

Private and Confidential

Re: Apparent Breach of Solicitor Advertising Legislation

Mr Mícheál O'Dowd,
O'Dowd Solicitors,
Glanmire, Cork - info@odowd.ie

20, January 2022

Dear Mr O'Dowd,

I am writing to you in relation a publication on your Firm's website at this page (<https://www.odowd.ie/2021/11/21/is-piab-really-better-for-claimants/>) which refers to personal injuries and to the Personal Injuries Assessment Board ("PIAB").

PIAB considers that the publication is;

- A breach of Legal Services Regulation Act 2015 (Advertising) Regulations 2020 (the "2020 Regulations");
- Defamatory within the meaning of the Defamation Act 2009.

At the outset PIAB wishes to note that it has no issue with members of the public, or the legal profession, engaging in fair comment regarding PIAB and/or its services. However, the publication makes a number of most serious allegations against PIAB, that it feels that it has no option but to write to you in these terms.

The 2020 Regulations

It is PIAB's considered view that the publication is an advertisement within the meaning of section 2(a) of the 2020 Regulations.

PIAB considers that the following statements in the publication are "*false and misleading in a material respect*" in contravention of section 4(a)(iv) of the 2020 Regulations.

- *Our view is that without proper representation a claimant is walking into a lion's den when engaging with PIAB. The system for resolving personal injuries claims in Ireland is currently broken. We would probably not have said this 24 months ago. We would have said that if your injuries were minor, if you did not have any huge loss of income, and if you were fully better after six or twelve months the Personal Injuries Assessment Board (PIAB) was likely to make a reasonably hand of your claim. This is not currently the case, and we would advise any person injured in a Road Traffic Accident, Workplace*

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accident, or injured in some other manner to approach the system with a great degree of caution.” (emphasis added).

Your publication gives no context for this bald and provocative assertion. Indeed, your publication goes on to say that;

- *“On their twitter account PIAB describe themselves as “the independent Irish state body that fairly assesses injury claims”. It also runs a national media campaign promising “Similar compensation, faster resolution, fairer for all”. We consider both of these statements to be untrue.”*
- *You also state: “PIAB is too pro insurance company”*

This is a most serious, untrue and unjustified allegation where you are questioning the bona fides of PIAB which is a statutory and independent body.

Your publication goes on to emphasize this allegation by stating;

- *We would strongly urge anyone who has been injured in a claim to contact a solicitor, now more than ever. We would suggest that PIAB cannot any longer be trusted as an independent body, and cannot be trusted to fairly implement the Judicial Council guidelines, as flawed and all as they may be.” (emphasis added).*

The above are examples of where you have called into question the bona fides of PIAB. You have essentially stated in an open publication that PIAB is acting ultra vires its primary legislation, that it is biased towards insurance companies and that it is not competent.

Regardless of any contentions you may have that your publication is fair comment you have not put forward, nor would you be in a position to, any material facts to support your comments.

You will also be aware of the provisions of regulation 6 (c) which provides that;

Further, without prejudice to the generality of Regulation 4, an advertisement published or caused to be published by a legal practitioner shall not refer to the quantum of a possible award of damages save insofar as by reference to the Personal Injuries Assessment Board Book of Quantum or other guidelines as may be published by the Personal Injuries Assessment Board or other statutory authority or statutory body.

PIAB notes that your publication states *“Finally this is not an advertisement for O’Dowd Solicitors, but simply an honest effort to give a differing opinion to the Insurance company sponsored propaganda that has permeated our media outlets and is being accepted in some quarters as “fact””*

Regardless of this assertion, PIAB is of the view that your publication is an advertisement which cannot be circumvented by one paragraph in a lengthy publication.

Furthermore, you go on to state that *“a solicitor is instrumental in advising you through the process, particularly as the awards made by the Injuries Board are often out of step with the injury you may have suffered, particularly at present when there is a great deal of uncertainty with how claims are being assessed.” (emphasis added).*

Again, this allegation is untrue, damaging and unsubstantiated.

In addition to the above assertions, your publication also calls into question the experience and training of PIAB’s statutory assessment officers. You acknowledge that you do not have information on their background or qualifications and refer to a LinkedIn search. PIAB takes an assertion that there is a “knowledge deficit” among its statutory assessors most seriously.

Removal of Publication

PIAB requests that, within a two week period from the date of this letter, that your Firm removes this publication.

If these statements are not removed within that timeframe, PIAB will have no choice but to make a formal complaint to the Legal Services Regulatory Authority in relation to these matters.

Please also note that given the very serious nature of the allegations made in your publication, PIAB also reserves the right to issue proceedings pursuant to the Defamation Act 2009.

We look forward to hearing from you.

Yours sincerely,

Michael Kelly
Communications Manager
Personal Injuries Assessment Board

(Sent by email)