

## **THE INJURIES BOARD – HOW DOES IT WORK?**

Can you bring your own claim to the Injuries Board without a solicitor? The answer is – yes! However, in our experience, these are some of the pitfalls that people encounter when they bring their own claim without a solicitor: -

- **The name of the respondent**

This might seem like a very easy part of the form to complete. However, it is very often the part of the form that people get wrong. Getting this part of the form wrong means that you are suing the wrong party for your injuries. If you do this, you will not receive compensation for your injuries. You must name the correct legal entity on the form for the Injuries Board. For example, you might have had your accident in a shop called “Food Market” but the correct legal entity is “Joe Bloggs Trading As Food Market”. A solicitor will carry out a search in the companies registration office to ensure that the correct legal title is named on your Injuries Board form.

- **Previous and subsequent injuries**

You must list your relevant injuries that you suffered before your accident. Similarly, you must list your relevant injuries that you suffered after your accident. Many people who bring their own claim do not complete this section of the Injuries Board form correctly. If you do not account for your previous and subsequent relevant injuries on your Injuries Board form and the matter proceeds to court, this will have a negative effect on your claim and may result in your claim being dismissed with no compensation for you.

- **Including all of your losses**

Many people who bring their own claim forget that you can also claim for your out of pocket expenses, i.e. hospital charges, chemist charges, travel expenses, loss of earnings or loss of employment opportunity. You can claim this on top of claiming compensation for your injuries. If you have suffered serious injuries which will affect your ability to work going into the future, you may need to obtain a report from an actuary to deal with the figures involved. A solicitor can help you do this. You can only claim once for your losses so it is important that you include all of your losses in your claim – not just your injuries.

- **Settling too early**

If you have been involved in an accident and the other side have already admitted that the accident is their fault, an insurance company may contact you to settle your claim and offer you compensation for your injuries at a very early stage of your claim. There is nothing wrong with this if you have made a full recovery from your injuries. However, if you are still in pain and you do not have a prognosis from your doctor, you could be doing yourself an injustice by settling too early as you will not be getting the full value of your claim from the insurance company. Being involved in an accident means you are out of work – sometimes with no pay from your employer – and settling early can seem appealing! However, if you are still receiving treatment and still in pain, it is in your best interests to wait until you have made a full recovery or have a prognosis from a doctor so that you can obtain the full value of your case. A solicitor can help you and advise you on this aspect of your claim.

Being involved in a road traffic accident, a trip and fall or a workplace accident can be difficult. Simple daily tasks such as household chores and caring for children can become the most difficult of tasks. In addition, it can also lead to a financial burden on a household with high cost medical care, chemist expenses and a reduction in wages if your employer does not have a paid sick leave policy. This is particularly difficult where serious injuries have been suffered and it is going to take a long time to recover.

We, at Richard Grogan & Associates, appreciate that when meeting a solicitor during such a time, it can be difficult to retain all of the advices received at your first consultation. We set out below a note of how we will guide you through the Injuries Board procedure, which you may find helpful: -

1. Firstly, we will meet with you and take your instructions in relation to how your accident happened. We will also take a detailed note of all of your injuries. It is important to remember that you can only claim once for your injuries and losses. Accordingly, you should instruct your solicitor in relation to **all** of the injuries that you suffered in your accident and **all** of the losses you have suffered as a result of that accident.
2. We will write to the party at fault for your injury and inform that party that we act on your behalf and that you are seeking compensation for

your injuries. We will also forward a copy of this letter to the insurers for the party at fault for your injury.

3. We will gather all of your medical records and then obtain a medical report on your injuries from your doctor. We will then have another meeting with you to complete the application form for the Injuries Board. The Injuries Board is an independent statutory body set up under legislation (Personal Injuries Assessment Board Act 2003) and all personal injuries claims must first be submitted to the Injuries Board before they go to court. The completed signed application form and medical report must be submitted to the Injuries Board and acknowledged as received within a period of 2 years from the date of your injury in order to stop the statute of limitations from running. Under Irish law, you have a period of 2 years from the date of your injury within which to bring a claim for personal injuries.
4. Upon receipt of the completed signed application form and medical report, the Injuries Board will forward a copy of same to the other party's insurance company. They might then make contact with our office to try and settle your claim, i.e. offer you money for your injuries and losses to finish your claim. However, if they make an offer which is unsatisfactory and not the full value of your claim, we will then be advising you to allow the Injuries Board to continue to deal with the matter and to eventually assess the value of your claim.
5. As your case progresses through the Injuries Board, we would advise that you keep a note of how your injuries are affecting you in your day to day activities, e.g. daily life, hobbies, work, etc. The reason for this is that the other party's insurers will refer you to their own doctor for a medical examination and you will have to furnish this information to that doctor, at that stage.
6. It is essential that you keep a note of any out of pocket expenses incurred as a result of the accident, i.e. medical expenses, chemist expenses, travel expenses, etc., in order that we may include same as part of your claim.

7. When the Injuries Board furnish us with an assessment (the value of your injuries), we will have another meeting with you and advise you as to whether or not you should accept the assessment made by the Injuries Board. We will also, if necessary, seek a barrister's opinion in relation to the value of the assessment. The Injuries Board will generally assess the claim under the following headings: -

- (a) General Damages – to compensate you for your pain and suffering suffering;
- (b) Special Damages – to cover any out of pocket expenses, e.g. medical expenses, chemist expenses, travel expenses, etc; and
- (c) Loss of earnings – to cover the loss of salary / wages while you were on sick leave from work.

The Injuries Board do not pay for your legal costs and the discharge of same will be a matter for you. We will advise you in detail in relation to legal costs.\*\*

8. You will be given the option to accept or reject the Injuries Board's assessment of the claim and we will advise you in this regard. However, the decision to accept or reject the assessment will entirely be your own. Similarly, the other party's insurers will have the choice of accepting or rejecting any assessment made by the Injuries Board. If **both** you and the other party's insurers accept the assessment made by the Injuries Board, the Injuries Board will issue a pay order to the other party's insurers for payment of the compensation assessed by them.

If, however, you and/or the other party's insurers reject the assessment, the Injuries Board will furnish us with a document called an authorisation. This will allow us to issue court proceedings on your behalf. We will generally brief a barrister at this stage and request that he/she furnish us with draft court proceedings. If we reach this stage in relation to your claim, we will advise you further as to the procedure to be followed.

9. Finally, when you bring a claim for injuries, there is a legal duty on you to minimise your loss, i.e. to follow all medical advice given to you by your doctor, to return to work when advised by your doctor, to replace a damaged motor vehicle, as soon as possible, and not to

continue car hire, etc. If you do not minimise your loss, the value of your claim will be reduced.

We, at Richard Grogan & Associates, strive to progress personal injuries claims efficiently, guide you through the process and keep you well informed as your claim progresses.

**\*Before acting or refraining from acting on anything in this guide, legal advice should be sought from a solicitor.**

**\*\*In contentious cases, a solicitor may not charge fees or expenses as a portion or percentage of any award of settlement.**