

# State Claims Agency

The NTMA is known as the State Claims Agency (SCA) when managing personal injury and third-party property damage claims against the State and State authorities, as delegated to it, and in providing related risk management services. As the SCA, the NTMA also manages claims for legal costs against the State and State authorities, as delegated to it, however such costs are incurred.



The SCA is obliged by statute to manage delegated claims and counterclaims in such manner as to ensure that the liability of the State authorities is contained at the lowest achievable level. In performing this function, the SCA seeks to act fairly, ethically and sensitively in dealing with people who have suffered injuries and/or damage, and their families. In cases where the SCA investigation concludes that the relevant State authority bears some or all liability, the SCA seeks to settle claims expeditiously and on fair and reasonable terms. If it considers, in individual claims or classes of claim, that the State is not liable or that the amount sought in compensation is excessive, the SCA's policy is to contest the claim or level of claim.

The SCA provides claims and risk management services through two State indemnity schemes:

## Clinical Indemnity Scheme

Under the Clinical Indemnity Scheme, the SCA manages clinical negligence claims taken against healthcare enterprises, hospitals and clinical, nursing and allied healthcare practitioners covered by the scheme.

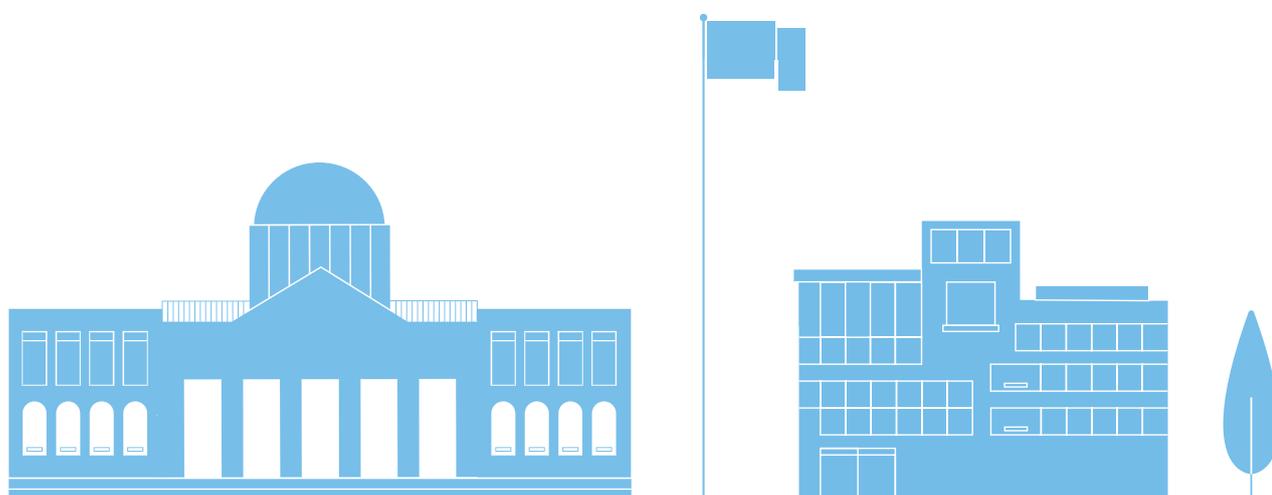


## General Indemnity Scheme

Under the General Indemnity Scheme, the SCA manages personal injury and third-party property damage claims taken against State bodies covered by the scheme.



The "risk universe" indemnified by the State through these schemes is extensive. It includes over 200,000 State employees and all public healthcare service users. It includes public services that, by their nature, constitute higher-risk activities such as the provision of clinical care in hospitals, Defence Forces personnel on operations overseas, members of An Garda Síochána on operational duty, customs inspections, emergency response services and custody of prisoners.



The SCA was managing 11,408 claims at end-2021. The total estimated outstanding liability associated with the SCA's claims portfolio at end-2021 was €4,530m.

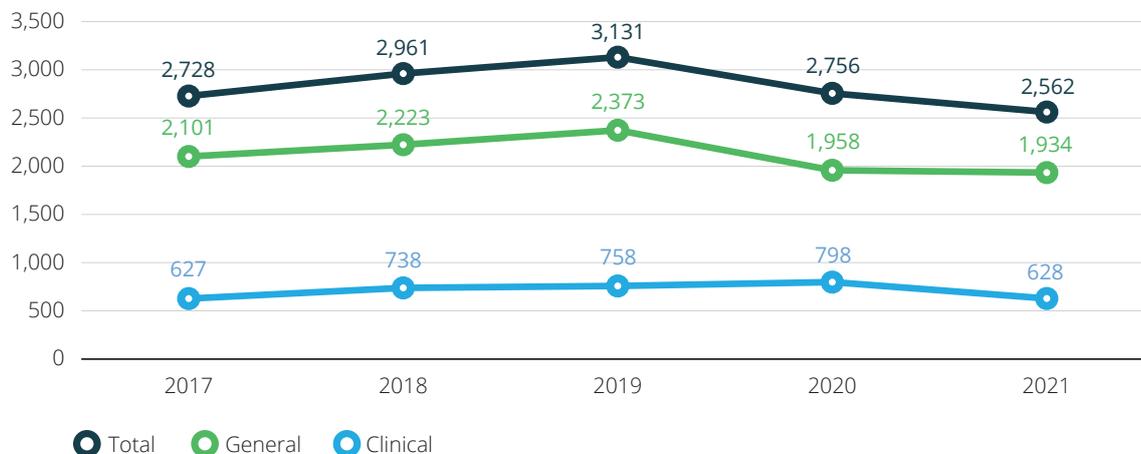
#### Claims Portfolio at End-2021



Although clinical claims comprised only 32% of the overall number of active claims at end-2021, they comprise 75% of the overall estimated outstanding liability. This is primarily due to the higher levels of settlements and awards associated with clinical negligence claims when compared with general claims and, in particular, the very high level of settlements in the resolution of infant cerebral palsy and other catastrophic injury claims.

## State Claims Agency (continued)

### Claims Received 2017-2021 (Excluding Mass Action Claims)



### Claims Received and Resolved

The SCA received 3,145 claims and resolved 4,100 claims in 2021. Headline numbers with regard to active claims can be volatile and may be strongly influenced by the number of mass action claims received and resolved each year. In 2021, headline numbers were particularly affected by the Scheme of Settlement put in place to resolve the lack of in-cell sanitation mass action (further information on this Scheme of Settlement is set out in the Mass Actions section of this Report). The number of claims received each year excluding mass action claims gives a better indication of the overall trend.

The number of general claims (excluding mass actions) received annually increased from 2,101 in 2017 to 2,373 in 2019 before falling back to 1,958 in 2020 and remaining at similar levels in 2021. The fall in 2020 and 2021 is most likely due to a general decrease in activity in State authorities as a result of COVID-19 restrictions.

The number of clinical claims (excluding mass actions) received annually increased from 627 to 798 between 2017 and 2020 before falling back to 628 claims received in 2021. This may reflect less clinical activity in 2020 and 2021 due to COVID-19. Such a delayed impact is what would be expected, given the typically longer time between the occurrence of an incident and the making of a claim in clinical claims compared with general claims.

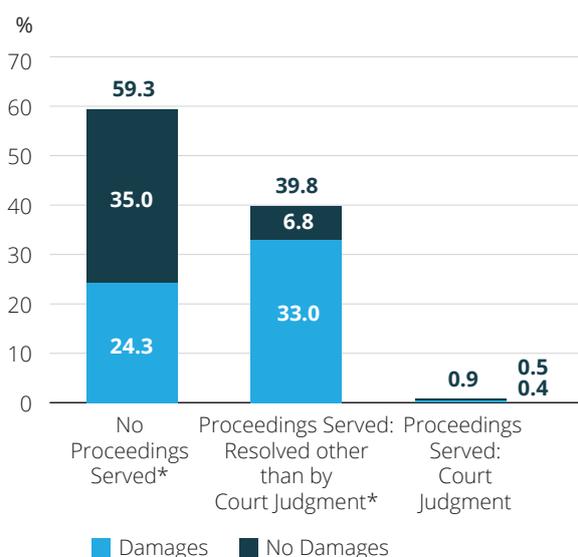
The ratio of claims resolved to claims received (excluding mass action claims) in 2021 was 1.03. While this performance was facilitated by the lower number of claims received compared with the period prior to the onset of the pandemic, it was also achieved despite the continued impact of COVID-19 restrictions on the operation of the courts. In these circumstances, as in 2020, the SCA worked closely with plaintiffs' legal representatives to continue to settle claims to the greatest extent possible outside of the formal court process.

Fifty-nine per cent of claims resolved by the SCA in 2021 were resolved without court proceedings being served, compared with 53% in 2020. The SCA paid damages in 58% of all cases

resolved in 2021, compared with 65% in 2020. Just under 1% of cases resolved by the SCA in 2021 were the subject of a court judgment.

The SCA strongly favours mediation, where possible, as an alternative to the formal court process. Mediation is particularly suitable for complex clinical claims. Thirty-seven per cent of claims concluded by the clinical claims team in 2021 where damages were paid involved a mediation process<sup>8</sup>, compared with 25% in 2020. Mediation also forms an integral part of the Scheme of Settlement put in place by the SCA to resolve H1N1 flu vaccination claims (for further information on this Scheme of Settlement see the Mass Actions section of this Report).

### How Claims Resolved 2021



\* includes cases settled, cases discontinued or claim statute barred, and indemnity received. Figures may not total due to rounding.

<sup>8</sup> Concluded claims are claims where damages, if any, have been agreed, whether through settlement discussions or court award, but where costs may still be outstanding.

## Mass Action Claims

The SCA is managing a number of different mass actions against the State. Of the total 11,408 active claims at end-2021, 2,016 (18%) were in relation to mass actions. Some 46% of these mass action claims are lack of in-cell sanitation claims taken by current and former prisoners against the Irish Prison Service.

A summary of the position in relation to particular mass action claims is set out in the table below. Claims in relation to CervicalCheck are discussed separately.

Mass Action	Active End-2021	Active End-2020
<b>General Indemnity Scheme</b>		
<b>H1N1 Flu Vaccination</b>	137	128
<p>These are cases taken by child and adult plaintiffs primarily alleging the development of narcolepsy and cataplexy following vaccination against the H1N1 flu virus.</p> <p>Following the settlement of the second case, after mediation in November 2020, the SCA established a Scheme of Settlement for the other claims on similar terms to those agreed in that case.</p> <p>Settlement of claims under the Scheme, through mediation in each case, progressed well through 2021 with 103 plaintiffs having entered into the Scheme by end-year. Twenty-eight claims were concluded in relation to apportionment of liability and quantum by end-2021 whilst 50 claims were settled in respect of apportionment of liability.</p> <p>The increase in active claims between end-2020 and end-2021 is due to the fact that a number of new claims were received during the year, while most claims concluded have yet to be finalised (damages have been agreed but costs may still be outstanding) and are thus still classified as active claims.</p>		
<b>Historical Day School and Residential Institution Abuse</b>	99	115
<p>These are cases taken by persons who allege they were physically and/or sexually abused by persons whilst at school or in residential institutions.</p> <p>In July 2021, the Government established a revised ex-gratia scheme for certain persons who had made day school sexual abuse claims against the State to implement the European Court of Human Rights Judgment in O’Keeffe v Ireland. Successful applicants will receive a payment of €84,000 plus costs, as agreed. The State Claims Agency is administering the Scheme.</p>		
<b>Lack of In-Cell Sanitation</b>	934	1,852
<p>These are cases taken in 2014 and subsequently by prisoners (current and former) against the Irish Prison Service alleging, inter alia, breach of their constitutional rights due to lack of in-cell sanitation.</p> <p>The Supreme Court judgment in the lead case, Gary Simpson v the Governor of Mountjoy Prison &amp; Others, was delivered on 14 November 2019. The case was originally heard in the High Court, which held that the State breached the plaintiffs’ constitutional right to privacy/dignity. No award of damages was made to the plaintiff, notwithstanding the Court finding in his favour on the privacy issue. The Supreme Court found that the plaintiff should be paid compensatory damages of €7,500. Arising from this judgment, the SCA has put in place a Scheme of Settlement under which offers of damages and measured legal costs are being made to qualifying claimants/plaintiffs.</p> <p>The Scheme of Settlement made continued progress through 2021. As of end-2021, 2,764 claims associated with the Simpson case had been received and, of these, 66% had been settled, discontinued or otherwise concluded, while 34% remain open and ongoing.</p>		
<b>Lariam</b>	158	191
<p>These are cases taken by current and former members of the Defence Forces, alleging various physical and psychological symptoms, following their ingestion of Lariam, an anti-malarial prophylactic drug prescribed for their use whilst on duty in sub-Saharan Africa.</p> <p>There were 36 claims resolved in 2021, all of which were discontinued by the plaintiff.</p>		

## State Claims Agency (continued)

Mass Action	Active End-2021	Active End-2020
<b>General Indemnity Scheme</b>		
<p><b>Mother and Baby Homes</b></p> <p>These claims arise from ex-residents of various mother and baby homes who are suing the Department of Education, Tusla, the HSE, the Department of Foreign Affairs and other non-State defendants as a result of their time spent in institutional care settings over various periods from the 1940s to the 1980s. They allege physical, verbal and emotional abuse and breaches of their constitutional rights for adoption or fostering and, also, that natural rights were affected due to allegedly false birth certificates being issued. Claims also arise from mothers allegedly being given the wrong child at birth, this having been established by DNA testing with the now adult child. Claims have also been received from persons who allege that the then Adoption Board was negligent in the oversight of various adoption societies which allegedly facilitated the illegal registration of their births.</p> <p>In November 2021, the Government announced that it had agreed a Mother and Baby Institutions Payment Scheme to compensate former residents of mother and baby and county home institutions. The Scheme will require legislation to come into effect. Until it becomes operational, it is not clear how the Scheme will impact on the existing litigation.</p>	136	55
<p><b>Prison-Based TB (Shelton Abbey)</b></p> <p>These are cases taken by current and former prisoners and prison officers in Shelton Abbey prison and members of their families who tested positive for latent TB, subsequent to a delay in diagnosis of a suspected case of TB by Irish Prison Service medical staff in 2018.</p>	27	29
<p><b>Thalidomide</b></p> <p>These are cases taken by persons born with physical disabilities whose mothers had ingested the thalidomide preparation during pregnancy. In addition to cases being case-managed by a judge of the High Court, which are at discovery stage, there are also a number of cases being taken by persons not officially acknowledged by the Contergan Foundation, Germany as suffering from a thalidomide-related injury.<sup>9</sup></p>	37	37
<b>Clinical Indemnity Scheme</b>		
<p><b>Symphysiotomy</b></p> <p>These are cases taken by women who had a surgical, obstetrical procedure to widen their pelvis.</p> <p>A number of plaintiffs opted not to avail of the ex-gratia scheme established by the Government in 2014 to compensate women who were found to have undergone the procedure and three applications were received by the European Court of Human Rights (ECHR) for consideration. On 10 December 2020, the ECHR declared each of the three applications to be inadmissible.</p>	33	35
<p><b>Transvaginal Implants</b></p> <p>These cases arise in circumstances where women have had a mesh implant inserted to address urinary stress incontinence and allege personal injury as a result.</p>	61	55

### National Screening Services: Cervical Cancer Litigation

The SCA had received notification of 340 claims against CervicalCheck at end-2021 (compared with 234 claims at end-2020). This includes 68 psychological injury claims from members of the families of the women concerned. The claims primarily relate to the reading of smear tests by the independent laboratories providing services to the HSE and to non-disclosure by the HSE of the results of a clinical audit of smear tests. The cases are complicated by the fact that there can be multiple defendants: the laboratories themselves regarding the reading of the smear tests, which are contractually obliged to provide an indemnity to the State in relation to the reading of the tests, the HSE (represented by the SCA) regarding the non-disclosure of the audit results and, on occasion, a third party such as a treating doctor. In these cases, the SCA is committed to working with the laboratories and the third parties to resolve the cases through mediation, to the greatest possible extent. In a small number of cases, the HSE is the defendant in relation to the reading of the smear test (where the test was read in a hospital laboratory).

<sup>9</sup> The Contergan Foundation, which is established under German legislation, provides financial support to persons for thalidomide-related injury, following assessment of their disability as being attributable to thalidomide.

The claims include both those arising from the internal audit carried out by CervicalCheck and from the Independent Expert Panel Review of Cervical Screening by the Royal College of Obstetrics and Gynaecology, and also claims where the smear test was not subject to a review or audit.

Forty-two claims were concluded during 2021. The total number of claims concluded as at end-2021 was 64.

The CervicalCheck Tribunal has been in operation since the beginning of December 2020, as an alternative system to the courts for claims arising from the internal audit carried out by CervicalCheck and from the Independent Expert Panel Review of Cervical Screening by the Royal College of Obstetrics and Gynaecology. It is a matter for the plaintiffs in each case as to whether they wish to bring claims to the Tribunal or whether they wish to pursue them through the courts. Plaintiffs who submit claims to the Tribunal retain a right of appeal to the High Court.

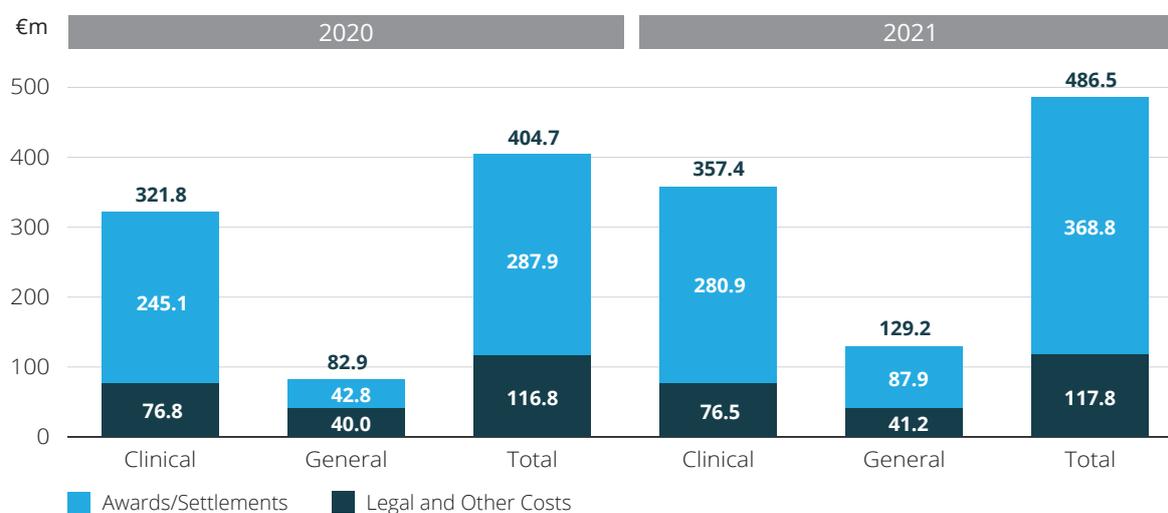
### Cost of Claims

The costs incurred in 2021 in resolving and managing ongoing active claims were €486.5m, an increase of 20.2% on the 2020 out-turn of €404.7m.

Awards/settlements increased by €80.9m in 2021 compared with 2020 (€35.8m in respect of clinical claims and €45.1m in respect of general claims). The increase in clinical claims payments is due to settlements in catastrophic injury claims: in particular, there were a small number of very large lump-sum settlements during the year. The increase in general claims payments is primarily due to an increase in payments in mass action claims (mainly payments under the Scheme of Settlement in the H1N1 mass actions claims) with non-mass action payments also increasing – having fallen between 2019 and 2020.

Legal and other costs (including both the SCA's own costs and plaintiffs' costs) incurred in 2021 were at similar levels to those incurred in 2020 for both general and clinical claims.

### Costs of Resolving and Managing Ongoing Active Claims



Figures may not total due to rounding.

## State Claims Agency (continued)

### Settlement of Catastrophic Injury Claims: Lump Sums, Interim Payment Orders and Periodic Payment Orders

In 2010, the SCA, assisted by the High Court, pioneered interim payment orders as a means of compensating plaintiffs in catastrophic injury cases. Interim payment orders were introduced in the absence of statutory Periodic Payment Orders (PPOs) to address the investment risk to the plaintiff associated with a lump-sum settlement. Under these orders, certain heads of damages are resolved on a full and final basis (e.g. general damages, loss of earnings, past care). Ongoing care requirements are dealt with by means of interim High Court orders which allow for part-payment of future care requirements for a specified time-period. When this time period has elapsed, the plaintiff may revert to the High Court to seek another interim order or full and final settlement of the claim.

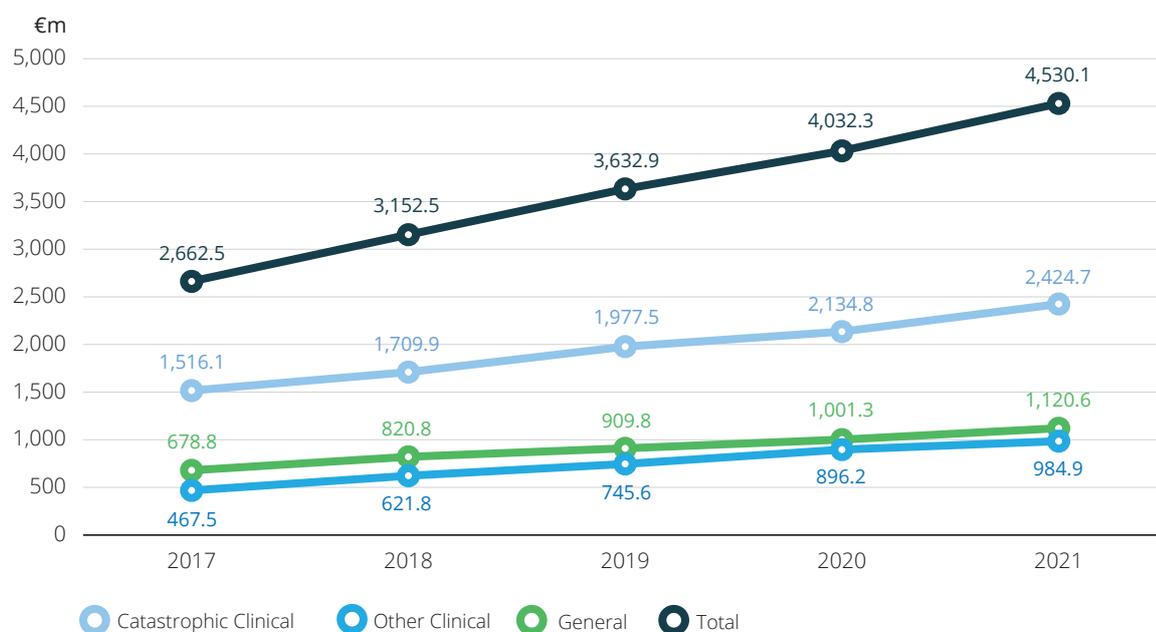
Statutory PPOs are provided for under Part 2 of the *Civil Liability (Amendment) Act 2017*, which commenced in October 2018. This empowers the courts, as an alternative to lump sum awards of damages, to make consensual and non-consensual PPOs to compensate injured victims in cases of catastrophic injury where long-term permanent care is required. The Harmonised Index of Consumer Prices (HICP) is the index used for the purpose of calculating increases in annual PPO payments. The adequacy of this indexation provision was considered during a directions' hearing in a catastrophic injury case during 2019. The High Court found that the index used in the legislation would not meet the cost of future care needs of catastrophically injured people.

In light of this, barring a change to the index, it is expected that most claims will be settled on a lump-sum or interim payment order basis. No statutory PPOs were made in 2020 or 2021 (compared with six in 2019). The Department of Justice has reconvened the Working Group which it established to examine the technical aspects of PPOs prior to the passage of the enabling legislation, to consider an index or indices to be applied to annual adjustments of PPOs, taking account of the High Court finding, and to submit a recommended position to the Minister for Justice. The SCA is represented on the Working Group.

### Estimated Outstanding Liability

The total estimated outstanding liability associated with the SCA's claims portfolio at end-2021 was €4,530m. As noted in previous Annual Reports, the estimated outstanding liability continues to increase significantly year on year.

#### Estimated Outstanding Liability 2017-2021



Figures may not total due to rounding.

While the number of active claims being managed by the SCA has increased by 15% over the last five years – from 9,956 at end-2017 to 11,408 at end-2021, the increase in the estimated outstanding liability over the same period is much higher at 70%. Although catastrophic injury claims, due to their high value, are the main driver behind this increase in volume terms; their percentage increase over the period (60%) is less than that of non-catastrophic clinical claims (92%). The estimated outstanding liability associated with general claims has risen by 47% over the period. In addition to the increase in claims numbers and general claims inflation, the increase in the estimated outstanding liability is primarily due to the following factors:

- the effect of the reduction of the Real Rate of Return (RRR) by the Court of Appeal Decision in *Gill Russell v HSE*<sup>10</sup> on case reserves in catastrophic injury cases and cases involving a significant loss of earnings - this affects most clinical claims;
- with regard to catastrophic injuries, increased life expectancy due to improved medical and pharmacological care, and also increased accommodation and ongoing care costs;
- with regard to clinical claims generally, allocation of higher estimated liabilities reflecting increased levels of general damages in clinical claims; and also, inclusion of additional heads of special damages in claims;
- there were a number of extensions to the remit of the General Indemnity Scheme between 2014 and 2017 including higher risk areas such as Section 38 acute hospitals and bodies providing disability services. At end-2021, the health and social care sector<sup>11</sup> (€808.7m) comprised 72% of the total estimated outstanding liability associated with general claims;
- a number of significant mass action claims under both the general and clinical indemnity schemes, e.g. CervicalCheck, lack of in-cell sanitation, H1N1 flu vaccination, Lariam.

## Personal Injury Guidelines

The Personal Injury Guidelines were adopted by the Judicial Council in March 2021 and commenced by the Minister for Justice in April. The Guidelines set out the levels of damages that may be awarded in personal injury actions and replace the Book of Quantum previously used by the Personal Injuries Assessment Board to determine compensation in claims. The Guidelines will also apply to the courts and where a court departs from the Guidelines, it will be required to state the reasons for such departure in giving its decision.

The Guidelines reduce award levels for most categories of personal injury. They deal with a wide range of injuries in terms of general damages, but do not affect special damages (e.g. ongoing medical or care expenses or compensation for loss of income).

The SCA has not yet taken the reduced levels of damages under the Guidelines into account in determining the estimated outstanding liability associated with its claims portfolio. It will review the matter as evidence emerges on how the Guidelines are being applied in practice by reference to levels of settlements and court awards.

## Risk Management

The SCA advises and assists State authorities on the management of litigation risks in order to enhance the safety of employees, service users/patients and other third parties and minimise the incidence of claims. Responsibility for managing risk and setting risk management priorities remains in all cases a matter for the State authority concerned and the SCA's risk management role is an advisory one.

The SCA implements its risk mandate through two specialist risk units: the Clinical Risk Unit and the Enterprise Risk Unit. Both risk units' work programmes involve drawing on data analysis and evidence to identify emerging trends and issues in order to categorise and prioritise risk initiatives. This information is primarily obtained from data reported on the National Incident Management System (NIMS) - the end-to-end risk management tool developed by the SCA that allows the SCA and State authorities to manage incidents throughout the incident lifecycle - and from claims analysis.

<sup>10</sup> The Court of Appeal held that the RRR in respect of the calculation of future care-related special damages should be 1%. It also held that the RRR in respect of all pecuniary losses should be 1.5%. The RRR used previously to calculate the estimated outstanding liability was 3%.

<sup>11</sup> The HSE, Section 38 bodies, Tusla and the Department of Health.



Córas Náisiúnta um Bainistíocht Teagmhais  
National Incident Management System

### National Incident Management System (NIMS)

NIMS is a confidential end-to-end risk management tool developed by the SCA that allows the SCA and State authorities to manage incidents throughout the incident lifecycle.

State authorities are required to use NIMS to fulfil their statutory requirement to report incidents to the SCA, and may also use the system for their own risk management purposes.

NIMS provides State authorities' risk managers and the SCA's own risk teams with complex adverse incident data analysis and reporting capabilities. This enables risk management and mitigation responses that will help to improve the safety of State employees, patients, and service users, and minimise the cost of claims against the State in the future.

The accurate reporting of incidents on NIMS is critical to the SCA's risk management function and the SCA works actively with State authorities on an ongoing basis to improve the level and quality of reporting.

COVID-19 related work remained a significant element of the SCA's risk and indemnity advisory activities through 2021. As in 2020, the SCA continued to monitor and analyse COVID-19 incidents reported on NIMS and share that analysis with the HSE. A mechanism was also established to enable the statutory reporting to the Health Products Regulatory Authority by the SCA of vaccine-related incidents reported on NIMS. More broadly, the SCA continued to support State authorities in their COVID-19 response including addressing queries on indemnity, insurance and risk management.

Other specific activities carried out as part of the State's response to COVID-19 included:

- during the period of the early 2021 surge event, the HSE entered into individual Service Level Agreements (SLAs) with designated private hospitals to provide additional healthcare capacity as required. The SCA was requested by the Department of Health and the HSE to assist the HSE lawyers, drawing up the SLAs, in relation to drafting and advising on the indemnity provisions, insurance arrangements and levels of insurance indemnity contained in the SLAs;
- advising the Department of Health on indemnity matters relating to the roll-out of the vaccine programme to the under-18s, the consent required from parents/guardians, and the mixing of different vaccines for second doses;
- working with the Departments of Health and Education to extend the benefits of the General Indemnity Scheme to Special Needs Assistants who were temporarily reassigned to the HSE to support children and young people with disabilities and their families in the community setting during the period when schools were closed.

The use of NIMS has been integral to the SCA's COVID-19 response in enabling the capture, reporting and analysing COVID-19 incident data in real time. During 2021, the vaccine rollout and the private hospital SLAs necessitated the prioritisation of the design and implementation of new solutions to deliver NIMS to the private hospitals and for the capture and recording of COVID-19 vaccine adverse reaction incidents.

More broadly, the SCA's enterprise management programme focuses on prioritising those State authorities and hazards most likely to lead to significant claims against the State. The programme is concentrated on audit and review of risk governance, provision of risk guidance, and client-specific initiatives. Close interaction with State authorities through education, training and client networks and events is an integral part of the programme. Specific activities in 2021 included:

- ongoing review of incidents and claims in order to identify opportunities for risk management enhancement, and follow-up with State authorities as required;
- indemnity, incident reporting and risk management guidance to the HSE and Tusla following the cyber-attack in May;
- advising the Department of Public Expenditure and Reform on risk and indemnity aspects of the Blended Working Policy Framework for Civil Service Organisations.

### Work Positive<sup>CI</sup>

Work Positive<sup>CI</sup> is a free easy to use, confidential, psychosocial risk management process and is an initiative of the State Claims Agency, the Health and Safety Authority (HSA) and the Critical Incident Stress Management (CISM) Network Ireland. It provides feedback on workplace stress, employee psychological wellbeing and critical incident exposure in the workplace. It delivers structured guidance enabling organisations to develop an action plan to mitigate against these stressors.

During 2021, a number of State authorities, with the SCA's support, adopted and implemented or commenced implementation of the Work Positive<sup>CI</sup> framework. Additionally, in conjunction with the HSA and CISM Network Ireland, the SCA updated the Work Positive<sup>CI</sup> website to capture the impact of COVID-19 on work-related stress and critical incident stress in the workplace, specifically in the context of remote working. The impact of work-related stress and critical incident stress arising from the pandemic was the theme of the Enterprise Risk Network Conference 2021 hosted by the SCA, which was delivered remotely to some 170 attendees.

The SCA's clinical risk management programme focuses on working with clinicians, senior managers, risk managers and other personnel in health and social enterprises at national and local level to mitigate clinical risks and enhance patient safety. The programme places an emphasis on identification of trends and risks at national level and relevant risk mitigation; on health and social care enterprises and issues with the highest risk profile; and on measures which seek to bring about system-wide change. The delivery of education and training activities in relation to patient safety and clinical risk management forms a key part of the programme. Specific activities in 2021 included:

- ongoing systemic quarterly review and analysis of clinical incidents with appropriate follow-up actions on issues identified;
- engagement with the HSE at national level (senior clinicians and managers) and with Hospital Groups on lessons to be learned from the analysis of finalised clinical claims;
- ongoing work with the National Neonatal Encephalopathy Action Group (NNEAG) which seeks to identify, learn from, and implement strategies to mitigate risk relating to avoidable incidents of neonatal encephalopathy - the brain injury which precedes the development of cerebral palsy - in those cases which are caused by birth injury continued. NNEAG was established in 2019 by the National Women and Infants Health Programme in partnership with the SCA and the Department of Health;
- delivery of a series of three webinars to replace the SCA National Quality, Patient Safety and Clinical Risk Conference, which could not proceed due to COVID-19 restrictions. The webinars examined the theme of implementing and sustaining change in the context of COVID-19. Topics considered included the rollout of Attend Anywhere, the HSE's telemedicine platform, how clinicians adapted to the challenges of the pandemic by transforming their practices to deliver care virtually, and how the response to the pandemic generated greater synergies between services through more integrated care.

## Insurance Compensation Fund (ICF)

Under the Insurance (Amendment) Act 2018, in the event of the liquidation of an insurance company requiring a draw on the ICF, the SCA makes applications to the High Court, on behalf of the liquidator<sup>12</sup> to approve payments from the ICF, on completion of a due diligence examination of the relevant claims.

In respect of insurance companies authorised in an EU Member State other than Ireland, the SCA also distributes sums released from the ICF to claimants.

Applications to the President of the High Court for disbursements from the ICF were successfully made during 2021 in respect of Setanta Insurance Company Ltd (in liquidation), authorised in Malta, (€8.3m), Enterprise Insurance Company plc (in liquidation), authorised in Gibraltar, (€1.2m) and Gable Insurance AG (in liquidation) authorised in Liechtenstein (€1.5m).

## Legal Costs Management

The SCA's Legal Costs Unit (LCU) deals with third-party legal costs of the State and State authorities as delegated to it, however such costs are incurred. This means that the LCU deals with third-party legal costs in relation to these State authorities, whether they arise in the course of the SCA's own claims management work or in respect of other legal costs incurred by the State authority concerned.

The level of legal costs paid to claimants' legal representatives is carefully examined and, wherever possible and by means of negotiations, the SCA seeks to achieve the maximum possible reduction in legal costs to be paid by the State. If the SCA cannot successfully agree the level of legal costs to be paid to plaintiffs' legal representatives, the matter is determined by the Office of the Legal Costs Adjudicator, subject to a right of appeal to the High Court.

The Legal Costs Unit settled 1,040 bills of costs in 2021. The total amount claimed was €100.5m. These bills were settled for €60.5m – a reduction of 40% on the amount claimed.

## Legal Cost Claims Settled 2021

Bill of Costs Category	Number of Cost Claims Negotiated	Amount Claimed €m	Cost of Claims Agreed €m	Legal Cost Savings %
SCA Clinical	178	49.9	30.3	39.3
SCA General	128	10.7	7.2	32.7
Tribunals of Inquiry	12	6.5	3.2	51.0
Other*	722	33.4	19.9	40.6
<b>Total</b>	<b>1,040</b>	<b>100.5</b>	<b>60.5</b>	<b>39.8</b>

\* Primarily third-party legal costs in non-personal injury cases referred to the SCA by the Office of the Chief State Solicitor or the HSE's Office of Legal Services.

Figures may not total due to rounding.

<sup>12</sup> In the case of an insolvent insurer authorised in another EU Member State, the person who performs the equivalent functions to a liquidator in the Member State concerned.