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# Revealed: How GPs and lawyers are fuelling our claims culture

- :: Solicitors asking doctors to change their medical reports
- :: 'You're still worth 10 grand if you recover,' reporter is told

**Amy Molloy**

DOCTORS are fuelling Ireland's compensation culture by actively encouraging patients to bring personal injury claims, an *Irish Independent* investigation has found.

Our probe discovered some doctors are even recommending particular solicitor firms.

Meanwhile, solicitor firms in turn are directly referring clients to GPs and orthopaedic surgeons to have injury reports prepared.

The undercover investigation found at least seven firms are sending clients to the same orthopaedic

## Irish Independent investigation

- surgeon. It also uncovered how:
- :: Some medical reports were found to be "word-for-word", "copy and paste like" and with incorrect patient names;
  - :: Solicitors and claimants asked doctors to amend medical reports;
  - :: Physical examinations for whiplash lasted as little as 40 seconds;
  - :: One solicitor claimed he's paying

a GP in bulk "for up to 10 medical reports at a time", but said they "don't have a special relationship".

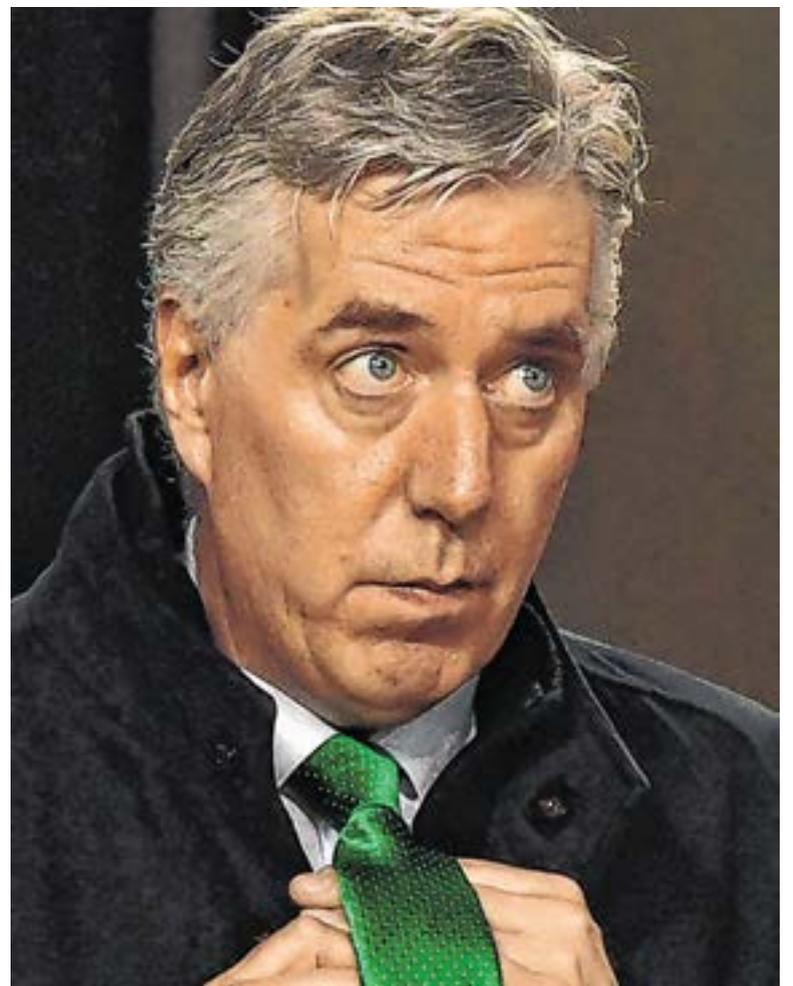
At one stage a reporter was told it was "probably best to leave out" of the medical report that she suffered from back and neck stiffness prior to a "rear-ending accident".

A solicitor said, "You're still worth 10 grand" when the reporter asked what happens if she had fully recovered.

The solicitor added: "If you get seven-and-a-half grand into your hand after all expenses... that's happy days."

Continued on Page 4

Inside the FAI: Secret contracts, hidden losses and spiralling debt



**John Delaney: The worst thing ever to happen to Irish football?**  
Reports pages 2-3 and Sport



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What happened when undercover reporter **Amy Molloy** attended solicitors and GPs after filling out a form on a claims harvesting website

# ‘If you get seven and a half grand... happy days’

**A**SOLICITOR told an undercover reporter “you’re still worth 10 grand” after she said she felt OK following a rear-ending accident, adding: “If you get seven-and-a-half grand into your hand after all expenses... that’s happy days.”

The reporter came into contact with a number of solicitors and medical professionals after filling out an assessment form on a claims harvesting website.

This site asked for the reporter’s name, number and a brief description of the accident.

She then received a call back from a number of solicitors, who all told her over the phone they would arrange for her to go to named medical

**‘Insurers just want to throw money at you...’**



**See the video online at independent.ie**

professionals to have a medical report prepared.

The reporter then presented herself to some of these as a walk-in patient.

One GP asked her, “Have you been to a solicitor?” when she said she was in a rear-ending accident.

The senior GP then recommended two solicitor firms during the medical consultation. One of the firms recommended had already contacted the reporter through the claims harvesting website.

The GP told the reporter she would get money if she brought a claim for whiplash and her case likely wouldn’t go to court as “insurers just want to settle.”

She said her neck was sore after her car was rear-ended

**Insurance probe:** Reporter Amy Molloy outside the Four Courts, Dublin.

PHOTO: OWEN BRESLIN



while driving. The reporter said there was a bit of damage done to the car and she didn’t think anything was wrong, but her neck started to feel sore shortly afterwards.

The GP diagnosed her as having whiplash after asking her to do some neck stretches,

issued a sick cert and told her she would be entitled to compensation if she brought a claim.

Two weeks later, the reporter attended a second consultation with the same GP which was set up by a solicitor the GP had previously recommended.

The physical examination lasted less than 40 seconds.

The GP said it would “probably be best not to” include in the medical report that she suffered from back and neck stiffness before the rear-ending accident if this health issue hadn’t been subject of a previ-

## Medics are encouraging patients to bring claims – even

### From Page 1

Our probe discovered how some solicitors and claimants are even asking doctors to amend medical reports.

In one case, a firm requested a GP omit from his report how a patient had previously made a number of claims for separate accidents as “it wasn’t relevant”.

In another case, a patient asked a doctor to increase the length of their prognosis.

The Law Society of Ireland says it has no policy in place regarding the relationship between solicitors and GPs, as “issues surrounding the referral of clients to GPs

simply haven’t arisen”.

The reporter came into contact with these solicitors and medical professionals after filling out an assessment form on a claims harvesting website.

After filling in a brief description, the reporter received several calls from different solicitors, who all said they would arrange for her to go to named medical professionals to have a medical report prepared.

One GP told the reporter she would get money if she brought a claim for whiplash, and said her case likely wouldn’t go to court as “insurers don’t want the hassle”.

The GP diagnosed her as

having whiplash after asking her to do some neck stretches – and issued a sick cert.

During the same consultation, the GP said it would “probably be best not to” include in the medical report that she suffered from back and neck stiffness before the rear-ending accident if this health issue hadn’t been subject of a previous claim.

As well as writing medical reports for solicitor firms, this doctor is also one of 180 GPs on the Personal Injuries Assessment Board’s panel of independent doctors.

The injuries board is Ireland’s independent State body which assesses personal injury



**Advice:** Some doctors are encouraging patients to bring personal injury claims.

PICTURE POSED

compensation. It was set up with the intention of reducing the need for solicitors and litigation.

During the first of two medical consultations, the GP said it would be better to make a claim by going through a solic-

itor’s firm on a ‘no win, no fee’ basis, instead of paying a GP directly for a medical report and making an application to the injuries board.

The GP then proceeded to recommend two solicitor firms.

A spokesperson for the injuries board said its guidelines for medical practitioners acting on its behalf are that “doctors do not advocate for either party [defendants or plaintiffs], and must instead advocate for the medical facts”.

The spokesperson added that the GP was acting as the undercover reporter’s doctor and not on behalf of the injuries board during the consultations.

The *Irish Independent* attended consultations with three other doctors who did not recommend a solicitor’s firm or encourage the reporter to bring a claim, but they did diagnose her as having whiplash.



ous claim. "It's probably best to, erm... One of the questions on this is whether you've had previous trouble with your back and neck or your neck particularly if you're making a claim, they will want to know whether it's an exacerbation of a previous problem or whether it's a

new problem," the doctor said.

The reporter then asked: "Which one gets more money?"

The doctor responded: "I don't know really, I don't think it makes much difference.

"What you have to be careful of is if you have had trouble

which has been documented by a GP previously and you've had investigations and treatments done with your GP or hospital doctor and you don't declare it that can land you in trouble as they'll say it's not due to the accident.

"In your case where you've

had back stiffness, it's probably best to leave it out in other words not to declare it as it's not been documented with a previous GP, or it hasn't been the subject of a previous claim, do you get what I'm saying?"

"Lots of people have a bit of back trouble," they added.

The doctor also told her the whiplash claim likely wouldn't go to court as "insurers don't want the hassle".

During a consultation with the solicitor who recommended the reporter to this GP, he described his relationship with the doctor as "completely independent".

"We don't have any specific relationship with [redacted], we don't pay [redacted] anything extra, in fact [redacted] gives it to us for a lot less because we push a lot of clients their way and it's a lot faster, so it's not like we pay them extra to say things, we don't."

The solicitor also told the reporter it "looks very good on paper for me" if she went to

**'You say, 'my back is still sore, doctor...' it's very good on paper'**

the doctor again five months after an accident. "If you got your GP to give you a check-up, you say 'my back is still sore, doctor, I've had this accident in March, it is now September', it's very good on paper.

"That's all I'd say about that, it's good on paper. It helps me to get to the next level, do you understand what I'm saying?"

When the reporter asked what would happen if a doctor examined her and she felt fine, the solicitor said: "Well then you're fully recovered... You're still worth 10 grand though. It's a no brainer."

He added that "insurers just want to throw money at you" and said they only investigate suspicious claims.

"You're not at risk, it's a genuine case. We wouldn't take it on if we thought it was fraudulent because it gives us all a bad name," he said.

"We only represent genuine clients."

## recommending particular law firms

lash and provided sick certs.

During our investigation, we also uncovered that a number of firms are directly referring clients to the same orthopaedic surgeon.

A source in the insurance industry revealed they are investigating this person's relationship with certain solicitor firms.

"We are concerned about how some of the medical reports all outline the same symptoms including problems doing the ironing and taking stuff out of the dishwasher," the source said.

"Some of the reports are almost word for word."

A personal injury claimant

who brought a successful claim told the *Irish Independent* how he was referred to this orthopaedic surgeon by a firm which contacted him via a claims harvesting website.

"I was genuinely injured and have nothing to hide but I would say the doctor was, let's say, very encouraging about bringing a claim," he said.

In response to queries, the Law Society of Ireland said issues around the referral of clients "simply haven't arisen".

"Given the lack of difficulty on the topic in practice, there hasn't been a need to develop a formal policy or protocol," the spokesperson said.

In its medico-legal guide-

lines, the Law Society states if a client continues to have symptoms from injuries, the solicitor can advise his client to request their GP to refer them to a consultant who specialises in the relevant areas.

However, the majority of solicitor firms which contacted the *Irish Independent* via a claims harvesting website did not follow this procedure and instead set up direct appointments with consultants.

When asked if there would be concerns about a solicitor sending all or most of its clients to one particular medical professional, a spokesperson said: "The Law Society can-

not speculate on hypothetical cases."

A spokesperson for the Medical Council of Ireland said: "Medical reports must be factual, relevant, accurate and not misleading.

"Their content must not be influenced by financial or other inducements or pressures.

"You should explain to the patient that you have a duty to the third party as well as to the patient, and that you cannot keep relevant information out of the report."

The Irish College of General Practitioners wished to clarify it is the role of a GP to give "medical advice".

## Just what does it take for a GP to diagnose you with whiplash?

Amy Molloy



**W**HIPLASH - it's the diagnosis which divides medical opinion. Some professionals believe it's a myth.

One former Irish neurosurgeon even went as far as saying it's "nothing but a gravy train for medics, victims and lawyers".

But other medical experts say it is a legitimate condition. The *Irish Independent* decided to investigate what it takes to get a whiplash diagnosis.

I attended four GP consultations and complained of neck pain and stiffness following a "rear-ending accident". I wasn't in any accident, and I didn't overly exaggerate my symptoms.

Each doctor asked me to do a series of stretches and I did them relatively comfortably.

There were no grimacing faces or wincing sounds, but I said I was a bit sore on the left side of my neck.

So an uninjured reporter was able to walk into GP practices off the street, complain of a bit of stiffness and walk out with a whiplash diagnosis and a sick certificate.

The physical examinations with each doctor lasted less than two minutes. Physiotherapist Margaret Hanlon, who

**You can fake pain but you can't fake restriction of movement**

is an expert witness for the Irish Society of Chartered Physiotherapists, said the standard whiplash test carried out by physios usually lasts between 30 and 45 minutes.

"Whiplash shouldn't be easy to fake," she told the *Irish Independent*.

"We carry out a series of movements to see if there is a match up between what you're telling us and what we're finding on testing.

"You can fake pain but you can't fake restriction of movement."

Ms Hanlon carries out physical examinations for personal injury cases and has compiled a number of reports for the Personal Injuries Assessment Board, the independent body which assesses compensation claims.

She has come across patients who have exaggerated their injuries, but insists it's easy to identify those who are genuine and those who are not.

Ms Hanlon says GPs diagnosing whiplash injuries can sometimes be problematic as they may not have much experience in that area.

Currently, Ireland has among the highest pay-outs for whiplash injuries in Europe. In the first half of 2018, victims of whiplash were awarded an average of €20,000 - 4.4 times higher than in the UK.



Comment

Rising tide of anger over housing will crash down on Fine Gael if it doesn't loosen the purse strings  
Martina Devlin 29

## Ballyboden new kings of Leinster

Colm Keys in Sport



+ *'My wife's family buy too many Christmas presents'*

Health & Living



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**Salty seadog:** Surf's up as Storm Atiyah blasts the coast

A dog plays in the surf at Spanish Point, Co Clare, as gales and high seas batter the west coast.

PHOTO: PRESS 22

**High winds, falling trees, power cuts:** Page 3



## FAI bypassed with €2m for the grassroots

THE embattled Football Association of Ireland (FAI) is to be bypassed so that the grassroots game can be funded to the tune of more than €2m next year.

Sports Minister Shane Ross has been under pressure to ensure local teams don't suffer from what one senior politician has branded "the biggest scandal in Irish sport ever".

It was revealed on Friday that the FAI has liabilities of €55m and former chief executive John Delaney's exit package amounted to €462,000.

Fine Gael TD Fergus O'Dowd, chair of the Oireachtas Sport Committee, last night said he has invited Mr Ross and the FAI to an emergency meeting of the committee on Wednesday.

Full report, Page 2

# Compo culture: lawyers ask GP to omit client's history of claims

'It isn't good enough' – minister responsible for insurance reform calls on Law Society to investigate

**Amy Molloy**

FAMILY doctors are facing pressure to bury patients' claims history, or to amend medical reports for personal injury claims, the *Irish Independent* can reveal.

Our undercover investigation has already exposed how some lawyers

and GPs are fuelling compensation culture by actively encouraging patients to bring claims.

But we also found some GPs facing requests that are in contravention of the Medical Council stating no third party should influence the content of a doctor's medical report.

In one case, a firm requested a GP

## Irish Independent investigation

omit how a patient had previously made a number of claims for separate

accidents. "Our client would appreciate if you could remove the reference to them often being the subject of claims," the letter states. The firm felt this wasn't "relevant" to the medical report.

We found that solicitors and patients have asked doctors to:

• Increase the length of a prognosis;

• Change the details of an accident – which the doctor refused to do;

• Include symptoms not mentioned during previous consultations.

Junior Minister Michael D'Arcy is now calling on the legal and medical regulatory bodies to investigate.

Continued on Page 4

ANNUAL APPEAL



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# Clamp down on rogues who fuel claims culture, minister urges Law Society

Amy Molloy

THE minister responsible for tackling spiralling insurance costs has called for investigations into how some doctors and solicitors are fuelling a compensation culture.

Junior Finance Minister Michael D'Arcy says medical and legal regulatory bodies must probe the involvement of their members in exaggerated or fraudulent claims.

He spoke out as Fianna Fáil criticised the slow pace of reform, claiming a lack of movement by Government has given people an incentive to make claims.

An undercover investigation by the *Irish Independent* exposed how some doctors are actively encouraging patients to bring claims for whiplash injuries.

Fine Gael minister Mr D'Arcy said: "It isn't good enough.

"It is now for the regulatory bodies [the Law Society and Medical Council] to deal with. We need to have a properly constructed sector.

"It is concerning if there are professionals who may know cases are exaggerated or fraudulent."

Mr D'Arcy said he has a "huge amount of respect" for the medical and legal professions, but added: "I do get annoyed by some cases that are being presented."

The *Irish Independent's* investigation found some doctors are actively encouraging patients to bring personal injury claims, with some even recommending particular legal firms.

An undercover reporter was told by a solicitor that "insurers just want to throw money at you" and settle personal injury claims.

Mr D'Arcy said a report from the Central Bank is expected within a couple of weeks

which will provide details on how many claims are being settled, the level of premiums being paid and the level of awards.

"I can understand insurance companies paying because every day in certain courts can be €30,000 to €50,000," said the minister.

"If the claim is less than that, it's a commercial reality, but that doesn't make it right, it doesn't make it appropriate and doesn't make it correct.

"There are dozens of exaggerated cases where people are looking for more than they should."

Mr D'Arcy said his main aim is to get the level of awards down, but he also intends to look at the area of legal fees.

"Legal fees are a huge part of it, the figures we have [show] that up to 40pc can go towards legal fees."

Meanwhile, Fianna Fáil's business spokesman Robert Troy said the *Irish Independent* investigation highlights that "an insidious cabal exists" between a minority of doctors and solicitors "who are the big winners out of this".

He claimed: "They have been free to carry out their activities as a result of Government lethargy."

He said that Fianna Fáil introduced a Bill aimed at tackling insurance fraud in 2018 but there has been "no movement".

Mr Troy said Justice Minister Charlie Flanagan indicated in March that there would be a decision on progressing the Bill or not, but it still hasn't happened.

Last night Mr Flanagan said: "It is my duty to ensure that all legislation which passes my desk is constitutionally sound, legally robust and workable."

He added that there are "legal and constitutional concerns" with the Bill.

## 'Commercial reality':

Junior Minister Michael D'Arcy said he understands settling, given the cost, but it's not right

PHOTO: DAMIEN EAGERS



**Tomorrow**  
'Fraudulent claimants are getting a free shot... they have nothing to lose'  
Inside Compo Culture Day 3

## In Focus

### How solicitors and claimants are asking GPs to amend their medical reports

From Page 1

During the *Irish Independent* investigation, it emerged that some doctors are recommending particular solicitor firms.

Meanwhile, solicitor firms in turn are directly referring clients to GPs and orthopaedic surgeons to have injury reports prepared.

But it also emerged that solicitors and patients can sometimes put pressure on doctors to amend medical reports for personal injury claims.

In one letter - seen by the *Irish Independent* - a patient

#### 90pc of patients in a study did not return once case was over

said: "I am concerned that under comment/opinion/latest prognosis that you indicated that there would be full recovery within four to six weeks and in fact having seen you recently I outlined to you that the injury had not settled and I am in considerable pain with the injury."

In another letter, a solicitor asked a GP to add details to the medical report about the patient's symptoms, including how she couldn't wear high heels or walk to the shop unaccompanied.

"The issues in relation to the impact the injury is

having on our client's day to day activities is of great significance in relation to the case..." the letter says.

"It is one of the areas that our client will be compensated by way of general damages so it is imperative that the impact is addressed and outlined in the medical report so that our counsel can assess the potential quantum of damages accurately."

One solicitor asked a GP to change the details of the accident, stating that their client had made an error during her medical consultation.

The GP refused, saying: "With respect... my medical notes make no reference to that. Thus I am unable to amend my medical report as requested."

A GP with more than 30 years' experience told the *Irish Independent* "Sometimes after we assess patients we get letters from the patients or their solicitors asking for us to include other issues that they forgot to mention during the original consultation.

"While I have seen a lot of genuine claimants, sometimes I have people limp into my office but walk perfectly out to their car."

A recent study of 100 patients from the Mater Hospital pain management service found more than 90pc of patients with whiplash attending a Dublin pain management



#### Check-up:

Some patients and their legal teams ask for reports from doctors to be altered

PHOTO POSED

clinic failed to return for additional treatment once their legal action was completed.

The Medical Council of Ireland says medical reports must be "relevant, factual, accurate and not misleading. Their content must not be influenced by financial or other inducements or

## The public will lose faith in any watchdog

### COMMENT

Amy Molloy

**W**HEN given evidence of a solicitor bragging about how two clients had bogus claims dismissed and didn't have to pay costs, the Law Society of

Ireland said it couldn't comment on specific cases.

When asked if it would be concerned by a different solicitor referring all his clients to the same GP to have medical reports prepared, the society said it couldn't comment on hypothetical cases.

But when asked if any lawyer had ever been investigated for knowingly helping a client bring an exaggerated claim, the legal watchdog was emphatic in its response.

"No solicitor has ever been

'The Law Society needs to stop sticking its head in the sand'

investigated for knowingly helping a client bring an exaggerated claim," it said. But just because nobody has been investigated for something, does that mean it isn't happening?

Sometimes asking the society to comment on our personal injury system can feel a bit like interviewing Arsene Wenger.

The former Arsenal manager would famously say: "I didn't see it" when asked about a controversial moment in a game.

He later admitted to a



pressures.” When asked about some solicitors asking for reports to be amended, a spokesman for the Law Society said: “[We] cannot pre-judge any cases, complaints or individual solicitors and cannot legally provide specific answers to your questions.”

The latest revelations come

after an investigation by our undercover reporter.

She attended solicitors and GPs after filling out a form on a claims harvesting website.

At one stage the reporter was told it was “probably best to leave out” of the medical report that she suffered from back and neck

**‘People limp into my office then walk out fine’**

stiffness prior to a “rear-ending accident”.

A solicitor said: “You’re still worth 10 grand” when the reporter asked what happens if she had fully recovered. The solicitor added: “If you get seven-and-a-half grand into your hand after all expenses... that’s happy days.”

# ‘The doctor basically just wrote all the things I said..’

Amy Molloy

A MAN who brought a personal injury claim after a car accident says the medical expert his solicitor referred him to “barely examined him”.

The claimant was involved in a rear-ending accident in 2017 and suffered injuries to his neck and lower back.

He said he was looking for information online about how the accident would affect his insurance when he came across a personal injury website.

The man filled out a free online assessment form on the site, and was immediately contacted by two solicitor firms.

“I didn’t even realise it was a legal site as it didn’t mention solicitors anywhere, I just thought it was something along the lines of the Citizen’s Information website,” he told the *Irish Independent*.

He was advised by the two solicitors that he was entitled to compensation and they said they would arrange a medical assessment with “our doctor”.

“I eventually decided to go with the Dublin solicitor and they told me their doctor sees clients of the firm on a regular basis,” he said.

“I never met the solicitor either, everything was done over email and phone.”

He says the consultation with the doctor – who is a qualified orthopaedic surgeon – was “very brief” and he found them to be “very encouraging about taking a claim”.

“The doctor basically just wrote down what I said about my injuries,” the man added. “I might have been asked to stand up but the doctor didn’t

**‘Insurers just want to throw money at you..’**



**See the video online at independent.ie**

really physically examine me.”

The man was awarded €8,500 after the claim was settled and the solicitor received fees of between €1,000 and €1,500.

He was also assessed by his own GP, and the orthopaedic surgeon referenced this in his report.

“On the basis of the history given and his clinical examination it would appear that he did sustain, on balance of probabilities, musculo-ligamentous injuries to his neck, left trapezius and lower back,” the medico-legal report said.

The orthopaedic surgeon writes medico-legal reports for a number of legal firms at the same time.

A source in the insurance industry revealed how this doctor has been involved in writing reports in dozens of cases being defended by insurance companies.



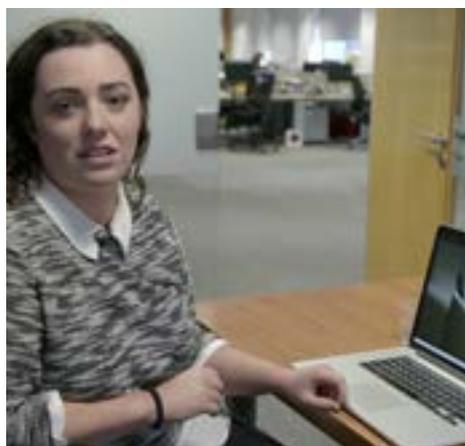
**Our View**  
Scandal of insurance costs must be on election agenda  
23

*that repeatedly refuses to acknowledge a problem exists in its profession*

French newspaper that he pretended not to have seen certain incidents to protect his players.

The Law Society isn’t pretending not to see things, however it is refusing to acknowledge that there are a small number of solicitors who are fuelling Ireland’s compensation culture.

The society insists that it is up to judges to refer matters if he or she suspects a solicitor may have knowingly helped a client to bring an exaggerated claim. To date, no judge has ever



**Persistent:** Reporter Amy Molloy has had her requests for comment from the Law Society rebuffed repeatedly

felt the need to do this.

Watchdogs are put in place to keep those under its umbrella in check.

But the public quickly loses faith in a watchdog which time and time again refuses to comment or acknowledge there may be a problem with some members of a profession.

Take for example personal injury claims which are thrown out of court after the defence provides social media pictures showing a person participating in an activity weeks after

they allegedly suffered a ‘life-changing injury’. The Law Society has repeatedly argued that clients must swear an affidavit verifying their claims and therefore the solicitor had to take their client at their word.

But that’s a bit like a journalist printing a story without doing any fact-checking of their own.

We journalists have to corroborate.

Yet even when the medical evidence is sketchy or a client seems to be extremely accident prone, some

solicitors don’t seem to ask the important questions.

The legal and insurance sectors are so busy pointing the blame at each other that they’re failing to look at the problems closer to home.

And in the meantime, the public is being forced to pay extortionate premiums and businesses are continuing to close.

The Law Society needs to stop sticking its head in the sand and acknowledge that ambulance chasing is happening – and try to do something about it.

**Farming Independent**

## Rural crime: the community living in fear

36 pages of news & expert opinion



## WHAT DO OUR TOP CHEFS EAT AT CHRISTMAS?

See Lifestyle Page 36



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# Insurance scammers facing 10 years in jail for perjury

Government will fast-track law aimed at crackdown on 'compensation culture'

Hugh O'Connell, Amy Molloy and Cormac McQuinn

NEW laws to crack down on 'compo culture' by jailing people who lie under oath for up to 10 years could be passed by TDs within days.

The Government is moving to fast-track legislation that will seek to put the offence of perjury on a statutory footing for the first time.

In recent days, the *Irish Independent* has exposed how some lawyers and GPs are fuelling compensation culture by actively encouraging patients to bring claims.

The investigation also uncovered how some solicitors are asking doctors to amend medical reports for personal injury claims.

The new laws, which could come

**Irish Independent**   
**investigation**

into force early next year, will see people who lie under oath or misrepresent themselves in court facing prosecution. Sanctions include a fine of up to €100,000 or a jail term of up to 10 years.

Meanwhile the Legal Services Regulatory Authority, which handles complaints against lawyers, said it was investigating a small number of misconduct claims about solicitors.

Continued on Page 4



## Saoirse success: New Golden Globe nod the latest accolade for Irish star

SAOIRSE RONAN has been nominated for a Golden Globe for her role in Greta Gerwig's film 'Little Women'. The Carlow actress (25) – who previously won the award for director Gerwig's 'Lady Bird' – has a leading role in the film opposite Meryl Streep. **SEE PAGE 3**

## 'Late Late' man quits smoking to help secure €3m debt deal

Shane Phelan

HEAVILY indebted former 'Late Late Show' musical director Frank McNamara has given up cigarettes to save money and is now playing piano at funerals to boost his income.

The High Court has heard Mr McNamara (59) and his wife, barrister and former television presenter Theresa Lowe (56), were now saving €140 a week after both giving up cigarettes.

But a decision on whether the court will approve a personal insolvency arrangement, writing off €2.9m of the €3.7m in debts the couple owe,



**Saving:** Frank McNamara and his wife Theresa Lowe owe €3.7m

has been deferred until at least next week.

Mr Justice Denis McDonald had been expected to rule on the matter yesterday, but he adjourned proceedings after an American vulture fund raised concerns about rental income received by Mr McNamara.

Rudi Neuman, counsel for Tanager, raised concerns over €62,000 in rent he estimated Mr McNamara was paid in respect of an inheritance property in the years before he sought the personal insolvency arrangement.

Continued on Page 6

## RTÉ 'like Netflix'

We give just as good value, says boss **P22**

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# Perjury law could be in force in days – minister

Continued from Page 1

The perjury legislation has strong cross-party support and has already passed the Seanad.

Perjury is currently a common-law offence but levels of prosecutions have been low, with only a handful of people dealt with by the courts over the past decade.

The legislation is being backed by Fianna Fáil and Sinn Féin and will be debated at second stage in the Dáil tomorrow.

Responding to Fianna Fáil's criticism of the slow pace of reform in the insurance sector, Justice Minister Charlie Flanagan told the *Irish Independent* last night in relation to the legislation: "I will be leading the debate and it can be passed in a few days if Fianna Fáil support it."

The Perjury and Related Offences Bill 2018 has been championed by Independent Senator Pádraig Ó Céidigh, who said it would be "very, very significant" for insurance claims.

The Government has amended the original bill proposed by Mr Ó Céidigh and adopted it as its own. Government amendments will extend the statutory offence of perjury to people who give evidence before commissions of investigation and tribunals of inquiry.

Many industry stakeholders, particularly in the business community, have called for new legislation to make it easier to prosecute people who lie under oath or in sworn affidavits.

The proposal has taken on new importance given the public outcry over the cost of insurance.

The Department of Justice has consulted with other government departments and the Attorney General Seamus Woulfe at regular intervals this

year in a bid to get the draft legislation to a position where it can be passed into law.

Mr Flanagan said the focus should be on passing the legislation as soon as possible.

Elsewhere, the Legal Services Regulatory Authority (LSRA), the new body responsible for investigating complaints against legal professionals, said it was currently investigating a small number of misconduct complaints about solicitors.

Commenting on this newspaper's investigation – where we were contacted by a number of solicitors via a claims harvesting website – the LSRA said: "Where a solicitor is found to be accepting and paying for legal referrals from a personal injury website, this may itself constitute misconduct under the Legal Services Regulation Act 2015, and may result in a referral to the Legal Practitioners Disciplinary Tribunal."

"Legal practitioners are required to act with independence and integrity, act in the best interests of their clients, and maintain proper standards of work," the spokesperson added.

The Medical Council of Ireland also said it was willing to investigate any complaints which may be made about the findings of our investigation.

Sinn Féin finance spokesman Pearse Doherty, who lambasted insurance companies for their role in Ireland's compo culture when they appeared before an Oireachtas Committee, said legal and medical regulatory bodies needed to hold their members to account. He is calling them to also appear before the Oireachtas.

"Exaggerated claims are the exact same as fraudulent claims, and anyone who facilitates or assists them, they need to face law," he said.

## INTERVIEW

### 'Fraudulent claimants have nothing to lose...they are getting a free shot'

Amy Molloy



**A**S A senator, businessman and former solicitor, Pádraig Ó Céidigh says there were many watershed moments that motivated him to introduce perjury legislation in Ireland.

This country's personal injury system and the ongoing insurance crisis have been the subject of much debate.

But one recurring problem is that the small minority of people bringing fraudulent claims before the courts are going unpunished.

"They're getting a free shot, they've nothing to lose," Mr Ó Céidigh said.

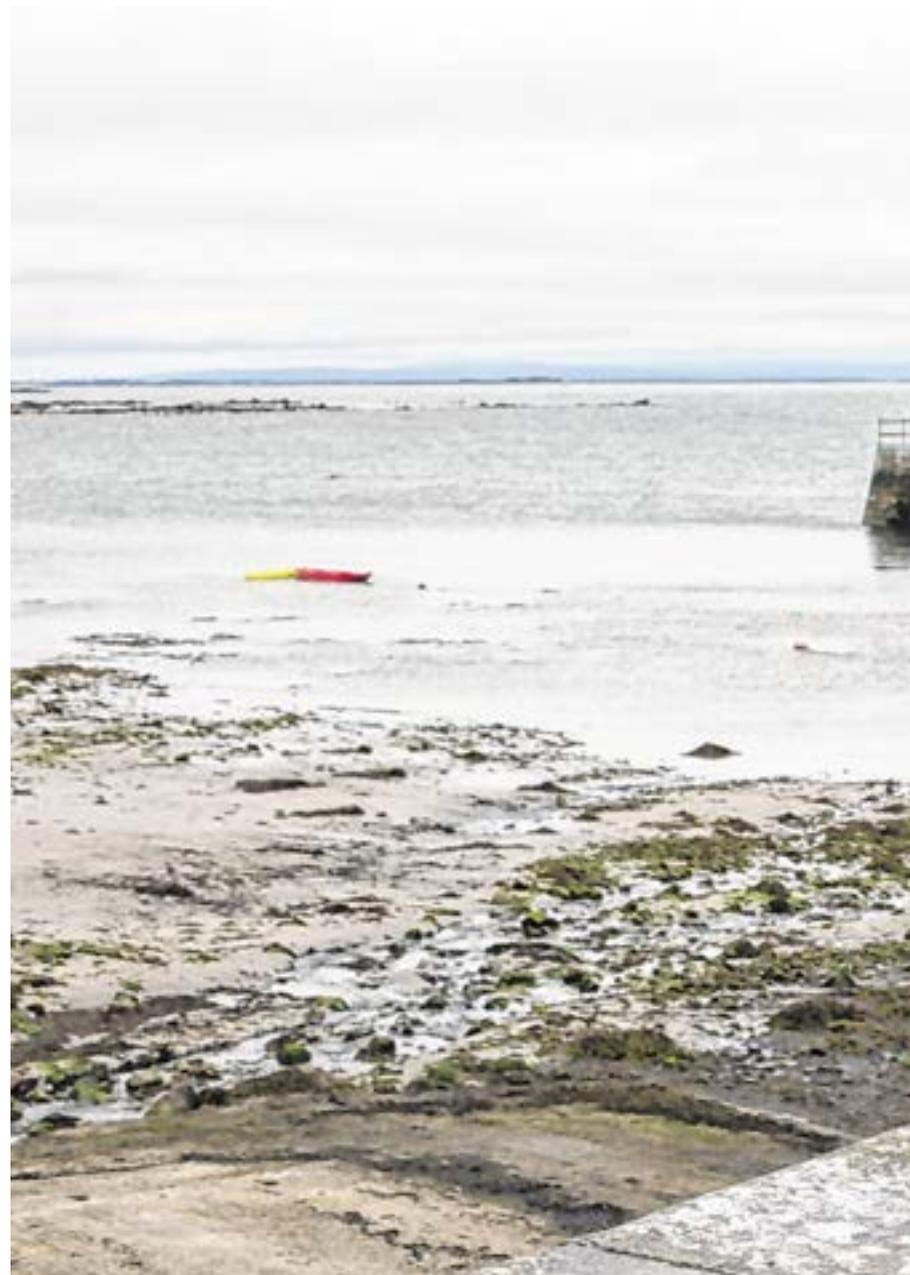
"I'm not trying to catch people out from telling lies [with this bill], I'm getting them not to tell them in the first place because of the repercussions."

If the Perjury Bill passes into legislation, those found to be telling lies on affidavits or in court could face a fine of up to €100,000 or 10 years in prison; a far cry from a slap on the wrist or simply having costs awarded against you.

Mr Ó Céidigh met more than 60 different stakeholders to get their insights into the Bill. From solicitors and business owners, to the Department of Justice and the Garda Ombudsman.

One particular body decided not to have any input, however.

Despite numerous requests



to meet, the Law Society of Ireland – Ireland's legal watchdog – didn't wish to give its views on how to make the Perjury Bill effective.

"As a former solicitor, I found it incredibly disappointing," said Mr Ó Céidigh.

"I spoke to dozens of solicitors and barristers about this, mainly in Dublin and Galway, and they all supported it."

"I made several attempts to meet the Law Society themselves and they didn't acknowledge me and didn't meet me. I wanted to get their input on the structure and drafting of the Bill."

**'You do have a duty to ask... can you prove this? Can you show this?'**

The Galway man previously ran a small legal firm and said the key thing he needed to do his job to the best of his ability was the credibility and the integrity of his clients' evidence.

When asked whether more onus should be put on solicitors to verify their client's version of events, he said: "You've got to take them at their word."

"You do have a duty to ask for back-up evidence. Are there any witnesses? Can you prove this? Can you show this?"

"You are hoping and expecting that the back-up evidence they give you is based on solid

## 'Vital' community centre facing closure

Charlie Weston  
PERSONAL FINANCE EDITOR

A COMMUNITY facility in a deprived area of Dublin is threatened with closure due to surging insurance costs.

Killinarden Community Centre caters for hundreds of people, but it is unable to raise the funds to pay for its cover. Its premium has shot up by 300pc recently.

The Tallaght facility is a key resource for the area.

Manager of the community centre Hilda Hamilton said the facility would have to close if funds could not be found to

pay for the insurance. The cost of cover has gone from €8,000 in 2011 to €34,500 at present.

She said funds were so short that only €20,000 of the current premium had been paid, and now the insurance company was demanding the rest of the money.

Hundreds of people use the facility every week, with the after-school clubs and senior citizen activities popular.

"We are a poor community so we have no membership fees."

"We have an open-door policy and we don't charge for a lot of the things we do," Ms Hamilton explained.

**300pc**

The increase in the cost of insurance

**€34,500**

Cost of insuring the centre

**300**

The number who use the centre a week

She estimates that between 200 and 300 people a week access the centre, which plays a vital role in the community.

There are two managers and two youth workers attached to the facility. Their wages are paid for from financial supports from the likes of South Dublin County Council and the Department of Children and Youth Affairs.

But she says the centre has to fund raise to pay for the likes of insurance, maintenance and other costs.

"Almost €10,000 has been due on the insurance since July. They are ringing looking

### Focus on legislation:

Justice Minister Charlie Flanagan hopes to push the Perjury Bill through the Dáil.

PHOTO: JUSTIN FARRELLY



News  
Our people reject hate speech and welcome new Irish, says Flanagan  
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information. At the end of the day, the solicitor is putting their own neck on the block by taking the case.”

The Perjury Bill has passed through the Seanad – where it faced no objections.

### Support

It is due to be debated in the Dáil this week, and Mr Ó Céidigh is hopeful it will be passed into legislation before Christmas.

“There’s no guarantee, but there is big support for it,” he said.

When asked about the *Irish Independent’s* investigation

**‘All I want is to do my best’: Pádraig Ó Céidigh on Barna pier in Galway Bay.**

PHOTO: TONY GAVIN

– which found that certain medical professionals and solicitors are fuelling Ireland’s compensation culture – Mr Ó Céidigh said it was “worrying”. “Let’s call a spade a spade. I can’t comment too much as I haven’t done my own research... but in my experience I have found, honest to goodness, the vast majority of solicitors to be very straight up.”

Under the Perjury Bill, legal and medical professionals will also be indicted if they are found to have knowingly assisted in the bringing of a fraudulent claim.

“Solicitors and medical professionals could implicate themselves under the current legislation.

“All I want to do is do my best, do our best as a team, to bring in this piece of legislation and I think that it is going to get everyone to think twice or three times about bringing a claim and about the nature of the claim they want to bring.

“An awful lot of people tell the truth, the whole truth and nothing but the truth, so help them God, but that’s not the case in a number of situations.”

## as insurer demands €10,000 payment

for it, but we can’t pay. And if we can’t pay the centre will have to close,” she said.

She has spoken to politicians about the situation, but added: “Nobody really cares.”

As a condition of getting insurance last July, the centre has had to restrict a number of the activities in the centre, particularly those for children.

It also has to ensure that any groups using the centre has its own insurance cover.

This has led to a situation where Ms Hamilton says she had to ask the head of the prayer group to see its insurance documents.



**Under threat:** Manager Hilda Hamilton and director Lily Greene with youth workers at a Christmas party for the elderly at the Killinarden Community Centre.

PHOTO: ARTHUR CARRON

### INSURANCE

## Flanagan urges industry to hand details of bogus claims to gardaí

**Cormac McQuinn**

JUSTICE Minister Charlie Flanagan has urged the insurance industry to provide details to the gardaí of any suspected bogus injury claims of which it is aware.

It came as he defended the Government’s efforts to tackle compensation culture after the *Irish Independent* exposed how some doctors are actively encouraging patients to bring claims for whiplash injuries.

The undercover probe also found solicitor firms are directly referring clients to GPs and orthopaedic surgeons to have injury reports prepared.

The revelations prompted Fianna Fáil to claim “Government inaction and a lack of appetite to tackle insurance fraud has led to a culture whereby people are incentivised to take claims”.

Mr Flanagan insisted gardaí are acting on the issue. He added: “I’m calling on the insurance industry to provide details of fraud from their files to the gardaí.”

The minister said gardaí needed such evidence if the Director of Public Prosecutions was to bring charges. He said Garda Commissioner Drew Harris “has the full backing of Government on this issue”.

Mr Flanagan insisted the Government was putting in place measures which were “workable”.

He pointed to the imminent establishment of the Judicial Council which will set guidelines for personal injury payouts as an example of the Government making progress on efforts to tackle the claims culture. The council will also promote the need for consistency in the level of damages being awarded by the courts.

The Government has said the guiding principles of the council will be that “modest

**‘People are now incentivised to take claims’**

injuries should attract modest damages”.

“After 20 years of promises, we have now enacted the Judicial Council Bill,” Mr Flanagan said.

He added that the funding was in place and he expected the council to be established “within the next three weeks”.

“Premises and staffing are being addressed and the Chief Justice and his colleagues are actively engaged,” added Mr Flanagan.

### EMPLOYMENT

## Minimum wage hike led to some workers having their hours cut

**Donal O’Donovan**

SOME employers cut workers’ hours after a 2018 increase in the minimum wage, but the effect was shortlived, according to new research from the ESRI.

In January 2018, the Government raised the minimum wage from €9.25 an hour to €9.55.

The increase led to some immediate reductions in the hours worked by minimum-wage employees in the Dublin and west regions and in the manufacturing sector nationally, according to a new ESRI study, funded by the Low Pay Commission – the body set up to advise Government on setting the minimum wage.

The research shows the reduction in hours did not persist into the second half of 2018.

However, during the first and second quarters of 2018, the hours worked by minimum wage employees fell by an average of 1.6 hours a week in Dublin and 1.7 hours a week in the west region, compared to those of non-minimum-wage employees. During the same period, the hours worked by minimum-wage workers employed in the manufacturing sector also fell by an average of 1.6 hours a week compared to their non-minimum-wage counterparts.

Seamus McGuinness, one of the authors of the report, said minimum-wage changes could affect some areas of the labour market differently, and that the effects found in 2018 could become more persistent during a period of lower economic growth.



**Business**  
Tesco may ring up €7.2bn as it eyes sale of Asian divisions  
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*Eamonn Sweeney on the All Blacks*

## 'Larmour could be our secret weapon'



+ **Battling the body-shaming industry**

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## Lawyers warn injury clients to keep social media posts private

**Amy Molloy**

SOME personal injury solicitors are now warning clients about private investigators – and telling them to set social media to private, as “photos can lead to very difficult questions”.

As Ireland continues to suffer from

the effects of a claims culture and ongoing insurance crisis, we reveal how some solicitor firms are now advising clients.

An *Irish Independent* reporter attended consultations with nine legal firms across the country and received written and oral advice

about private investigators from five solicitors.

One firm told the undercover reporter: “We wish to advise that you should immediately check your Facebook/social media platforms’ security settings and set them to private.

“Be very careful when accepting

‘friend’ requests from people you do not know.”

Another Dublin-based solicitor said: “If you claim that you can do no work but in fact have done some work occasionally, it is very possible that private investigators will have photographed you.”

Fine Gael TD Maria Bailey recently withdrew an injury claim after falling from a swing in a Dublin hotel. The *Irish Independent* revealed how social media posts showed she took part in a 10km race three weeks after the fall.

**Full story on Page 4**

# Taoiseach told snap election must follow a deal on Brexit

### Fine Gael ministers believe early poll date will boost party's chances of success

**John Downing**

TAOISEACH Leo Varadkar will come under intense pressure to call a snap general election if a late Brexit deal emerges.

Several key Fine Gael figures have told the *Irish Independent* that many within the party believe they would do far bet-

mean an early general election was very much on the agenda.

“If there is a deal on Brexit, then the Taoiseach will have a very serious decision to make. Many TDs believe their chances would be better in an early vote – probably even next month,” the senior source said.

Politicians in other parties also said they were aware of intensifying election talk within Fine Gael. A renewed bout of bad-tempered sparring between Fine Gael and Fianna Fáil over the weekend added to this fevered atmosphere.

Fianna Fáil leader Micheál Martin renewed his nominal commitment to underpinning the current minority coalition into next year. But he revealed his party's readiness for an election sooner than that – by saying any move by the Taoiseach for an earlier vote would amount to “a stroke”.

Talks on a Brexit deal resume in Brussels today before Thursday's EU leaders' summit.

ter in an early contest, rather than waiting into spring or early summer next year.

Backing for an early election is also very prevalent among key Government ministers.

“In fact, you would struggle to find a Fine Gael minister who is not in favour of an early election – provided the Brexit crux is resolved,” one minister told the *Irish Independent*.

Another leading Fine Gael figure said a Brexit deal would

**Continued on Page 12**



### Three amigos: Movie stars shine for 'The Irishman'

Cinema legends Al Pacino, director Martin Scorsese and Robert de Niro were in the spotlight for the international premiere of their crime epic 'The Irishman' at the BFI London Film Festival last night. More than three hours long, the film recounts the story of mob hitman Frank Sheeran, played by De Niro, with Pacino starring as notorious union boss Jimmy Hoffa. PHOTO: PA WIRE

Recommended retail price of the Irish Independent in ROI is €2.20 (£1.50 in Northern Ireland)  
Vol. 128 No. 246 Irish Independent



# Injury clients warned to set social media to 'private'

Amy Molloy

SOME personal injury solicitors are now warning clients about private investigators – and telling them to set their social media accounts to private as “photos can lead to very difficult questions”.

As Ireland continues to suffer from the effects of a claims culture and ongoing insurance crisis, we reveal how some solicitor firms are now advising clients about private investigators.

An *Irish Independent* reporter attended consultations with nine legal firms across the country and received written and oral advice about private investigators from five solicitors.

Personal injury claims have previously been dismissed before the courts after the defence produced social media content showing claimants dancing, playing football and competing in body-building competitions after allegedly suffering serious injuries.

Other claimants have withdrawn their claims after Facebook and Instagram photos were shown in court.

One firm told the undercover reporter: “One is posed with very difficult questions in order to try and explain themselves when they say they can’t do certain tasks due to an injury but at the same time they are seen to be enjoying themselves.”

“In order to stop this and to protect you we wish to advise that you should immediately check your Facebook/social media platforms security settings and set them to private.

“Be very careful when accepting ‘friend’ requests from people you do not know.”

Another Dublin-based solicitor said: “If you claim that you can do no work but in fact have done some work occasionally, it is very possible that

private investigators will have photographed you.

“It is therefore vitally important to you that you do not discuss your case or engage in conversation generally, especially with people who are not known to you.”

A midlands-based solicitor also warned clients that investigators will likely photograph them, adding that “if a case is struck out, then we reserve the right to recover all costs against you”.

“It is likely at all times that a private investigator will be retained by the defendants so it is important that you keep me advised if you are involved in any sporting activities, exercising programmes,” they said.

Fine Gael TD Maria Bailey recently withdrew an injury claim after falling from a swing in a Dublin hotel. The *Irish Independent* revealed how social media posts show she took part in a 10km race three weeks after the fall.

Court papers described her as a “keen runner prior to the accident but could not run at all for three months post-accident and has had to reduce her activities significantly since”.

Ms Bailey later dropped the claim after coming under political pressure.

When asked about certain firms offering advice about private investigators and social media posts, the Law Society of Ireland said it couldn’t comment due to “legal reasons”.

However, a spokesperson said: “Solicitors have a duty of care to their clients and are obliged to act in the best interests of their clients.

“Solicitors are also officers of the court and, therefore, also have a duty to assist the court in the administration of justice and should not deceive, or knowingly or recklessly, mislead the court.”

**Dropped case:** TD Maria Bailey withdrew her injury claim after the *Irish Independent* revealed how social media posts said she ran a 10km race



# ‘I was a walking coffin’ – mother tells of despair at carrying baby who had died

Louise Walsh

A HEARTBROKEN mother described herself as a “walking coffin” as she carried around her precious child for three days, knowing she was lifeless in her womb.

Kristin Wall (37) had lost another baby in an ectopic pregnancy prior to becoming pregnant with little Robyn Grace.

But her life changed forever on February 17, 2013, when a noticeable lack of baby movement led to her world and future plans being shattered.

“I got ready like any other mother gets prepared to have a baby except I knew I’d be carrying my baby home in a coffin.

“The pregnancy was fine. “I had an early scan because of the prior ectopic pregnancy but that was all,” she said.

“I was 31-weeks pregnant and, knowing I was having a little girl, myself and my husband Robert had her name already picked – Robyn Grace.

“I noticed that her movements had slowed down.

“So I rang the nurses in the labour ward in Our Lady of Lourdes Hospital in Drogheda, who told me to come straight in.

“Robert and my four-year-old son Sam sat in the car while my mum Bernie came in with me.

“We had planned to go to

the beach afterwards,” she said.

Ms Wall was sent for an in-depth scan where she vividly remembers the words: “I’m sorry, there is no heartbeat.”

“I started to panic and asked her to check and double check but the answer was still the same.

“Robert came in and I completely freaked out,” she added.

“I just couldn’t believe my baby was gone.”

As she was trying to make sense of what was happening, Ms Wall decided to opt for induction to give birth to her daughter.

“I was in complete shock,” she said.

“I remember thinking how am I going to get the baby out? I just wanted her in my arms.

“But I didn’t want to have to go through labour, which of course I had to.”

Telling her little boy that his sister already had gone to heaven added to the twangs of guilt that Ms Wall was already feeling.

“Sam was devastated for a boy of such a young age,” she said.

“I felt so guilty that I wasn’t able to give him the sibling that he deserved.

“I was also feeling guilty, thinking it was something I did that caused my baby to die,” she said.

A few days later, Ms Wall packed tiny outfits to dress her baby in as she prepared to give birth.



‘I also felt a little dead, just numb, within myself’

“I didn’t know which end was up. “All my future plans were suddenly gone.

“I was a walking coffin and I just wanted it to be over.

“I also felt a little dead – just numb – within myself,” she said.

After almost 12 hours of labour, Ms Wall gave birth to Robyn at 9.36pm on February 20.

And the mother-of-three from Navan, Co Meath, is now advising anyone else who finds themselves in a similar situation to take all the pictures they can before they have to bury their beloved baby.

“I was too afraid to look at

# ‘I walked and prayed’ – Corrs’ Andrea

Gabija Gataveckaite

ANDREA Corr has for the first time spoken about suffering several miscarriages, in an upcoming memoir.

The lead singer of band The Corrs explained how she wanted to be funny, honest, intimate and personal with the reader, choosing to be fully open in her autobiography.

“I have miscarried five times. The first and second the most devastating, as I could not see yet what... who, I would later be blessed with,” she writes.

“I walked and I prayed. And my mother-in-law, Pat (a blessing in herself), prayed and lit a candle for us every day. Torches and tallow lamps, often to ‘the Little Flower’ St Therese, for whom there is a shrine in the church of St Jean,” she added.

She told the *Sunday Independent*: “I wrote about my miscarriages.

“I feel very contented, that is the truth. I feel it is how I wanted it to be.

“I feel strangers will love it. It is very much about gratitude, the life I have had and

‘I could not see yet what... who I would later be blessed with’

the strangers I have met along the way. It is really about gratitude, it is really about grief, but it is in grief that you find love,” she said.

The singer, who lives with her husband Brett Desmond and two children in London, also revealed plans to move to Dublin.

**Welcome**

“Yes, we’re moving back here, and the kids will go to school in Dublin,” she said.

“I had always wanted to do that. I know the welcome we have as Irish all over the world.



**Health & Living**

How ancient Japanese rituals can help parents grieving the loss of a baby through stillbirth, miscarriage or termination  
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# Doctor rents hotel room for personal injury claim cases after HSE review

Amy Molloy

A DOCTOR who was previously placed under review by the HSE is renting a room at a Dublin hotel to examine personal injury claimants.

An undercover reporter was given an appointment with this doctor at a hotel on the city's north side by a solicitors' firm who contacted her after she filled out a form on a claims harvesting website.

The firm set up a direct appointment with 'Dr Paul' (not his real name) and told the reporter to go to the hotel and ask for the doctor at reception.

A solicitor with the firm said 'Dr Paul' would ask for "a detailed description of the accident circumstances, a history of what medical treatment you have had and detail of how bad the pain is and how this has affected you".

"The examination should take no longer than 20 minutes."

A manager at the hotel said the doctor rents a room "randomly" and was last there in December. The manager added they had "no association" with 'Dr Paul' and that he "just rents a room".

This doctor was previously placed under review by the HSE while working at a hospi-

tal after staff raised concerns. The issues were referred by the HSE to the Medical Council.

The doctor is still registered with the Medical Council and neither the HSE nor Medical Council would confirm the outcome of the review.

A spokesperson for the Medical Council said: "I am unable to provide a comment on the individual doctor."

## 'Dr Paul' would ask for 'detailed description of accident circumstances'

The HSE did not respond to numerous queries.

It is understood the doctor now mostly does consultancy work.

When the reporter contacted 'Dr Paul' directly saying she wished to pursue a claim without a solicitor and go through the Injuries Board, the doctor advised it would be better to instruct a solicitor: "The opposing solicitors may attempt to undermine your case if the expert [me] was instructed by yourself rather than by a third party such as a solicitor on your behalf."

The *Irish Independent* previously revealed how a cosy relationship exists between

certain legal firms and medical professionals.

Our probe discovered some doctors are even recommending particular solicitor firms.

Meanwhile, solicitor firms in turn are directly referring clients to GPs and consultants to have injury reports prepared.

The Legal Services Regulatory Authority, the new independent body tasked with investigating complaints against solicitors and barristers, says where a solicitor is found to be accepting and paying for legal referrals from a personal injury website, it may constitute misconduct under the Legal Services Regulation Act 2015.

A spokesperson said: "The LSRA began receiving and investigating complaints against legal practitioners on October 7, 2019. There are three main grounds for complaints: inadequate standard of service; excessive costs; and misconduct.

"An allegation that legal practitioners were involved in personal injury compensation claims which they knew to be exaggerated may come under the complaints provisions in relation to misconduct.

"The LSRA has to date received a small number of complaints of this nature, which are currently being processed."



**On song:** Billie Eilish arrives at the Oscars in Los Angeles last weekend – she's been tipped to win one next year for her Bond theme song. PHOTO: AP/JOHN LOCHER

## Prize Bond: Billie Eilish tune tipped for an Oscar

Keiran Southern

BILLIE EILISH has released her sombre James Bond theme song 'No Time To Die' to critical acclaim.

The 18-year-old pop sensation – the youngest artist ever to record a 007 title track – revealed a haunting ballad exploring themes of lies and betrayal.

It features heavy use of the piano as well as Eilish's signature whisper. Fans will recognise the chord that ends the song, taken from Monty Norman's original Bond

theme. In recording the track, Eilish – who will perform it live for the first time at the Brit Awards next week – joins an illustrious list of artists including Adele, Sam Smith, Madonna, Paul McCartney and Shirley Bassey.

"Was I stupid to love you? Was I reckless to help?" Eilish asks on 'No Time To Die', which she co-wrote with her brother and collaborator Finneas.

It gradually builds up to a point where Eilish sings: "Fool me once, fool me twice. You'll never see me cry,

there's just no time to die."

'No Time To Die' has so far proved to be a big hit with both fans and critics, while Bond music historian Jon Burlingame said he would be surprised if the song did not earn Eilish an Oscar nomination next year.

The teenager revealed she and Finneas wrote it in three days.

Eilish said she was "still in shock" about being asked to record a Bond title track.

'No Time To Die' is actor Daniel Craig's fifth and final outing as James Bond.



## THE DEFINITIVE RICH-LIST 2020

The 250 richest people in Ireland, exclusively in this week's

**Sunday Independent**

Real stories worth paying for.

# Two claimants in car accident case saw doctor who was later struck off instead of own GPs

Amy Molloy

FOUR personal injury claimants – two of whom had medical reports written by a former GAA doctor who has since been struck off – have had their cases dismissed.

The claimants, all from Dundalk, Co Louth, said they were injured in a rear-ending accident on February 1, 2015.

Judge Mary O'Malley Costello slammed the plaintiffs' cases as a "waste of everyone's time" after hearing inconsistent evidence and also queried why the claimants went to doctors who were not

their own GPs.

The court was told the plaintiffs went to a solicitors' firm and two of them later attended a medical appointment with a Dr Seamus Cassidy, who at the time was working as a GP in Dundalk.

Celine Murphy and Ciara Toner said they attended medical appointments with Mr Cassidy because they could not get an appointment with their own GP.

Mr Cassidy, a former doctor for the senior Tyrone football team, was struck off the medical register by the High Court in 2018 over failing to comply

with conditions attached to his registration, including completing an alcohol-awareness programme.

He was also previously convicted at Newry Crown Court for two forgery offences.

In June 2014, he was found guilty in Newry of conspiring with others to attempt to doctor the will of a woman who left €1.9m.

Catherine Haughey, who was a widow and childless, died in 2004 at the age of 81. Concerns about her will were raised shortly after her death.

Mr Cassidy got an 18-month prison sentence with three

years suspended.

A subsequent Medical Council inquiry found the former GP guilty of two counts of professional misconduct after he failed to declare to the council in May 2009 that he was convicted of drunken driving in Northern Ireland.

Dundalk Circuit Court was told how Peter Corbett, Christine Bradley, Ms Murphy and Ms Toner brought personal injury claims after they were rear-ended by a Gerard Bradley, who was travelling with a number of other passengers. The claimants said they were suffering from neck and shoulder pain.

Two of the claimants – Ms Murphy and Ms Toner – attended medical appointments with Mr Cassidy to have medico-legal reports prepared for their personal injury cases.

The two other claimants, Mr Corbett and Ms Bradley, were referred by their solicitors' firm, P Tiernan and Company, to a Dr Jeremy Johnson to have medico-legal reports prepared. A total of nine personal injury claims were pursued by people in both vehicles, with four being heard in Dundalk Circuit Court.

It transpired during cross-examination that some of the parties in the two vehicles were known to one another.

A number of previous acci-



**Struck off:** Seamus Cassidy was jailed in 2014 for conspiring to attempt to doctor a will worth €1.9m. PHOTO: SPORTSFILE

dents involving the claimants were also disclosed during cross-examination.

Three of the claimants involved were unable to describe the third-party vehicle including the make, model or colour.

Judge O'Malley Costello said that never in all of her days as a judge or a practitioner had

she seen such a collective set of amnesia.

She also noted how none of the claimants had attended appointments with their own GPs. She dismissed all four claims and awarded costs to Aviva, who insured the defendant, and were represented by Ennis and Associates solicitors.

## Rezoning plan to build 3,500 homes is slimmed down by council after objections

Fionnán Sheahan  
IRELAND EDITOR

Up to 1,575 new homes can now be built on underused land in the city. But the rezoning of industrial land falls well below the original plan to provide 3,500 houses and apartments.

And there is now enough land rezoned in Dublin city to build 52,000 homes, but all these sites are at different stages of development.

Dublin City Council has rezoned industrial lands scattered across the city to allow residential development. However, the scale of the plan was slimmed down after local objections.

The two biggest sites up for rezoning were in Santry, which had the capacity to build 1,200 homes. These were pulled due to opposition as residents were worried about high-rise developments and traffic blockages.

The Department of Education had also said if the rezoning had gone ahead the school places in the area would need to be reviewed.

Another large site in East Wall was withdrawn after the Office of the Planning Regulator said the land was set aside for an Eastern Bypass under Dublin Bay, which may be built in the future.

Of the 17 sites councillors ultimately voted on, 16 of them were rezoned. The exception was the proposal to rezone the Greenmount Industrial Estate in Harold's Cross.

A number of sites in Coolock, Ballyfermot, Drimnagh and Crumlin will have to have master plans before planning permission can be applied for. The zoning on those sites was changed to mixed use to protect existing jobs.

The original 20 sites making up 55 hectares were intended to be rezoned for home-building.

Assuming you get 100 units per hectare, and half the land would be used for residential and the other half for commercial, the sites had the potential to provide 3,000 to 3,500 additional homes in the city. From the original plan to rezone enough land to build 3,500 homes though, the final amount ended up at 1,575 units.

The primary objection from councillors was that most of the planning applications would go straight to An Bord Pleanála as Strategic Housing Developments where the council would not have any say.

The council's management said there was an obligation to provide as much land for house building as possible in areas close to the city.

Dublin City Council chief executive Owen Keegan revealed there was enough land zoned in the city to build 52,000 homes.



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Irish Independent 

# FF effort to curb 'compo culture' in courts runs into a legal brick wall

Businesses at risk because of insurance costs, warns TD Troy

Amy Molloy and John Downing

EFFORTS to curb personal injury claimants seeking bigger court payouts than those given to them by the Personal Injuries Assessment Board have been hit by serious legal problems.

The move, being pushed by Fianna Fáil TD Robert Troy, would also give claimants just one year to take legal action under dramatic new changes to the law.

However, hopes the measure could form a key part in ongoing coalition talks received a setback at the weekend as those close to the process said there were too many legal problems associated with it.

Mr Troy and his party are pushing for an overhaul of the personal injury system in a bid to reduce insurance costs for businesses through a range of measures. These include the referral of cases to gardaí and the introduction of a register of claimants.

Mr Troy said he believed his proposed legislation "could go a long way in tackling rising insurance costs" and help weed out dodgy personal injury claims.

Under his Personal Injuries Assessment Board (Amendment) Bill 2020, a person would have only have one year to bring a claim after an injury occurred. As the law currently stands, a person has up to two years to bring a claim following an accident.

The Private Members' Bill would also give the Personal Injuries Assessment Board the power to report a case to gardaí if it suspected the claim may be fraudulent.

The Injuries Board would have the authority to furnish gardaí with any documentation it deemed relevant for any Garda investigation into a personal injury application.

This would include documents provided to the board by the claimant or the claimant's solicitor.

As part of the bill, the



Claims campaign: Fianna Fáil TD Robert Troy

Injuries Board would also be responsible for establishing a register of claimants.

The register will include the name and address of the solicitor for each party, the name and occupation of each party and details of the award made.

Perhaps the most significant change proposed under the bill is that the High Court would not be allowed to vary the amount of money awarded to a claimant by the Injuries Board if a claimant rejects the assessment, except for in "exceptional circumstances".

A claimant would only be able to appeal a decision made by the board to the High Court on a point of law and not to seek a bigger payout.

## Reformed

"We want to see the Injuries Board reformed," said Mr Troy.

"We want to see the board's powers strengthened and for it to go back to what it was originally established for, and that was to deal with the vast majority of claims, reduce legal costs and reduce the backlog in the courts.

"When it initially came about, we didn't have the huge payouts and high premiums that we have now.

"Insurance costs before Covid was one of the main overheads that businesses had. It is putting the viability of businesses at risk and I believe this legislation can go a long way to tackle this and we'll be pushing for it to be passed by the newly constituted Dáil.

"It can be modified, it can be improved but we believe the aspirations of the bill are very sound and will reduce the

costs of insurance, and that's the main thing," Mr Troy said.

Yesterday sources close to the government negotiations said they supported the spirit of Mr Troy's legislation and its associated aims. "But it will not pass scrutiny by the Attorney General much less any test in the courts. There are just too many legal complications," the source said.

It is expected that any coalition agreement emerging from the ongoing talks will include a section on dealing with compensation, legal and insurance costs. All three parties are conscious of the fact that Sinn Féin – which may be leading the Opposition – is very vocal on the issue.

The Personal Injuries Assessment Board was established in 2004 in an effort to reduce the costs and delays associated with injury claims. It proved a big success once it was established and it aimed to resolve matters in a non-adversarial way, minimising litigation and legal conflicts.

But in recent years injuries have been returning more frequently to the courts.

According to the most recent annual report in 2018, the board made 12,112 awards and 6,206 were rejected, moving to court litigation.

This means that more than 50pc of awards were rejected. In 2016, more than 45pc were rejected and in 2017 almost 50pc were rejected.

Fianna Fáil finance spokesman Michael McGrath did a deal of work on insurance costs during the lifetime of the recent administrations, arguing for fundamental reforms.

## Interview

# 'I don't feel that society should have to pay for every little thing that is wrong'

Amy Molloy speaks with former minister Michael Smith, who was faced by the rising tide of Army deafness cases in 1997



WHEN Michael Smith became defence minister in 1997, his first major task was to deal with an onslaught of personal injury claims from members of the Defence Forces.

In an unprecedented move for a government minister, the former Fianna Fáil politician walked into the High Court to plead for the level of compensation awards to come down.

As of today, the Department of Defence has settled 16,829 claims relating to noise induced hearing loss and paid out €290m in compensation.

Included is the €100m in fees paid to solicitors, barristers and medical experts. There are currently five claims pending before the courts.

Speaking from his home in Co Tipperary where he has been cocooning due to the coronavirus pandemic, Mr Smith recalls one day in particular.

"The department received 40 applications from one legal firm in one day and the only thing different on each of the applications was the names of the soldiers," he said.

The symptoms and description of the cases were nearly identical: "Personal injury claims were rampant when I became minister. To some extent it had got out of hand and one of the reasons was the quantum in the courts for claims, in my view, was extraordinarily high.

"I had no difficulty with people who had genuine claims because they had their hearing impaired by their work, but I do believe a small few may not have been genuine.

"I feel that if you live to 60 years of age and you don't have cancer or heart disease and you are mentally fine, but maybe you have to turn up the radio or television a small bit louder, then you are quite lucky.

"I don't feel society should

have to pay for every little thing that is wrong."

The surge in claims was dubbed the "army deafness saga". Between 1992 and 2002, thousands of Army personnel brought claims for hearing loss resulting from exposure to loud noises during military operations.

Soldiers claimed the government failed to provide adequate ear protection and after a few claims were successful before the courts, the Department of Defence was soon inundated.

The watershed moment arrived when one individual was awarded IR£80,000 in the High Court for minor hearing loss. It was later reduced on appeal by the Supreme Court, but after this the floodgates opened wide.

Until then, the department had received 4,000 claims over a period of five years. Within nine months of that court case, it had received a further 4,000 for hearing loss.

The late Fine Gael minister Jim Mitchell, who was chairman of the Public Accounts Committee at the time, slammed the rise in claims. "Anybody who thinks this is not a scam must be blind. We are a laughing stock among defence forces around the world," he said.

Reflecting on the comments, Mr Smith said Mr Mitchell was a "direct kind of guy", and while he "may have been marginally over the top sometimes", he did it for the "most genuine of reasons".

"If you're struggling and a colleague of yours has been to court and has received a significant award, the temptation must be enormous," he said.

"If your colleague is taking a holiday, able to extend the house or buy a new car and it is happening before your eyes, well I'd find it hard to blame someone who is trying to rear a family, struggling to pay the bills [for bringing a claim]. I really feel that it would be hard to come down on them.



Safe at home: Former defence minister Michael Smith cocoons near Roscrea, Co Tipperary. PHOTO: DON MOLONEY



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charging their clients and the “unfortunate” advertisements inviting soldiers who had suffered hearing loss to come forward.

“I still stand over the comments,” he said.

It wasn't the first time he got into trouble while getting tough on the deafness claims.

Contrary to legal advice he received, Mr Smith took it upon himself to walk into the High Court to air his concerns about the level of awards being paid out. The move was seen by some as an attack on the separation of powers.

“I think it may be the only time a minister was ever to do that kind of thing. It was viewed as interfering with the judiciary but I didn't see it that way.

“I had a simple philosophy,” he said. “If you have limited resources as an organisation, you need to devote them to the most essential areas.

“We were anxious to try to support the peacekeeping contingents in different parts of the world, trying to get better equipment, trying to improve very inadequate accommodation. All these things were essential to making the Army stronger and as I saw it, paying out millions in claims was going to hinder all that.”

During his tenure, Mr Smith launched a two-pronged assault on the soaring cost of the claims and helped to significantly reduce the level of awards.

He sought to introduce tougher standards for measuring hearing loss and also cracked down on legal fees.

At one point, it was feared more than £2bn would be paid out in compensation. In a bid to prevent the department being crippled, Mr Smith oversaw the introduction of the army deafness early settlement scheme.

It allowed soldiers to settle without resorting to the courts and significantly reduced costs.

On average, soldiers received £10,000 through the scheme, whereas payouts of up to £40,000 were being made by the courts.

According to a spokesperson for the Department of Defence, there are five claims pending before the courts in relation to hearing loss.

“As they are ongoing, it would be inappropriate for the minister to comment further,” the spokesperson added.

Ireland's personal injury system has been the subject of much debate as insurance costs continue to cripple businesses across the country.

“In the long run, even though people don't say it that way, the ordinary person always pays,” Mr Smith said of the personal injury system.

“It's hard to understand when you sometimes read of the profitability of certain businesses in the insurance area to relate that to the kind of increases being imposed on struggling businesses.

“Different efforts have been made by successive governments but all of us can do better. All of us.”

“One of the problems overall is there has been a lessening in the morality of claims.

“I grew up in a society where if you fell and broke your leg, it was something that just happened but that doesn't seem to be the case now.”

As to whether the Army deafness saga undermined public respect for the Defence Forces, Mr Smith says he doesn't believe this to be the case.

“The finest of people serve in the Defence Forces, then and now,” he said.

“I was honoured to be in Kosovo and Lebanon and they represented Ireland in the most positive way, but like everything, scars emerge in different organisations.

**‘I grew up in a society where if you fell and broke your leg, it was something that just happened’**

“You have to live through that and the vast majority are extremely honourable and need to get the best help and support.”

While a faction of the public criticised the soldiers for bringing the claims, some directed their anger at the firms representing them on a no win, no fee basis. Some were accused of soliciting clients and the Law Society of Ireland had to crack down on advertising regulations.

Mr Smith was outspoken on the issue and recalls how he “got into trouble” for comments he made in an interview on a Sunday radio show.

The former minister hit out at the legal fees lawyers were

## Claims by Defence Forces personnel cost State €5m in damages and fees

**Amy Molloy**

THE Department of Defence paid out more than €5m for personal injury claim settlements and subsequent legal costs in 2019, the *Irish Independent* can reveal.

More than €3m was paid out in compensation for members of the Defence Forces, while legal costs amounted to just over €2m.

There was a significant spike in the number of personal injury claims made by Defence Forces members in 2018 and 2019.

The compensation paid out is at the highest level seen since the department was inundated with claims relating to noise-induced hearing loss during the 1990s in what was dubbed the “army deafness claims”.

From today, the Department of Defence has settled 16,829 claims relating to noise-induced hearing loss and paid out a total of €290m in compensation.

There are currently five claims pending before the courts.

“It would therefore be inappropriate for the Minister for Defence [Paul Kehoe] to comment further on this matter,” a spokesperson for the Department of Defence said.

A total of 147 personal injury claims were made against the Defence Minister by current or former soldiers in 2019 for injuries suffered while in the line of duty.

Fifty-one were related to the use of the anti-malarial drug Lariam.

The drug is issued to army personnel when volunteering abroad.

But it has been linked to insomnia, depression and psychiatric problems.

As with the army deafness claims, a successful High Court case led to a surge in claims relating to the issuing of the drug.

The State Claims Agency, which was established in 2001 after concerns were raised about the Government's handling of the deafness claims, cited in a report that a High Court case led to a “significant increase in new Lariam-related cases”.

In 2017, a claim relating to Lariam was settled for a significant figure and the Department of Defence has seen a rise in the number of claims since.

The State Claims Agency manages all personal injuries claims taken against the Minister for Defence.

External legal costs incurred by the agency arising from the defence of any claims are

**Approach is to settle cases expeditiously where State is considered liable**

refunded by the Department of Defence.

In 2019, plaintiff legal costs amounted to €862,408, while department legal fees amounted to €1,153,130.

A total of €3,177,130 was paid to Defence Forces members in personal injury settlements last year.

In 2018, the department spent more than €6m on personal injury settlements and legal costs, compared with just €3.31m in 2017.

A total of 221 personal injury cases were taken in 2018, an increase of 118 from 2017.

A spokesperson for the Department of Defence said the State Claims Agency's approach was to “settle cases expeditiously” where the State was considered liable.

“In cases where liability is fully disputed by the State, all necessary resources are applied to defending such claims robustly,” the spokesperson added.



**Claims pending:**  
Defence Minister Paul Kehoe



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