Date: 31/07/2014 15:44:46
Subject: **PIAB review**

Dear Sir/Madam,

I have a number of brief observations on the PIAB process (time militates against fleshing these points out in detail; please revert to me if you want any further clarification).

The Book of Quantum is out of date (and was based on an unduly restricted amount of source material); numerous deficiencies have been highlighted in cases and commentary (e.g. Byrne & Binchy's Annual Reviews of Irish law over several years and my own contributions to the Yearbooks of European Tort Law by the European Centre of Tort and Insurance Law - http://www.ectil.org/).

The use of settlements in determining the figures is outside the statutory remit of the board (as settlements differ from the tort principles for setting damages for a variety of reasons – at the upper end, pressure on plaintiffs often makes them settle for far less than their case is worth; at the lower level insurers often offer more than a case is worth, as it is cheaper than litigating); yet settlement figures were used to set the levels in the Book of Quantum.

While the PIAB does keep up to date with judicial awards and may take them into account in making assessments, it is still important that the published book be more accurate and up to date.

Clearer rules should be implemented on the recovery of costs; legal costs are often justified, even in a process such as this, as some plaintiffs may genuinely need expert assistance in deciding on the suitability of an award; the Board's current position is opaque and should be clearer; it also appears unduly restrictive in when cost will be allowed (though the lack of clarity makes it hard to be sure about this). There is at least a perception that claimants are penalised for using lawyers, even where such use is justified – making a public saving at the expense of victims unfairly dilutes victims' rights.

Structured settlements should be introduced; while the Report of the High Court Working Group on Medical Negligence and Periodic Payments (Dublin: October 2010) makes excellent recommendations in respect of persons with catastrophic injuries, I would venture to say that periodic payments could be used in a wider range of cases involving long-term injuries where prognosis is uncertain.

Yours sincerely,

Eoin Quill

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[IMAGE]

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