

THE PERSONAL INJURIES* ASSESSMENT BOARD – HOW DOES IT WORK?

The Personal Injuries Assessment Board, also known as PIAB and/or the Injuries Board, is an independent state body which was established by the Personal Injuries Assessment Board Act 2003 to assess personal injuries compensation in Ireland. All claims for personal injuries, with the exception of medical negligence cases, must first be submitted to PIAB before going to court. This is the law.

A claim for compensation for injuries and losses must be submitted to PIAB within a period of 2 years less 1 day from the date on which the accident happened or within a period of 2 years less 1 day from the date of knowledge of the injury. The application to PIAB will consist of a completed application form, which can be found on www.piab.ie, and a medical legal report from a doctor which sets out the injuries, the treatment received and a prognosis in relation to the injury. Submitting the application by post or email will incur a cost of €90.00. However, submitting the application using the online application procedure will incur a reduced cost of €45.00. A medical report from a doctor will cost in the region of €300.00 - €700.00, depending the area of specialism.

Once the application has been acknowledged as received and complete by PIAB, the time afforded to a person under Irish law within which to bring a claim for personal injuries will stop running. The person bringing the claim for compensation will be known as the claimant in the PIAB process. Upon receipt of the application, PIAB will send a copy of the application form and the medical report to the party at fault for the injuries. The person at fault for the injuries will be called the respondent during this process. The respondent will be given a period of 90 days within which to consent or reject to PIAB dealing with the matter. If the respondent consents to PIAB dealing with the matter, he/she/it must respond within the 90 day period and pay the processing fee, as set out in the formal notice received. If the respondent does not consent to PIAB dealing with the matter or does not simply respond to PIAB or pay the fee, PIAB will issue a document called an authorisation which will allow the person claiming compensation for injuries to progress the claim through the courts system.

If responsibility for the accident is not in dispute, the matter will usually stay with PIAB for a period of 9 months from the date of

receipt of consent by the respondent. This period of time can be extended by PIAB, if required. During this period, PIAB will arrange for the person claiming compensation for the injury to be medically assessed by an independent medical expert. In addition, the person bringing the claim will also have to submit details of any out of pocket expenses, e.g. medical expenses, pharmacy expenses, etc., and loss of earnings to PIAB.

At the end of the time period, PIAB will then write to the person claiming compensation for the injuries and his/her solicitor setting out details of the assessment. The assessment is the breakdown of the compensation determined by PIAB as being appropriate for the injuries and financial losses. This will be based upon the medical evidence and vouched expenses / losses submitted to them. The assessment will usually consist of the following: -

- General Damages: This is the legal term given to compensation for pain and suffering;
- Special Damages: This is the legal term given to out of pocket expenses, e.g. medical expenses, physiotherapy costs, pharmacy expenses, travel expenses, etc.
- Loss of earnings: This will consist of any certified lost income for the period of absence from work due to injuries suffered in the accident less any social welfare benefits received during this time.
- Legal Costs: PIAB will not pay legal costs so this is a matter which you should discuss with your solicitor. However, PIAB will allow for the cost of the medical report and PIAB application fee.

When the PIAB assessment is received, the person claiming compensation for the injury will have a period of 28 days within which to accept the assessment. If the acceptance is not communicated to PIAB within the 28 day period, the person claiming compensation will be deemed to have rejected the PIAB assessment. The respondent will have a period of 21 days within which to accept or reject the PIAB assessment.

If both parties accept the PIAB assessment, PIAB will issue an Order to Pay and serve it on the respondent. The Order to Pay will have the same effect as a court order. Once this is served, the respondent will

usually arrange for payment of the assessment within a period of 3 – 6 weeks. The claim is then finished and closed.

If the PIAB assessment is rejected by either party, PIAB will issue a document called an authorisation. This document will allow a person claiming compensation for injuries and losses to progress the claim through the courts system. It will be necessary to brief a barrister at this stage of the process and your solicitor will explain all of these details to you.

The person claiming compensation for injuries and losses must give careful consideration before deciding to reject a PIAB assessment as there will be risks associated with proceeding to court. If a PIAB assessment has been rejected by the person making the claim but accepted by the respondent, then the person bringing the claim must obtain a higher award in court. If they fail to do so, then one of the following two scenarios can occur:

- No award of legal costs may be made to the claimant;
- The court may exercise its discretion to award legal costs against the claimant.

The above could result in a claimant receiving far less compensation than the PIAB assessment or nothing at all. This is why it is important to speak to your solicitor about any PIAB assessment.

There will be certain scenarios where PIAB will use its discretion not to assess a personal injuries claim. The most common scenarios will be cases involving psychological or psychiatric injury or cases where the interaction of other injuries makes an assessment too complex.

If you would like to speak with us in relation to a claim for personal injuries, contact us today. While we are based in Dublin, we do offer a nationwide service and do our best to ensure that as much work as possible is carried out by telephone, email and post.

****In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award or settlement. Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.***