong.

As in any project, development or initiative, cost is always going to be one of the key drivers. Tender price inflation across Ireland was approximately 3.0% for 2024 and continues to rise in 2025. The regional inflation rates for early 2025 are:

- Dublin: +1.0%
- Rest of Leinster: +1.0%
- Munster: +1.5%
- Connacht/Ulster: +2.0%

When looking at Commercial Construction, costs rose by 1.5% in H1 2025, with an annual inflation rate now at 3%. Domestic Property construction rose by 7% for the first half of 2025 following a 6% increase in 2024.

On a positive note, the view is that price increases in relation to building material are "at peak or mid option prices". Geopolitical issues such as supply chain and tariffs particularly in relation to materials are volatile and whilst currently steady, these are certain to continue. Whilst these material pressures appear to have moderated, labour related costs continue to impact the tender pricing aspect. Again, this is due to the shortage of skilled labour as we mentioned earlier, and this will need to be rectified going forward if any targets are to be met.

Economically the Republic of Ireland is in a good place. Inflation rates have decreased which of course leads to real wage growth and increased consumer spending. Unemployment is at an all-time low. We continue however to have an overreliance on corporate tax receipts which again have a basis on geopolitics and that is something we have little control over.

There were record construction starts in 2024 primarily driven by the residential sector. The total number of starts by the third quarter of 2024 was valued at 13.4 billion past 2023's total of 11.6 billion. In the residential sector there were 55,000 new housing units commenced which exceeded the previous year's record of 33,000. The non-residential sector projects rose by almost 30%.

However, the residential property market continues to face challenges as the prices are extremely high due to the insufficient supply. This affordability gap is in particular evident in the greater Dublin area despite government initiatives to assist.

Tender prices, labour and material costs have risen in 2025 influenced in particular by tariffs on goods from the US. The housing sector faced a 6.7% decline in completions falling short of the government's target of 33,000 units. A Davey report estimates the need for 93,000 homes annually until 2031 which of course highlights the challenges such as utility connection delays, labour shortages, planning delays, high interest rates and regulatory changes.

Overall therefore, the plan is designed to prepare for the future by focusing on sustainable development, economic growth to include investments in infrastructure, housing, healthcare and education to cater for the increase in population which currently stands at 5.3 million to almost 6.5 million, an increase of nearly 20%.

The plan has identified the necessity to create 660,000 additional jobs and achieve full employment. This should provide the 550,000 new homes to meet the demand along with the required public transport system and improve the national road network. Going hand-in-hand with this there will be a requirement to move water infrastructure, invest in education, health and childcare facilities and of course ensure that all this happens in a climate friendly manner.

Claims

Construction firms are increasingly exposed to claims related to environmental damage particularly those surrounding large infrastructures or energy projects. As a result, there will undoubtedly be stronger

underwriting scrutiny in relation to any projects being undertaken near flood zones, coastal areas or involving fossil fuel.

Regulatory compliance is at the top of every agenda and as a result, sustainability and governance are key aspects of every contract. This is something that needs to be considered when looking at professional indemnity policies particularly for architects and engineers to ensure that any ESG related disputes are dealt with.

The policy type and structure will be important as will a detailed understanding of the relevant wordings and conditions:

- Contractors All Risk (CAR)
 - Contractors All Risks - Annual insurance policy
 - Contractors All Risks Project specific policy
 - Owner Controller Insurance Policy (OCIP)
 - Contractor Controller Insurance Policy (CCIP)
 - The above Policies can include Extensions – e.g. ROD/ Mitigation costs/Expediting Expenses
 - Important to remember that all Policies include DE/LEG Exclusions
- Erection All Risks (EAR)
 - Contractors All Risks - Annual insurance policy
 - Contractors All Risks Project specific policy
- Engineering Policies
- Construction Liability – would be included as part of an OCIP/ CCIP
- Delay in Start UP (DSU)/Advanced Loss of Profits (ALOP)

Supply chain disruption continues to be a concern as geopolitical tensions arise in various parts of the world. These need to be considered when looking at business interruption and similar coverages going forward. We mentioned technology earlier and the positive developments of adopting such BIM, but of course these then bring cyber vulnerabilities and the requirement to ensure that cyber insurance is in place to cover such risks.

Whilst litigation damages appear to be a levelling out legal costs and inflation are undoubtedly on an upward curve and therefore driving up the value of claims.

McLarens Chartered Loss Adjusters

The Construction and Engineering specialty is one of the niche areas that McLarens has been concentrating on in Ireland under the leadership of Cathal Brennan. This offering forms part of our technical service which is also amplified by the specialist technical excellence from our sister companies including Halliwell Forensics and Halliwell Time Element in Delay Analysis Division.

The types of contracts that we specialise in include the normal Contractors All Risks policies (CAR) to include both annual insurance and project specific policies (OCIP/CCIP), Erection All Risks (EAR), Engineering Policies Construction Liability and Delay in Start-up (DSU)/Advanced Loss of Profits (AOP).

In Ireland construction has always been part of our national economic agenda. Unfortunately, due to the Celtic Tiger crash, we are well behind the rest of the world when it comes to current national requirements. However, the plans are to catch up are at an advanced stage and the current economic climate is helping to achieve that.

PRIVATE CLIENTS – UNDERWRITING CONSIDERATIONS

The management and handling of Private Client or High Net Worth claims requires a special skill set over and above those skills required for normal domestic property claims. The requirement of the necessary technical skills goes without saying however it is those soft skills, the interpersonal aspect of managing the claim and the Policyholders expectations is more important.

Over many years we at McLarens have built up an expertise and technical knowledge in this niche area, tailored to HNW clientele, providing a consistent, streamlined approach for allocating, reporting, service & communication. We provide Clients with access to internal professionals in relation to Fine Art, Jewellery, Surveying, Forensic Accounting, Construction and Engineering and liability.

In addition, over many years we have built up a network of known and trusted suppliers ranging from antique conservators, fine art & bespoke furniture restorers, wine experts, fabric, leatherwork & carpet specialists and jewellery & watch consultants to name but a few.

Some of our experts have put their thoughts down in relation to some key perils and the nuances these may have when forming part of a High-Net-Worth policy.

Flood

As we enter Spring 2026, flooding is not very far from anybody's thoughts particularly along the east coast of Ireland. Storm Chandra has reaped havoc.

So, what is flood? It is defined as an overflow of a large amount of water beyond its normal limits. Normally onto otherwise dry land.

A wide definition that could include any of the following causes:

- Prolonged heaving rainfall surcharging streams, rivers, drains, lake resulting in overflows
- Storm surges in tandem with high tides
- Deliberate and/or accidental discharge from reservoirs
- Dam failure/discharge
- Rapid Snow melt
- Tsunamis
- Failure of infrastructure
- Deforestation

Whatever the cause, the damage is devastating. Flood waters will be contaminated with bacteria with all ground floor furnishings being damaged beyond repair. The damage will require extensive drying out and stripping of flooring, skirting, joinery, built in units, plaster, décor, mechanical and electrical. When looking at Private Client homes we are dealing with very high values.

So, what is covered? Most HNW policies will cover:

- Damage to, or destruction of, or the use of tangible property.
- Will pay towards practical Emergency measures to prevent flood

However, flood cover will not be provided where the property is proximate to a body of water, where there is a history of previous flooding and where the risk is located in known flooding areas (Geo Maps). A failure to disclose any of these facts could of course invalidate the contract.

Other material facts will include:

1. The age of the property

2. How long has insured resided at risk?
3. What type of construction used? Timber framed?
4. What type of flooring, solid? Suspended?
5. Where did the water come from

Most policies will also include a specific Flood Exclusion to the effect that:

We will not pay for any loss, damage or liability caused by, rising, surface or tidal water, or overflow of streams, rivers, lakes, ponds or another body of water.

Following an incident, the Policyholder will be required to prepare a claim which will normally include the appointment of a Specialist Mitigation experts to deal with decontamination and drying out. Most contents contaminated by flood waters are beyond economic repair albeit some high value wooden furnishing may respond. A construction estimate will be provided by a builder, again usually experienced in “high level finishing” works.

Ultimately any adjustment will normally include a figure for professional fees in supervising the repairs. This is especially the case with protected structure whereby the Policyholder will need to have the works signed off by a conservation Architect or Engineer. Settlements are usually substantial and normally include Alternative Accommodation.

Subsidence and Settlement

Subsidence is defined as the downward movement of the site followed by the building, and this differs from settlement where the latter is defined as the downward movement of the building into the site.

Subsidence can be caused by several events such as

- Escape of water from underground pipes and services (which could also be considered under the “Burst Pipe” peril.
- Tree root action
- Made up ground
- River erosion
- Undermining of site due to adjacent building works
- Soil shrinkage

On the other hand, the causes of settlement include

- Inadequate foundation construction and design
- Building on made up ground
- Inadequate compaction of subsoil and hardcore
- Building too heavy for the soil to support.

Most HNW policies will cover damage to, or destruction of, or the use of tangible property but excluding:

- any loss or damage caused by the movement of buildings unless caused by Subsidence
- Settlement
- Damage to walls, piers etc unless residence damaged at the same time by same cause
- Floor slab unless walls are damaged same time, same cause
- Settlement of made-up ground, inadequate construction and foundations, structural repair or alteration
- Erosion
- Caused by defective materials, defective planning etc

- Previous damage not disclosed.

Should such a claim be made and an investigation commence the following information will be required:

- The age of the house?
- How long has insured resided at risk?
- What type of construction used?
- Is the site sloping/flat?
- What is the water supply, mains water and sewerage.
- What type of roof and external walls
- What type of foundations
- Level of vegetation to the site
- How did the damage first manifest
- Is there a re-purchase survey
- Is there good google street view images
- Have any tests been carried out to the drains
- Has the insured appointed an Engineer
- Location of cracks and whether they are fresh. Any paint in the cracks or have they been filled.
- Any previous claim.

As is usual, the onus will be on the Policyholder to demonstrate loss and due to the complexities of the work and repairs, they will normally appoint an Engineer to review damage and cause. With this in mind Insurers will often appoint their own Engineer to review specification and cause by attaching “Tell tales” to the cracks to determine if there is any ongoing movement. Hydrostatic testing will also be carried out and “probe holes” opened to examine foundations and test the load bearing capacity of the subsoils beneath the foundations

If it is determined that there is subsidence, then a technical specification will be drawn up for repairs which will be agreed by Engineers representing both parties. The repairs will normally include the underpinning of the foundations where pins/ and or concrete is put under the foundations which will transfer the load of the building deeper where the subsoil has suitable weight bearing capacity.

Again, suitable qualified contractors will be appointed after a selective tendering process. Works are usually very expensive, particularly in current construction contract.

Problems can arise when this peril manifests itself and therefore careful management of the claim is vital. Nondisclosure on a recently incepted policies where there was cracking evident at inception or a relatively recent inception where the damage has been ongoing over a number of different policies are the most prevalent.

Previously the “Change of insurer agreement” would have dealt with this. The agreement states that where damage is identified 8 weeks or less from inception, the previous insurer will deal with the case. If notification is one year or more after inception, current insurers deal. If over 8 weeks but less than one year, the claim is shared equally.

Unfortunately, there are not many signatories in the ROI anymore however once most Insurers accept that the loss is covered, they will agree to pay proportionally for time on risk.

Fire & Non-Standard Construction

When it comes to claims adjusting High-Net-Worth portfolios can require various skillsets. Commercial concerns which could include Agri and Heritage risks will require Building Surveyors, Mechanical Engineers, Livestock experts, accounting specialties (including forensics), alternative accommodation, and to these we

need to add domestic expertise for sporting goods and specified fine art / Specie and jewellery. High Net Worth Clients will expect this expertise to be available.

Most HNW properties will have had Pre-loss cover surveys carried out. These will generally focus on protections, alarm systems and fire-fighting equipment. However, we find that in many instances we find that access and preparation should a fire happen are often overlooked as the fire brigade has to be able to gain access. In this regard consideration must be given to

- Entrance gates
- Horizontal locking automated gates
- Archway over entrance gates
- Gated communities

Other key factors that need to be considered include

- Remote locations – availability of water
- Onsite standpipes, wells, lakes
- 3am emergency attendance at vacant property – How does the fire service locate resources?
- Fortunately, Ireland has a good history of interaction with local communities in rural areas.
- Prior knowledge is key

Non-standard construction is always a challenge when it comes to HNW / Heritage buildings. Some that we have come across include:

- Historical
 - Listed buildings
 - Thatch roof
 - Copper roof systems
 - Wood panelling

What would have been once considered non-standard but becoming more prevalent include

- Timber framed buildings
- Insulated slabs
- Eco-friendly heating systems – underfloor heating/wells/thermal
- Sustainable building materials - Timber, recycled plastics

Issues with historical have become well-known over time and it is now a matter of managing them and the correct experts to return the property to the original state as near as possible. We are still on a learning curve with modern materials, learning how they respond to partial damage in the event of fire, or water damage, what the life expectancy is likely to be and developing methods for partial damage.

Additional pressures on time management in the event of damage to such a building include:

- Whether or not the building is listed which may require the retention of specific parts and therefore liaison with the Local authority.
- Availability of specialist contractors across multiple disciplines
- Managing the Policyholders expectations in relation to timescale
- Ensure appropriate cover in place to cater for the worst scenario – appropriate indemnity period for revenue/rent loss, accommodation.

Theft & Malicious Damage

When it comes to these perils an in-depth understanding and knowledge of the policy cover is vital as each policy document (even underwritten by the same Insurer at times) have subtle differences. These differences are particularly prevalent when it comes to indemnity limits for contents, unspecified valuables, fine art etc. and some of these financial limits (for the same categories) can vary significantly.

Private Clients present a unique set of exposures that go far beyond a typical home insurance policy. High-Value Contents is the most obvious difference with such Clients owning assets such as:

- Fine Art & Antiques: Valuations can fluctuate significantly. Damage or theft can be a total loss, and replacement is often impossible.
- Jewellery & Watches: These items are highly mobile and easily targeted. Claims often involve large single-item values.
- Rare Collectibles: From wine collections to classic cars, these assets have specialised value and require expert appraisal.
- Precious Metals and Cash: HNW policies often have much higher sub-limits for cash and valuables kept on the premises.

Theft is the intention to take possession of property (which during this act, can cause damage to property). Malicious damage is intentionally causing damage to property.

The Criminal Damage Act 1991 is the piece of Irish legislation that defines and criminalises various acts of damaging property, including general property damage, damage to endanger life, arson, fraudulent damage, threats to damage, and possession of items with intent to damage.

The Act outlines the elements of each offence, such as intent or recklessness, and specifies penalties for summary convictions and convictions on indictment.

Penalties vary based on the severity of the offence and whether it is heard as a summary conviction or on indictment.

There is a right of recovery and compensation where a person suffers damage to their property under the Malicious Injuries Act 1981. In the case of a riot, there are a number of criteria to be met. Damage must be caused:

- By a wrongful act done intentionally without just cause or excuse, or wantonly, or
- Unlawfully by three or more persons, riotously or tumultuously assembled, or
- In the course of, whether or not for the purpose of, the committing of a crime against the property damaged.

The policy will not cover loss or damage caused by any deliberate or malicious act by any member of the Policyholders household, paying guests, tenants or lodgers.

For HNW insurers, the key is proactive risk management, not just reactive claims processing. Examples of such risk management would include:

- Bespoke Valuations: Underwriters should not rely on standard calculators. They require detailed, up-to-date professional appraisals for art, jewellery, and other high-value items. This prevents underinsurance and ensures accurate replacement costs.
- Advanced Security Protocols: High-value policies often have stringent security requirements as a condition of cover. This can include:
 - Advanced Alarm Systems: Insurers may mandate professionally monitored alarms with specific grades (e.g., PSA-licensed installers).

- Integrated CCTV: Systems that can be monitored remotely, often with off-site backup, are often a requirement.
- Physical Security: Requirements may include reinforced doors, high-security locks, and safes for valuable items.
- Occupancy and Inspections: The unoccupied property risk – no cover for theft if property unoccupied for greater than 90 days. With HNW clients, they may have multiple homes and therefore there is a potential for properties to be unoccupied for greater periods.

In many instances we are dealing with a Diverse Property Portfolio. A HNW client may own a primary residence, multiple holiday homes, and investment properties in different jurisdictions. Each property has its own risk profile, and the collective exposure must be considered.

Consideration must always be given to security and lifestyle. HNW individuals are often more visible and may be at a higher risk of targeted theft. Their homes are frequently unoccupied for extended periods due to travel, and this requires sophisticated security measures.

NATIONAL CLAIMS INFORMATION DATABASE

(Mid-Year and December 2024 Reports on EL and PL claims issued July/ December 2025)

The table below shows the claims costs and numbers for losses for the EL, PL and Commercial Property (occurrence-based policies) market in 2024.

We are advised that the total for 2024 will be €608m across 30,593 claims which is an increase of approximately €13m in claim costs and a decrease of 668 claims compared to the 2023 accident year. When comparing the 14 years we must also remember the substantial economic and demographic growth that the Republic of Ireland has experienced during that period. There are many more business (and of course insurance policies) operating in 2024 than there were in 2010.

Claim costs in 2020 and 2010 were higher than any other accident year and this was driven by Commercial Property claims experience. This can of course include cover for business interruption and there was a significant increase in business interruption claims in 2020 as a result of COVID-19 and major weather events such as the significant freeze and flood events that occurred in 2010.

Table 6: Total ultimate claims costs and ultimate claim numbers for all Losses Occurring policy types over accident years 2010-2024.

Accident Year	Ultimate Claim Costs (€m)	Ultimate Claim Numbers
2010	617	50,845
2011	540	38,930
2012	483	34,222
2013	514	34,926
2014	533	41,070
2015	522	31,752
2016	462	27,958
2017	436	30,324
2018	490	30,285
2019	427	26,625
2020	679	39,311
2021	439	27,111
2022	497	29,047
2023	595	31,261
2024	608	30,593

If we just consider EL and PL claims settled between 2015 and 2024, claims that settled in 2024 totalled approximately €295m spread across approximately 10,260 claimants. These numbers are lower than the average of the 2015 to 2019 period but higher than the years 2021 and 2022 which of course were impacted by COVID-19. Total claim costs in 2024 were 8% lower than the 2015 to 2019 average with the number of claims being 5% lower. Compensation costs were 17% lower in 2024 than the 2015 to 2019 average, while legal costs were 10% higher.

Table 19: Total number of claimants settled and total cost of settlements for settlement years 2015-2024.

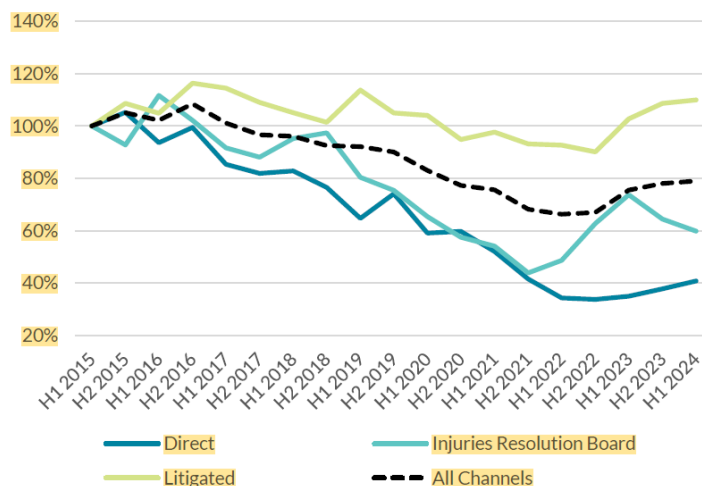
Settled Year	Total Claimants (000's)	Sub Costs (€m)			Total Cost (€m)
		Compensation Cost	Legal Cost	Other Cost ¹⁹	
2015	10.8	182	99	13	294
2016	11.1	222	104	6	332
2017	10.5	215	105	11	331
2018	11.1	217	98	10	325
2019	10.8	211	108	11	330
2020	9.5	204	96	7	306
2021	9.2	174	95	10	279
2022	8.7	155	93	8	255
2023	10.2	181	114	9	304
2024	10.3	173	113	9	295
2015-2019 Average	10.8	209	103	10	322

The total cost of claims settled during the first half of 2024 was €144 million which was a 10% decrease on the second half of 2023 and 12% lower than the pre-Covid 2015-2019 average.

The total cost of claims decreased by 10% in the first half of 2024 and were 13% lower than the pre-Covid average. The number of injury claim settled for the first half of 2024 was 20% lower than the 2015-2019 average and was like that of the second half of 2023 with approximately 2100 claims.

In relation to injury claim settlements, it is interesting to note in the chart between the second half of 2023 and the first half of 2024 there is an 8% increase in the number of cases settled directly by insurers, loss adjusters etc. with a 7% decrease in the number of claims setting through the Injuries Board and a 1% increase the number of claims setting through litigation. In relation to the time taken to settle these injury claims for the first half of 2024 the average time taken to settle claims directly was 2 years, 2.2 years in relation to the IRB at 5.8 years in relation to litigation.

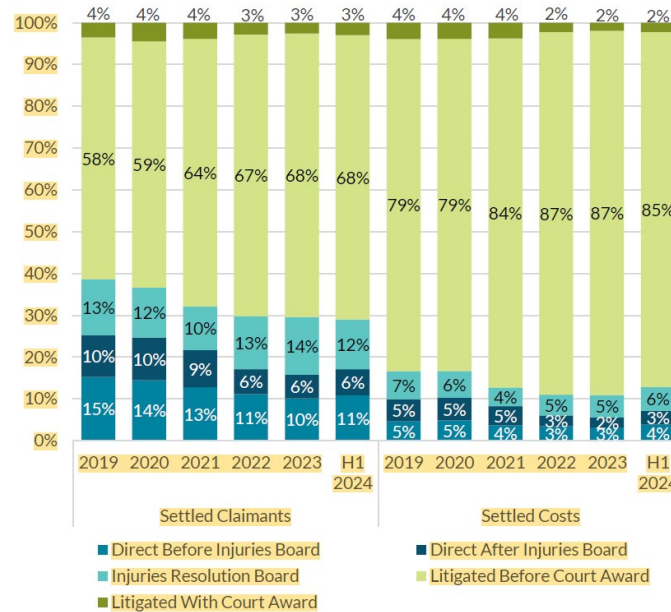
Figure 1: Index of the number of injury claims settled in each channel in each settlement period, compared to H1 2015.



During the first half of 2024 the proportion injury claims settled through the Injuries Resolution Board decreased from 14% in 2023 to 12% in the first half of 2024. The proportion of claims actually settling directly with the insurer increased from 10% to 11% with the remainder settling directly before going to the Injuries Board with the remaining stable at 6% directly after going to the Injuries Board.

In relation to total settled costs claims settled through litigation make up the largest proportionality at 7% of all injury claims costs for the first half of 2024.

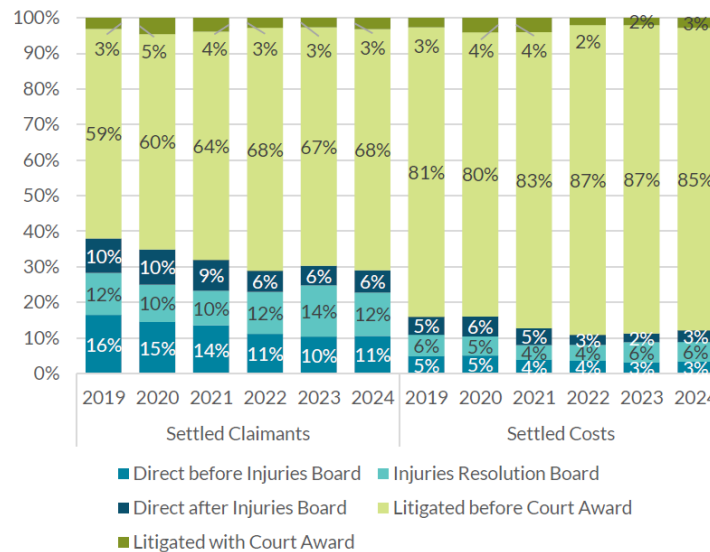
Figure 2: The proportion of settled claimants and total cost of injury claims through each of the five settlement channels from 2019 to H1 2024.



If we cap the damages award as €150,000 as not to do so would skew the data, this accounts for 93% of claimants. In this regard the average total cost of claims settling directly with an insurer was €23,739 an increase of 11% and with the Injuries Resolutions Board at €27,912 again an increase of 11% for first half of 2024 compared to 2023. Overall, however the numbers are still 7% lower than in 2020. What's interesting to note in the table above is that for claims settled for less than €150,000 through litigation the average total cost has been relatively stable at between 2020 and the first half of 2024 at approximately €50,000, the average compensation claims has however decreased by 15% however this has been offset by an 18% increase in legal costs.

If we look at full year 2024 as detailed in the chart below, litigated settlements account for 71% of claimants in 2024, and claims settled through the Injuries Board made up 12% of claimants in 2024. However, claims settled either directly or through the Injuries Board make up a lower proportion of total settlement costs whereas in contrast to this, the 68% of claimants who settled through litigation before a court award in 2024 accounted for 85% of total settlement costs in that year. It can also be seen that the number of direct settlements dropped from 7% during the first half of 2024 to 6% for the entire year.

Figure 21: The proportion of settled claimants and total cost of injury claims through each of the five settlement channels between 2019 and 2024²⁰.



This report makes an important point in relation to the fact that the types of claims settled in each channel may change over time particularly as a result of changes to the claims environment. They point out that based on the most common injury types, the proportion of awards made for moderate to severe injuries has increased from 15% of awards made between April to December 2021 to 25% of awards made in the second half of 2024. This likely explains the increase in average claims cost of claims settled through the Injuries Resolution Board in 2023 and the first half of 2024. Therefore, the categorisation of the injury for whatever reason appears to be leaning more so in the moderate to severe category.

We must remember that there is always a human involvement in these assessments irrespective of the settlement channel and those people are aware of current climate pressures such as inflation. These will always be a factor and to some extent, as we have mentioned elsewhere in this document, the refusal of the Government to increase the personal injury guide award levels was a mistake. We of course would not suggest that this increase should have been what was recommended by the Judicial Council (17%), however there should have been some inflationary increase as to do nothing suggests that there was not the required consideration given and this leaves the door open for others involved in the process to deal with this in some quasi-judicial manner. Those of you in this profession during the early “noughties” with the establishment of the Injuries Board and advent of the Book of Quantum will remember that a lack of willingness to review the figures within the book meant that they quickly became obsolete.

As the table below confirms the Personal Injury Guidelines are still in “the black” despite inflationary pressures when compared with those awards using the Book of Quantum. The average cost for EL was 8% lower for claims that settled directly before the Injuries Board, 17% lower when settling directly after the Injuries Board and 9% lower for settling via the Injuries Board when compared to the Book of Quantum. Similarly for PL claims that settled before the Injuries Board, the average cost was 25% lower, 15% lower when settling directly after the Injuries Board and 17% lower for settling via the Injuries Board when compared to the Book of Quantum in 2020.

Table 29: Comparison of the average cost of claims settled under the Personal Injuries Guidelines in years 2021-2024 and those settled under the Book of Quantum in 2020.

Settlement channel	Settled under Book of Quantum	Settled under Personal Injuries Guidelines				% Difference 2024 vs 2020
	2020	2021	2022	2023	2024	
Employers' Liability						
Direct before Injuries Board	29,097	15,330	21,154	20,738	26,868	-8%
Injuries Board	33,258	22,220	27,039	27,599	30,425	-9%
Direct after Injuries Board	43,517	23,705	30,790	31,807	36,310	-17%
Public Liability						
Direct before Injuries Board	16,161	10,823	9,391	12,644	12,053	-25%
Injuries Board	33,302	19,395	22,323	25,693	27,722	-17%
Direct after Injuries Board	31,421	18,233	17,800	19,660	26,783	-15%

However, if we look at the increasing averages for the Personal Injury Guideline awards between 2021 and 2024, we are looking at substantial increases (75%, 37%, 53% for EL categories) in particular during 2024 which are well above inflation over the same period. I refer to my comments previously in relation to the reluctance to increase the Personal Injury Guidelines and the resultant “quasi-judicial” decision making in relation to what “band” an injury could fall into.

The one difference between those days governed by the Book of Quantum and the Personal Injury Guidelines we now have is that the PI Guidelines re-evaluated damages (as opposed to simply taking judicial decision) placing personal injury claims within the correct jurisdiction, which of course, all things being equal, should have a commensurate effect on the legal costs chargeable. But does it?

Unfortunately, not. Legal costs which relate to the claims settled through litigation have shown an upward trend reaching 43% of the total costs (or 78% of the compensation award) in the first half of 2024. This compares with the direct channel where legal costs were 21% of the total costs and the Injuries Resolution Board where legal costs were 2% of the total costs.

Table 4: Average injury settlement costs for EL and PL combined for claims that settled for less than €150,000 in each settlement channel for the 2015-2019 average and 2020 to H1 2024.

Year	Compensation (€)	Legal (€)	Other (€)	Total (€)
Direct				
2015-2019	18,340	2,298	273	20,932
2020	22,174	3,078	271	25,538
2021	19,115	3,802	575	23,492
2022	16,846	3,009	409	20,264
2023	17,330	3,602	519	21,451
H1 2024	18,947	4,402	382	23,739
Injuries Resolution Board				
2015-2019	28,851	1,154	593	30,599
2020	28,488	963	288	29,743
2021	27,384	915	1,016	29,315
2022	22,666	1,389	1,129	25,183
2023	23,266	789	1,086	25,144
H1 2024	26,177	597	1,128	27,912
Litigated				
2015-2019	30,596	20,952	489	52,082
2020	31,144	20,971	392	52,645
2021	29,370	22,438	788	52,647
2022	27,776	23,315	959	52,084
2023	27,513	24,607	993	53,134
H1 2024	26,384	24,786	1,168	52,372

Did anything change if we look at 2024 as a whole?

For claims that settled for less than €150,000, the average total cost of claims settling directly with an insurer was €23,431, a slight reduction on the first half of the year (€23,739), and through the Injuries Resolution Board €27,144 (again down on the first half of the year €27,912) have both increased by 11% and 8% respectively in 2024 compared to 2023. For both channels, this increase follows a reduction in the average cost between 2020 and 2022 and an increase in 2023. Overall, the average cost for claims settled either directly or through the Injuries Board in 2024 are both 10% lower than the average for claims settled in the same channel in 2020.

Claims settled through litigation make up the majority of EL and PL injury claim numbers and total costs. For claims that settled for less than €150,000 through litigation, the average total cost has been relatively stable between 2020 and 2024 at approximately €51,000. Over this period, the average compensation cost decreased by 14% but this was offset by a 22% increase in legal and other costs.

claims that settled for less than €150,000 in each settlement channel, for the 2015-2019 average and 2020 to 2024.

Year	Compensation €	Legal €	Other €	Total €
Direct				
2015-2019	18,042	2,203	317	20,562
2020	22,342	3,353	350	26,045
2021	19,367	3,689	607	23,663
2022	17,066	2,977	444	20,488
2023	17,167	3,493	479	21,139
2024	19,295	3,688	448	23,431
Injuries Resolution Board				
2015-2019	29,111	1,274	539	30,923
2020	28,444	1,263	292	29,998
2021	27,024	905	1,032	28,962
2022	21,986	537	1,061	23,585
2023	23,392	660	1,060	25,112
2024	25,484	694	966	27,144
Litigated				
2015-2019	29,630	21,063	352	51,045
2020	30,323	21,121	411	51,855
2021	28,770	21,773	821	51,364
2022	27,084	22,777	964	50,825
2023	26,853	24,130	896	51,880
2024	25,935	25,055	1,207	52,196

Therefore, the savings that have been made through the introduction of the Personal Injury Guidelines have been subsumed by the increase in litigation costs. If Proportionality continues to be fundamental in relation to the award of damages, then surely it must now also come to the fore in relation to legal costs. As the table below shows we are now seeing Plaintiff Legal costs exceeding the settlement figure.

Table 25: Average settlement costs of injury claims (EL and PL combined) by settlement channel, using the 5-way settlement channel and cost splits, for 2023 and 2024²².

Settlement Channel	Comp - General Damages (€)	Comp - Special Damages (€)	Legal Own (€)	Legal Third Party (€)	Other (€)	Total (€)
All Claims						
Direct before Injuries Board	13,774	3,412	2,855		791	20,832
Injuries Board	22,866	2,661	801		1,589	27,916
Direct after Injuries Board	21,742	4,153	669	5,423	677	32,665
Litigated before Court Award	35,549	9,319	12,461	22,929	1,204	81,462
Litigated with Court Award	19,922	1,993	9,068	19,832	1,790	52,605
Claims <€150k						
Direct before Injuries Board	12,904	2,975	2,795		559	19,233
Injuries Board	22,267	2,318	795		1,564	26,944
Direct after Injuries Board	20,837	4,143	622	5,157	672	31,432
Litigated before Court Award	24,204	1,923	9,026	16,365	1,112	52,629
Litigated with Court Award	17,513	781	7,775	19,198		45,267

The **Judicial Council (Amendment) Bill 2026** may assist with this “quasi-judicial” decision making in relation to general damages. The purpose is to make the Personal Injuries Guidelines more transparent and of course allow the Government to outsource what could be considered unpopular decisions.

When publishing the bill, the Minister for Justice, Home Affairs and Migration, Jim O’Callaghan said **“A key aim of the Judicial Council (Amendment) Bill 2026 is to ensure the process for the adoption of Personal Injuries Guidelines is more transparent and comprehensive.”**

Basically, what the legislation will allow is that the Judicial Council will be allowed to consider revised Personal Injuries Guidelines, should the Oireachtas (Government) not approve Guidelines presented to them. The review period is increased from 3 to 5 years from the date on which new guidelines are adopted.

There will however be a requirement for the Judicial Council to consult with the Personal Injuries Resolution Board and other stakeholders and to conduct research on damages for personal injuries, including the level of damages awarded by courts and quasi-judicial bodies outside the State and for transparency's sake, this research must be published.

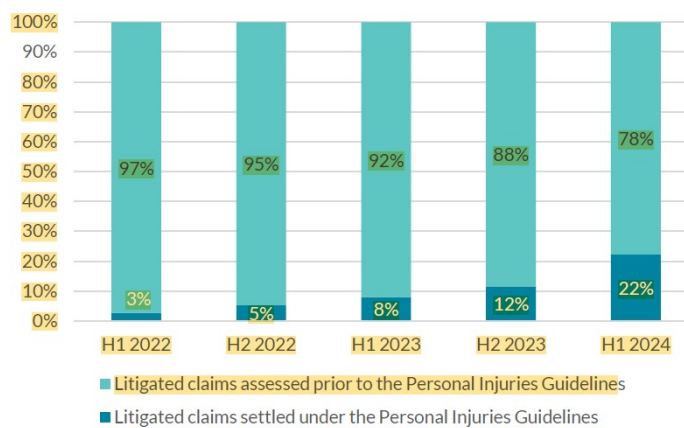
Personal Injury Guidelines

It is interesting to note that the Personal Injury Guidelines which came into effect in April 2021 are still only finding their way through the system. In relation to Injury claims settled during the first half of 2024 only 42% were settled under the Personal Injury Guidelines with the remaining 58% settled using the Book of Quantum.

Therefore, we are still seeing claims coming through that relate to accidents occurring on or before April 2021 over 4 ½ years ago at this stage. Only 37% of claims settled via litigation in 2024 were settled under the Guidelines. We should see this percentage increase over the coming years as it begins to gain momentum, and as older cases settle out.

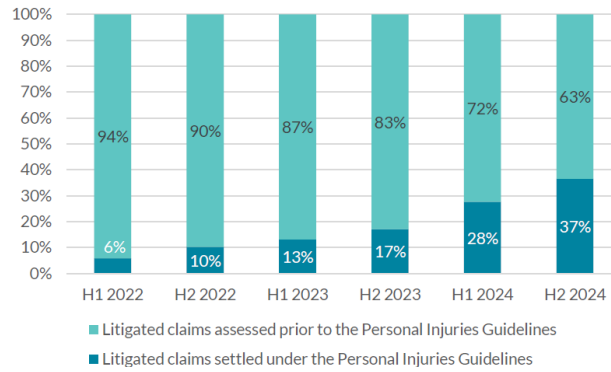
In the first half of 2024, 71% of all those injury claims settled were settled through litigation channel and of this, only 22% were settled under the guidelines. However, the table below does show that those cases settled under the guidelines is increasing year-on-year.

Figure 3: Proportion of litigated injury claimants settled under the Personal Injuries Guidelines and the Book of Quantum in each half year period between H1 2022 to H1 2024.



However, this changed quite dramatically following the second six months of 2024.

Figure 24: Proportion of litigated injury claimants settled under the Personal Injuries Guidelines and the Book of Quantum over 2022-2024.



Settlement under the Guidelines has now increased from 6% of claims settled in H1 2022 to 37% of claims settled in H2 2024. As this trend continues there should also be a similar reduction in the level of legal costs which of course are linked to the level of damages.

INJURIES RESOLUTION BOARD

We have elsewhere made mention of the statistical numbers and movements within the Republic of Ireland by commenting on the NCID report which covers all the relevant settlement streams including the Injuries Resolution Board. We will therefore not comment to any great extent on the movements in relation to damages however there are some statistical facts that do require some mentioning coming from the IRB report

The consent rate for settlement/mediation has dropped slightly by 1% from 71% in 2023 to 70% in 2024 however it does now look as if it is stabilising at in and around the 70% mark which is positive. This will only improve as the implementation levels for the personal injury guidelines continues to increase over the next number of years.

What is also positive is that the acceptance rate for 2024 has now hit 50% up by 2% from 48% in 2023 and up 6% from 44% in both 2021 and 2022.

The majority of cases before the Injuries Resolution Board apply to motor claims (69%), with Employers' liability cases accounting for 13% and public liability taking up 17%. The balance of 2% relates to Garda compensation claims.

The average time for an assessment to be made is 11.2 months which again is a positive when consideration is given to the litigation period which is now in and around 5.5 years.

In relation to the mediation service that was launched back in December 2023, there is a 35% opt in rate currently and of this 50% have been successful. The time taken to resolve settlements though mediation averages at three months. Again, this is positive however the opt in rate is still quite low.

One other point of interest to note is in relation to the severity profile of the most common injury types. This was mentioned when we discussed the NCID data earlier however it is interesting that the category of injury falling into the moderate/severe bracket has increased from 13% in 2021 to 20% in 2024. This has increased year-on-year, and I wonder is this to cater for the refusal of the government to increase the levels of the personal injury guideline awards following a recommendation by the Judicial Council to do so.

Whilst the recommended increase by the Judicial Council of 17% was too high (although it could be argued differently when considering inflationary costs over the last five years) we do believe that there should have been an increase to remove any “discretion” that now seems to be creeping in.

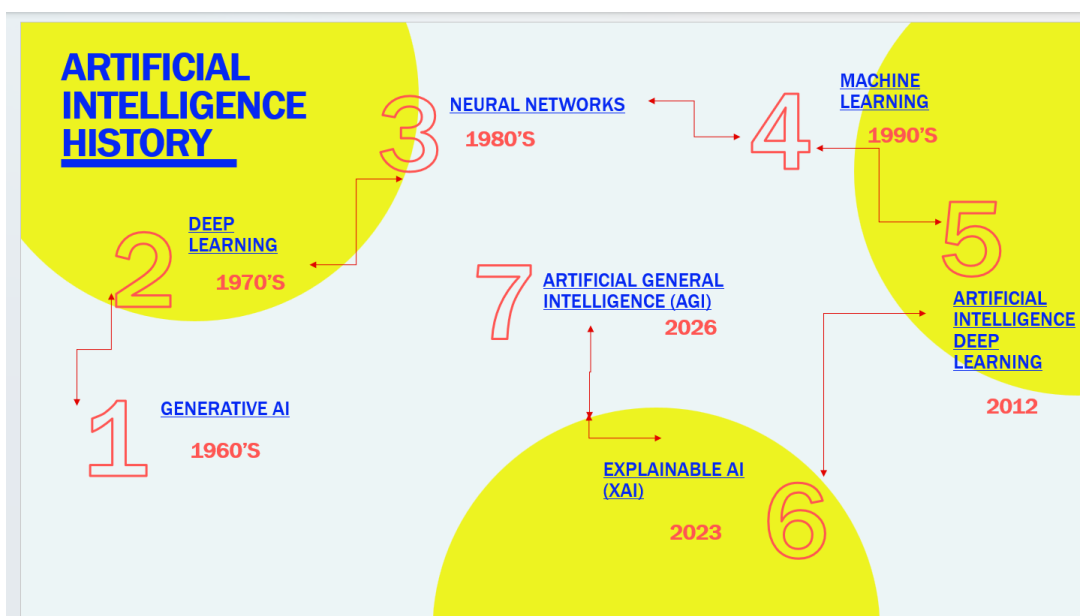
One of the failings of the Book of Quantum at the earlier stages was the fact that it did not keep pace with inflation or indeed social and economic developments. As a result, the judiciary made up their own mind with regard the Book of Quantum taking the view that it was out of date. There is a concern that we may be in danger of repetition in relation to the Personal Injury Guidelines. It may be that the Injuries Resolution Board is taking the view that by moving the injury into the higher bracket it has a greater possibility of being accepted by the claimant (and their legal advisers in many instances). In addition, if the matter does litigate, there is a chance that a court may not award more and therefore the “tender” is not breached. This is purely an observation on our part.

Another stat of note is in relation to the type of injury obtaining awards from the Injuries Resolution Board. It is noticeable that those minor injuries i.e. whiplash neck type musculo ligamentous injuries continue to reduce from 28% in 2021 to 23% in 2024. The converse is true in relation to psychiatric damage which increases from 5% in 2021 to 9% in 2024. The latter could be accounted for by the fact that the Injuries Resolution Board can now deal with psychiatric injury/damage whereas originally that was not the case. It is however a noticeable increase. All other categories remain relatively static.

The Injuries Resolution Board has also dealt with some fatal workplace accidents now given its increased remit. In total during 2024 it dealt with 15 fatalities of which four related to industrial and construction areas. Factory and plants accounted for three, there was two farm, and the balance were categorised as other.

ARTIFICIAL INTELLIGENCE

During Covid, I wrote for the market that we were at that stage undergoing the next industrial (or maybe technological) revolution. The speed of development enabling changes in work practices completely re-wrote the script. Little did we know at the time that it was the “tip of the iceberg”. The global AI market is now expected to reach \$1.81 trillion by 2030.



There is absolutely no doubt that AI is here to stay and of course does have major benefits for our business. It can provide operational efficiency, will undoubtedly allow us to work smarter, can automate various aspects such as administrative tasks for claims and of course fraud detection. However, all this also creates risks such as the deep fakes and misinformation hallucinations and errors with a potential for copyright infringement and of course bias discrimination. The latter can however be positive if dealing with criminal activities or perhaps specific aspects of underwriting criteria.

The EU Artificial Intelligence (AI) Act came into force on 2 August 2024 and is directly applicable across the EU. The legislation will apply in a phased manner over a 36-month period from that date of 2 August 2024.

It adopts a risk-based approach to regulation based on four risk categories:

1. Unacceptable risk,
2. High risk,
3. Limited risk and
4. Minimal risk.

Of importance is the enforcement and accountability aspect and this ensures that all national authorities are empowered to enforce compliance with significant penalties. These are quite high for breach ranging from €7.5 million or 1.5% of total worldwide annual turnover for the preceding financial year to €35,000,000 or 7% of the total worldwide annual turnover for the preceding financial year whichever is the higher.

- Unacceptable Risk AI: Up to €35M or 7% of global turnover.
- General Purpose AI & Transparency breaches: Up to €15M or 3% of global turnover.
- High Risk AI violations: Up to €15M or 3% of global turnover.

The Act aims to balance technological innovation for the protection of fundamental rights ensuring that these AI systems are trustworthy and ethical. Full compliance required by August 2027 however in the interim it will be necessary to ensure appropriate AI literacy training has been implemented

Unacceptable risks include such aspects as social scoring by governments, exploited manipulation targeting vulnerable group and real time biometric identification in public spaces with limited exceptions.

High risks include such aspects as recruitment screening in relation to employment, grading admissions in relation to education, credit scoring, healthcare diagnosis and critical infrastructure management.

Limited risks include systems such as chat bots, generative AI and emotion recognition all of which require transparency measures to inform users about an involvement.

Minimal or no risk apply to applications such as spam filters and product recommendations etc.

The act has a wide coverage which applies to all providers and deployers of AI systems used within the EU which also includes international vendors serving EU insurers. The EU and the Central Bank of Ireland have prioritised the use of AI in financial industry and have issued guidance as a result. There is no doubt that they will conduct reviews and enforce targeted actions in relation to the insurance sector.

There are specific core principles or obligations identified within the legislation. As in most European legislation it is a risk-based approach and there is a requirement for human oversight and safety which ensures that there must be a "human in the loop" to protect fundamental rights that there is an obligation for transparency and detailed documentation to be provided. This includes the need to conduct risk assessments and disclose all relevant information to users so that they can make informed decisions. The requirement for data governance and quality ensures strict standards on training data equality representativeness and bias minimisation.

The importance of human oversight and accountability cannot be underestimated. Any high-risk AI systems must be overseen by qualified individuals with authority to intervene, override and disregarded the outputs.

As a result, jobs will evolve in this sector so as to ensure this key human judgement. All systems are required to maintain detailed logs of any decisions and actions made therefore creating an auditable trail should that be required.

The transparency requirements and explainability obligations would be like what is currently in place under the data protection legislation. Individuals that have been the subject of high-risk AI decisions have the right to clear and meaningful explanation of how AI influenced those decisions. The decision-making process needs to be transparent to ensure user confidence in AI driven insurance services.

There will be a requirement to mitigate any algorithmic bias in insurance. The act enforces rigorous data governance rules as a defence against such bias however it does legally permit the processing of sensitive special category of personal data so as to monitor, detect and correct bias in AI systems. The focus is on monitoring and preventing indirect or proxy-based discrimination.

From the Central Bank's perspective there is no doubt that it will be a "consumer centric governance" that will be required to ensure that consumer interests are safeguarded. We can therefore be sure that thematic review as we have seen in the past will happen. These will focus on AI use which more than likely will lead to a requirement for tailored remediation plans to address any adverse findings and improve compliance.

This human centric approach has created its guidelines for trustworthy AI and seven principles for responsible AI have been identified:

1. Human agency and oversight.
2. Technical robustness and safety.
3. Privacy and data governance.
4. Transparency.
5. Diversity non-discrimination and fairness.
6. Societal and environmental well-being.
7. Accountability.

The view is quite clearly that digital transformation starts with people and not technology and it is quite clear that business will have to ensure that it builds a human centric AI program. In any profession where advice is being given, critical thinking will be vital.

MISCELLANEOUS COMMENTARY

1. **Compare and Contrast – Ireland V UK**
2. **Nervous shock**

Compare and Contrast (Minor Soft Tissue Injuries UK V Ireland)

As part of the Irish government's action plan for insurance reform, a report was requested by the Injuries Resolution Board in consultation with Deloitte to analyse 12,000 awards and settlements made under the Personal Injury Guidelines between 2022 and 2024 to provide an analysis of compensation for minor neck and back soft tissue injuries sustained in road traffic accidents comparing Ireland with England and Wales. The report opined that over that three-year period the average assessment made by the Injuries Resolution Board was 3.9 times higher than the average in England and Wales.

The introduction of the Personal Injury Guidelines back 2021 did bring Ireland's personal injury system closer in line with the UK however the UK government subsequently introduced further measures reducing injury awards which has now resulted in a gap between the jurisdictions again. It may however take time for

damages to stabilise in both jurisdictions and the 15% increase in UK tariffs in May 2025 will also have a bearing.

Average minor soft-tissue compensation: Ireland versus UK (€)					
Settlement Year	Injuries Resolution Board Assessments	Irish Insurer Settlements (All Channels)	UK Settlements (OIC and MoJ Portal)	Injuries Resolution Board Assessments to UK Ratio	Irish Insurer Settlement to UK Ratio
2022	€6,701	€8,040	€2,089	3.2	3.9
2023	€7,187	€8,966	€1,668	4.3	5.4
2024	€8,350	€9,748	€1,801	4.6	5.4
Overall Average	€7,377	€9,106	€1,831	3.9	4.9

For currency conversions, an exchange rate of €1 to £0.86 was used.

Average compensation for minor soft tissue injuries did rise between 2022 and 2024 a time at which they declined in the UK however such aspects as severity, recovery, time and the type of injuries etc involved do have a bearing. There are also other aspects that need to be considered which is a different settlement channel and of course more general aspects such as road usage, the claims environment itself and of course the injury type.

What this comparison did however point out was the differences between the two common law jurisdictions when it comes to the valuation of personal injury claims at this minor level. At the other end of the spectrum our opinion has been that general damages for more serious injuries would be higher in the UK than in the Republic of Ireland and this of course would affect the overall cost however the volume for this type of claims will be at the lower level and that is where there is a significant difference.

Nervous Shock

I have a particular interest in psychiatric injury and 2025 gave us an important case which confirmed legal precedent in the area. The case of **Lynch v Reynolds & Ors [2025] IEHC 527** surrounded the circumstance of a tragic road traffic accident wherein the plaintiff's son, Mr Stephen Lynch, died on 13 April 2017 having been struck and dragged along the road by a car in Tallaght, Co Dublin.

There was a subsequent criminal investigation which delayed the inquest until 24 October 2024 where the jury returned a verdict of "unlawful killing".

The plaintiff (the Deceased's mother) Vera Lynch subsequently brought a civil action for nervous shock against the car's owner, Otis Reynolds, and his brother, Dean Reynolds, who held a temporary insurance policy for the vehicle. She issued proceedings seeking damages for nervous shock arising out of her son's death, giving evidence that she had been diagnosed with post-traumatic stress disorder (PTSD).

The case was challenging as neither of the Reynolds brothers defended the action and judgment was granted against them in January 2022. Following this a significant dispute emerged between the insurer, Axa, and the Motor Insurers' Bureau of Ireland (MIBI) regarding who was driving the car at the time of the incident. The identity of the driver was crucial for determining who was liable to pay the damages. Both brothers were subpoenaed to give evidence but largely refused to answer questions, citing their right to avoid self-incrimination. The Judge ultimately determined that Dean Reynolds, the insured party, was likely the driver.

Vera Lynch had been brought by car to the scene within 10 minutes of the incident, her daughter having received a text about the incident. The deceased's body remained at the scene with a tent around it until its removal on 14 April 2017. The Plaintiff subsequently advised that she had difficulty identifying her son at the mortuary due to his injuries. Very similar circumstances to the seminal case of **Kelly V Hennessy (1995) 3 IR 253** which established the necessary criteria to be able to claim for nervous shock in the Republic of Ireland.

The Kelly Principles:

1. A Close Relationship: The person making the claim (the plaintiff) must have a close, loving relationship with the primary victim of the accident.
2. Proximity to the Event: The plaintiff must have been present at the scene of the accident or witnessed its immediate aftermath.
3. Sudden Shock: The injury must be the result of a sudden and shocking event, rather than a gradual realisation of what happened.
4. Recognised Psychiatric Illness: The plaintiff must be diagnosed with a recognised psychiatric condition, such as Post-Traumatic Stress Disorder (PTSD), by a medical professional.

Mr Justice Tony O'Connor found ***that “the plaintiff has suffered PTSD from the ‘horrific experience that she had’ in the aftermath of the incident, which was complicated by her experience at the morgue, the inability to recover any of his clothing and having to endure the long inconclusive investigation into the circumstances including the identity of the driver”.***

The Judge noted that the plaintiff continued to suffer from severe PTSD which had attenuated in the last three years, and further, that the plaintiff was unlikely to recover from the PTSD which was separate to her grief. ***“In other words, the plaintiff is left with lifelong symptoms caused by nervous shock,”*** he said.

The judge cited *Sheehan v Bus Eireann* [2020] IEHC 625 as ***“a model of clarity both in relation to the law about nervous shock and the approach to the assessment of damages for PTSD in the era before the mandatory application of ‘the Personal Injury Guidelines’.”*** and assessed general damages for the period of 13 April 2017 to date at €85,000 and general damages into the future at €45,000.

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