

Minutes of a meeting of the Board of the Accident Compensation Corporation held at ACC Boardroom, Level 7, Justice Centre, 19 Aitken Street, Wellington on Wednesday, 17 April 2019 at 9.00 am.

Present

Dame Paula Rebstock	Chair	
Mr James Miller	Temporary Deputy Chair	
Ms Anita Mazzoleni**	Member	Absent 5.1 to 5.2 due to funeral
Ms Kristy McDonald QC	Member	
Mr David May	Member	
Ms Leona Murphy**	Member	
Dr Tracey Batten	Member	
Mr John Brabazon	Member	

In attendance

Mr Scott Pickering	Chief Executive
Mr Mike Tully	Chief Operating Officer
Mr Peter Fletcher	Chief Technology & Transformation Officer
Ms Deborah Roche	Chief Governance Officer
Mr Herwig Raubal	Chief Actuarial and Risk Officer
Mr John Healy	Chief Financial Officer
Ms Emma Powell	Chief Customer Officer
Ms Sharon Champness	Chief Talent Officer
9(2)(a)	Head of Risk and Assurance
9(2)(a)	Head of Injury Prevention
9(2)(a)	Head of Health and Safety Systems
9(2)(a)	Strategic Advisor, Governance
9(2)(a)	Manager Corporate Secretariat
9(2)(a)	General Counsel and Company Secretary
9(2)(a)	Senior Associate Company Secretary
9(2)(a)	Associate Company Secretary

** Attended via videoconference

1 Procedural Business

1.1 Apologies

There were no apologies received for the meeting.

1.2 Register of Members' Conflicts of Interest Arising

The Board Chair informed the Board that she had been appointed as a director of Vector. Ms McDonald QC informed the Board that she had resigned from the Electoral Commission.

CONFIRMED: The Board reviewed the Register of Members' Conflicts of Interest Arising and confirmed that it was not aware of any other matters (including matters reported to, and decisions made by, the Board at this Meeting) which would require disclosure.

2 Committee Updates

2.1 Investment Committee

Mr Miller updated the Committee on the key matters from the Investment Committee (BIC) meeting of 16 April 2019:

- Investment performance was behind benchmark and unlikely to make benchmark for the year.
- Environmental, Social, and Governance (ESG) issues, which would be discussed by the Board at Agenda Item 5.5.
- The commencement of work to develop a strategic direction for an investments media policy which would be brought to the Board.

The Board's discussion included:

- Concerns regarding a lack of understanding across a broad range of people about the two sides of the organisation (investments and insurance operations). The OCL had increased by \$7.5 billion because of interest rate movements.
- Management's revisiting of a 2015 paper that explained the impacts of a low interest rate environment for the levied Accounts and the financial sustainability of the Scheme. The paper

needed to draw out the implications of the macroeconomic environment, to help inform stakeholders of the concerns the Board had been expressing about the solvency of ACC's Accounts.

- The Funding Policy not being adhered to, and Treasury officials' apparent misunderstanding of how the Funding Policy worked.
- The invaluable work performed by ACC's Investments Team.
- The Board's obligations for statements in the audit representation letter and any solvency declaration—legal advice was being obtained on this point.
- The Strategic Asset Allocation (SAA). If the SAA was revised away from the current conservatism now, it would mean taking on increased risk at a time when it could be unwise to do so. ACC had a different risk tolerance to that of the NZ Superfund.
- Whether ACC should seek a credit rating. However, most insurance companies were expected to be at least 130% funded; ACC's funding ratio target was 100-110% funding.
- Whether the Service Agreement should include targets related to the solvency of the Accounts, given how little influence ACC had over them.
- The cumulative effects on ACC of Court decisions and policy changes that expanded the boundaries of the Scheme. ACC needed to communicate the consequences of those changes at every opportunity to ACC's public sector stakeholders.
- The Board Chair having signalled to Treasury officials that she should meet with the Minister of Finance to discuss matters of financial sustainability and to inform the Minister of Finance of the issues ACC was facing.

The Board Chair requested that the BIC Chair accompany her when she meets the Minister of Finance.

2.2 Governance and Remuneration Committee

The Board Chair summarised the key topics from the Board Governance and Remuneration Committee meeting of 16 April 2019:

- The Remuneration and Performance Policy which would be presented to the Board at its May meeting.
- The Proposed Employee Remuneration Approach for 2018/19. The Committee had asked Management to slightly increase the proposed remuneration increase, given the impact on staff of the Transformation changes—this was a very hard year for staff and that should be recognised.

The Board discussed the flexibility available to Mr Pickering to recognise high performing staff, particularly those working in key positions for achieving the Transformation.

3 Board Only Session

3.1 Chief Executive's Report

Items raised by Mr Pickering were:

- Christchurch terrorism attack – update of ACC response.
- Proposed response to draft Treasury submission to Health & Disability review.
- Independent rehabilitation review – update on process and preferred supplier information.
- Property update with CFO.

4 Operational Reporting

4.1 ICIP Reporting

Mr Fletcher was asked to focus on Client Payments; he made the following points:

- Client Payments 1 (CP1) was on track for go-live on 5 May 2019, with testing having been completed and sign off given on 16 April to proceed to dress rehearsal.
- EY had indicated that there was nothing that suggested problems for CP1 before go-live. Management had accepted all of EY's recommendations and Ms O'Connor assured the Board that any outstanding work would be completed before go-live.

In response to Board queries, Mr Fletcher explained that—

- the risk to the scheduling related, in particular, to the proximity of CP1's go-live and the possibility of issues arising out of late testing disrupting the go-live date. Management, however was not expecting a shift in the schedule.
- while the overall risk of the portfolio was lowering with the big deliveries, the move to continuous delivery was a big shift for the organisation.

The Board congratulated Mr Fletcher and Ms O'Connor on the work so far. The Board would monitor CP1 right up to go-live, and if it became evident that go-live should pause, the Board would not hesitate to call a stop.

RESOLVED: The ACC Board resolved to:

Note the verbal update on the ICIP.

Client Payments 1 Pre-Go Live Implementation IQA – TA21

4.2 Third Quarterly Report

Mr Healy summarised the Report. Discussion focused on the Scheme's solvency and financial sustainability. ACC was in a significant deficit position of \$4.3 billion. Mr Healy explained that updates to Treasury's assumptions for the discount rate and inflation rate could significantly increase the deficit. Historically, ACC had not included a four-year levy impact outlook in the Quarterly Reports. It could be appropriate to provide 'earnings guidance', as occurs in the private sector.

In responding to a Board query regarding ROI on violence prevention activities, Mr Raubal confirmed he would put some figures around it for the future.

The Board Chair requested a paper on this for her next meeting with the Minister. The Board discussed the importance of a briefing for the Minister of Finance, and requested that Mr Paul Dyer's paper come to the next Board meeting, with the purpose of enabling ACC's stakeholders to understand the Scheme's financial position and sustainability. With the current low investment returns, there was a risk stakeholders would claim that the Board and Management had not managed the Scheme well, based on the small areas where ACC could influence solvency.

ACTION: management to present Paul Dyer's paper to the May 2019 Board meeting, updated to reflect the Board's concerns.

RESOLVED: The ACC Board resolved to:

- (a) **Approve**, subject to any final changes, the presentation of the third quarterly report 2018/19 to the Minister by 30 April 2019.
- (b) **Approve** the publication of the third quarterly report 2018/19 on ACC's external website following acceptance of the report by the Minister for ACC.
- (c) **Note** the additional performance information for March 2019 (**Appendix 2**).

4.3 Enterprise Risk Management Framework Update

Mr Raubal introduced the update and summarised progress to date. He explained that the Board had approved the framework in February 2018. The material had not changed much since then, but it had been reviewed against international standards and had become shorter and more nuanced. In response to a request from the Board, Mr Raubal would add a statement around embedding risk culture, which Dr Batten would review.

RESOLVED: The ACC Board resolved to:

- (a) **Approve** the Enterprise Risk Management Framework, subject to approval by Dr Batten of an additional statement about ACC's risk culture.
- (b) **Delegate** to the CEO the authority to make changes to risk documentation provided those changes do not impact ACC's risk appetite statement.

5 Board Papers

5.1 A New Approach for Injury Prevention

Ms Powell introduced ^{9(2)(a)} [REDACTED], the new Head of Injury Prevention. ^{9(2)(a)} [REDACTED] presentation would refer to ACC moving into new ways of operating. This was not a 180 degree turn, but an evolution. The IP team was adding new things to the core IP programmes.

^{9(2)(a)} [REDACTED] introduced himself and explained the redesigning of ACC's ways of working in IP. There was a new operating model, a new approach to investments, and a continuation of tracking and measuring benefits. ^{9(2)(a)} [REDACTED] presentation focused on:

- Re-injuries and secondary prevention: re-injury impacted significantly on claims, with 2/3 of claims last year coming from customers who had made claims during the previous two years. Same injury or same body site re-injuries cost \$400 million in lifetime costs each year. New analytics tools now enabled ACC to target the people within the cohort who were highly likely to have high cost claims, to help prevent a secondary injury.
- The Dunedin longitudinal study: it provided strong predictive factors about how people lived their lives. These insights would enable interventions to begin in childhood to reduce problems later in life.
- Two opportunities for gaining a better IP impact: secondary prevention in real-time, and digitally engaging directly with customers.
- There would be long-term gains through partnering with other agencies to focus on wellbeing in childhood and adolescence. By leveraging into existing systems and starting in childhood, the evidence pointed to being able to shift behaviours.

In response to a hypothetical scenario suggested by the Board, 9(2)(a) explained that, for adolescents, the underlying objective was to understand the influencing factors that drove the person's behaviour. Typically, influence was through peers, not parents. There may be an opportunity through the use of social media, and through human centred design which was tailored to the individual.

The Board asked about the reach of the IP strategy for reducing claims, as the reported numbers appeared low. 9(2)(a) explained that the reach was far greater than the numbers implied. It focused on the very serious injury types, such as neonatal encephalopathy. Although the number was small, the cost was very high, both in terms of the impacts on people and the costs to the Scheme.

In response to a Board query, 9(2)(a) explained that ACC had produced a number of resources for the prevention of falls by the elderly that were readily available for GPs to distribute to their patients.

In response to a Board query, 9(2)(a) explained how 'injuries avoided' were measured. Some of the IP programmes had better evidence and control groups than others. The Board saw only the Return on Investment at the aggregate level. However, it could be broken down by initiative.

The Board questioned the reference in the paper to alcohol contributing to 11% of injuries and, given the enormity of the problem, asked whether the team was partnering with alcohol manufacturers and distributors. 9(2)(a) would consider doing that. He explained that the overarching problem was the need for a social licence for solutions to work. ACC needed to consider how hard it could push to create the social licence, so that alcohol became socially unacceptable.

In response to a Board query, 9(2)(a) explained that there was not at present an intent to extend into drugs. The Board referred to the ESR tool which could distinguish between drugs and alcohol for breath testing, which could provide useful data.

The Board referred to the Preventable NZ concept in the paper. Ms Powell explained British Columbia's investment and utilising of partners to push messages out. The research now was targeted at how to translate the success of Canada into New Zealand.

The Board acknowledged Ms Powell's leadership and warmly welcomed 9(2)(a) in his role. IP was a priority for the Board.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the approach presented.
- (b) **Note** the opportunities being explored.

5.2 Health and Disability System Review – discussion document on health boundaries

Ms Roche introduced the paper. The Board expressed the view that it was attracted to the idea of putting a paper forward but wanted further information before agreeing to it. In response to Board queries, Ms Roche explained that—

- the critical issue for the paper was whether the Health & Disability review could open up discussions about ACC's boundaries. Putting a paper forward would give ACC an opportunity to explain its issues proactively.
- ACC had not been formally advised of the WEAG recommendations, but would most likely have been if ACC would be impacted by them.

The Board suggested that a paper would need to explain the boundary issues between ACC and Health in a way that showed the two entities shared the patient's health issue; ACC would provide the service the patient needed, and the costs would be apportioned appropriately between ACC and Health. If clients received faster access to services, that would help patients, ACC, and Health: patients would receive faster care, it would alleviate ACC's main areas of dispute, and it would reduce Health's backlog for elective surgery.

The Board encouraged Management to choose an elective surgery case that was compelling, where both sides would agree that it would be better to do the surgery sooner rather than later. The key was to obtain a decision on the boundary issue. The finer rules on how to apportion costs could then be decided upon. The paper should explain the impacts on the Non-Earners' Account, the levied Accounts, and the OCL.

The Board noted that the paper explained the complexity of the boundary between ACC and Health well, and should be included in the Board Member induction pack. It was beneficial to have on the record that it was a complex issue without a simple solution.

In response to a Board query, Ms Roche explained that, if apportionment was accepted, ACC clients would move to the head of the elective surgery queues at DHBs. The Board noted that ACC looked at a range of factors for determining the ranking of elective surgery priorities for clients. Some of ACC's factors would then become the DHBs' factors, which would change the queue for elective surgeries, but should not necessarily impact acute services.

The Board agreed to having a paper for the May Board meeting. The Board noted that the DHBs that were considering how to reduce their acute services and move into primary and preventative services would likely be supportive of a paper such as this. In response to Ms Roche's query, the Board agreed to her having discussions with Auckland DHB, but suggested to otherwise keep the information in-house for the time being.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the Terms of Reference of the Health and Disability System Review include consideration of the interface between ACC and the rest of the health system;
- (b) **Note** that the Review Panel expects to release a preliminary report by the end of July 2019, indicating some high-level findings and the areas of focus for the second phase of the Review;

- (c) **Note** that there is an opportunity for the Board to share with the Review Panel an introduction to ACC, its structure and the Scheme, as well as initial thinking on the interface, in advance of the Review Panel's preliminary report;
- (d) **Agree** to share an updated version of this paper with the Review Panel following consideration at the May Board meeting.

5.3 Reviewer Services and Dispute Resolution

9(2)(a) introduced the paper and its background. He explained that there were four shortlisted providers. Three providers (FairWay Resolution Limited, New Zealand Dispute Resolution Centre, and Meredith Connell) would provide both alternative dispute resolution (ADR) and reviewer services, while Clayton Associates, trading as Talk Meet Resolve, would provide ADR services only. Some providers, including Gresson Dorman & Co, had not satisfied the RFP requirements.

In response to queries from the Board, 9(2)(a) explained that—

- client choice would be introduced at three levels: Firstly, the client would be able to decide whether to have a face-to-face or videoconference meeting. Secondly, the client would be able to pick, from the times offered by providers, the timeslot that suited the client. Thirdly, the client would be able to choose the provider out of those available at the chosen timeslot.
- should an advocate for a client have a conflict, in terms of having an interest in a provider on the Reviewer Panel, that would be managed through the terms of the contracts.
- moving to a Panel approach was appropriate, as a Panel resulted in a better process and gave ACC's clients the best opportunity to have their disputes quickly resolved. Mr Tully explained the further benefit that performance could be measured as between providers.
- in the new approach, ACC was shifting the emphasis toward early resolution, to try to avoid a review hearing if possible. ACC had introduced mandatory case conferences, which was a recommendation out of the Miriam Dean QC review. Case conferences were often effective and could result in resolution before a hearing.
- reviewers' cultural capability would be monitored; this was built into the feedback mechanism on customer experience, and would also be monitored by an external peer review.

Mr Pickering alerted the Board to the fact that Gresson Dorman was Timaru-based, and the decision not to select that firm could be perceived as ACC removing further resources from Timaru.

The Board acknowledged the excellent work that had been done.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that in December 2018 ACC issued a Request for Proposals for Reviewer Services and Dispute Resolution, and in February 2019 recommended to the Board a shortlist of providers for the new Reviewer Services and Dispute Resolution Panel (New Services Panel).
- (b) **Note** that on 28 February 2019, the Board approved the shortlist of providers for the New Services Panel.
- (c) **Note** that Board approval to select the providers for the New Services Panel is required by ACC's Corporate Delegations as the Whole of Life Costs (WoLC) exceed \$30 million.
- (d) **Approve** the final selection of the following providers for the New Services Panel:
 - i. Clayton Associates T/A Talk Meet Resolve (Alternate Dispute Resolution provider only)
 - ii. New Zealand Dispute Resolution Centre
 - iii. FairWay Resolution Limited
 - iv. Meredith Connell
- (e) **Approve** the contracts for the Final Panel, subject to completion of due diligence, for a term of 9 years (3+2+2+2) with WoLC of \$184.9 million.
- (f) **Note** the procurement process complies with both ACC Procurement Policy and the Government Rules of Sourcing.
- (g) **Delegate** the signing of contracts with providers in the New Services Panel to the Chief Executive.
- (h) **Delegate** the signing of engagement letters for individual reviewers to the Chief Operating Officer.

5.4 Service Agreement 2019/20

Mr Healy explained Treasury's feedback on the draft Service Agreement (SA). Treasury had—

- wanted more measures on Whāia te Tika. However, Mr Healy explained that ACC was not ready to include external measures on Māori engagement in this SA. Ms Powell explained that metrics on Māori access would be tested over the next year with a view to including them in next year's SA.
- understood the reasons for the rehabilitation performance lower level target for the first years, but had suggested more ambitious targets over the final two years. Management (including Ms O'Connor) was not yet amenable to being more ambitious on those targets. Mr Healy warned that if Treasury's suggestion was not included, the Minister may ask for more ambitious targets, in his response to the draft SA.
- queried why the proportion of clients successfully rehabilitated after surgery had been excluded. Mr Healy had explained that that metric was included within treatment costs, and Management considered that the current elective surgery disclosures were appropriate.
- questioned ACC's proposed change from working days to calendar days. However, calendar days capture the shorter timeframes in which ACC could respond to decisions.
- questions around the consistency of the solvency numbers. The Board asked that the individual Account solvency rates been shown.

The Board requested that Mr Healy add further information in the SA on the increased pressure the fund was under. That message needed to be included in all of ACC's reporting. The Board discussed the trust and confidence target which appeared difficult to achieve. Mr Pickering explained that ACC's Trust and Confidence score was 61, with a goal this year of 65, and that he would feel more comfortable with a goal of 65 for next year. The Board agreed.

Board discussion focused on the new Customer measures and their targets:

- *ACC can be relied on to do what is right* currently sat at 40%, with a target of 42.5%. The Board expressed concern at the wording, as the psychology behind the question was not well understood. Mr Healy explained that the Office of the Auditor-General (OAG) had not yet agreed that this measure would move ACC to a Very Good ESCO rating. Ms Powell suggested piloting the survey question before including it as an external measure. Mr Healy explained that

there still should be another external measure, as the OAG was asking for more than the NTS score. The Board agreed that this measure should be replaced with another measure that would meet the requirements of the Board, EY, and the OAG.

- “ACC is focused on the best possible outcomes” currently sat at 78%, with a target of 80.5%. The Board agreed with the inclusion of this measure.

The Board accepted the responses Mr Healy had prepared for Treasury.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that ACC will consider options for one additional measure that is acceptable to the Board, EY and the Office of the Auditor-General, to support the Net Trust Score, and will pilot any new measure prior to inclusion in the 2020/21 Service Agreement (SA).
- (b) **Approve** the submission of the SA19/20 to the Minister for ACC in draft form for his review, subject to the changes agreed by the Board, as required under section 149I of the CEA.
- (c) **Delegate** signing authority for the SA19/20 to the Board Chair and another Board Member.

5.5 Elevating ACC’s Environmental, Social, and Governance (ESG) Reporting

The Board noted that it was the Social element of ESG that was the most important to ACC. The Board discussed whether the ESG report should state ACC’s position on environmental matters related to the investments portfolio. The Board could consider reviewing the policy next year for this. Mr Pickering proposed setting higher targets for ACC’s offices’ environmental impact.

The BIC Chair explained that the purpose of the ESG Policy was to have something that ACC could hold companies to—in order to do that, ACC needed to have a policy of its own.

RESOLVED: The ACC Board resolved to:

- (a) **Agree** to including an ongoing commitment to ESG reporting in the Annual Report, by elevating and expanding existing reporting on ACC’s ESG performance.
- (b) **Agree** to develop an ESG policy to further demonstrate ACC’s commitment to ESG performance.

- (c) **Note** that while this paper does not recommend that ACC create an additional ESG report, it does recommend developing an ESG page on ACC's external website.

5.6 Taxi Services – Contract Approval

The Board raised a number of queries in relation to the length and costs of the proposed taxi services contract, and whether innovations were incentivised through the tender process. The Board also queried the annual cost growth over the previous four years. Mr Healy explained that the contract was for three years and that ACC did not have to exercise the two two-year rights of renewal. He agreed to provide to the Board more information.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that ACC purchases non-emergency transport for injured clients to assist them in attending treatment and rehabilitation commitments.
- (b) **Note** that ACC purchases taxi services for staff to meet ACC's day to day operational needs.
- (c) **Note** that the current contract for taxi services for clients expired on 30 September 2018 and is being rolled over month by month pending the outcome of the Request for Proposal tender process.
- (d) **Note** that ACC's Corporate Delegations section B3.1 requires the Board to approve Recommendations to Select for contracts with a Whole of Life Cost (WoLC) of over \$30 million.
- (e) **Approve** the Taxi (Small Passenger & Associated services) contracts commencing 1 June 2019 for an initial term of three years with two options to renew for two years each (3+2+2), at a WoLC of \$151.3 million with a final end date 31 May 2026, subject to due diligence information being provided to the Board, and the Board Chair and Board Investment Committee Chair being satisfied with the information.
- (f) **Delegate** authority to the Chief Financial Officer to approve the Recommendation to Select and subsequent contract award after the tender process.
- (g) **Note** the taxi services contract has no material impact on the Outstanding Claims Liability.

- (h) **Note** the procurement process complies with both ACC Procurement Policy and the Government Rules of Sourcing.

5.7 Investments Code of Conduct

The BIC Chair summarised the discussion that had occurred at the BIC meeting the previous day. It was important that ACC made clear to employees the consequences of breaching the Code of Conduct. ACC relied heavily on the first-class culture in the Investments team. The Code of Conduct provided support for what was already happening.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the Board Investment Committee has endorsed the changes to the Code and associated policies and recommends to the Board that they be accepted, subject to any further changes it requested at its April meeting.
- (b) **Approve** the amended Investments Code of Conduct and associated policies in Appendix 1.

5.8 Privacy

- (a) Privacy Assurance Dashboard 2018/19 Quarter Two

9(2)(a) briefed the Board on the Report. In response to queries from the Board—

- Ms Roche described the new tools being built into the system to help prevent client data being sent to the wrong healthcare provider, including geospatial triggers that identify the location of healthcare providers. The Board noted that the genesis of Transformation had been to build privacy into systems, and that a major breach in a new part of the system would be damaging.
- regarding whether, now that Juno was largely completed, privacy by design had worked in that area, 9(2)(a) explained that historically ACC had had too few breaches from that side of the business to know whether it was now improved.
- regarding how privacy by design was going, 9(2)(a) explained that, in the two years he had been at ACC, the biggest shift was in the way privacy assurance was dealt with, including ensuring that, where Privacy Impact Assurance recommendations had not been accepted, decisions were being made at the right level. Mr Pickering added that the biggest impact would

be from the tools being rolled out under the ICIP work programme, that would enable clients to manage their own information. In 12 to 18-months' time, the shift would be phenomenal.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that in Quarter Two we saw a return to normal levels of reported breaches
 - (b) **Note** that in two of the KRIs outside of the target that we have set for compliance (privacy training of staff within ten days of starting work at ACC and the number of privacy breaches resulting from staff not following process)
 - (c) **Note** that the Privacy Team have been working with Talent and have sent out targeted communications to bring these two KRIs within target
 - (d) **Note** that the Privacy Team's focus in Q3 and Q4 is supporting the design of the NextGen case management model and completing Privacy Impact Assessments for both the model and the technology that supports it.
- (b) Transparency Report – Requests for Personal Information

The Board discussed whether, in addition to the data on information provided to IRD, the Report should include data on information provided to employers as part of their hiring process. ^{9(2)(a)} acknowledged that ACC had that data and it could be included. In response to Board queries, ^{9(2)(a)} explained that—

- the cost of doing this reporting was minimal, as the data was all to hand. Costs may rise if additional information was to be provided. It was good for ACC to publish the Report which was best practice. It would be given a soft launch, and was a good example of ACC's privacy maturity.
- in terms of transparency in respect of IP interventions and the potential for those to have privacy issues, ^{9(2)(a)} explained that ACC's day to day dealings with clients would not be reported on in this Report. Rather, the focus was on government-to-government information. It was important to be clear on what this reporting was about.

^{9(2)(a)} reported on a matter that had just arisen, regarding information matching with IRD, in respect of which he was meeting with the Privacy Commissioner later in the day. In 2016 ACC began using its information matching with IRD for weekly compensation (WC) assessments to obtain accurate data. There was a legal requirement, when information matching, to give people

who would have an adverse outcome from the matching five days' notice before acting on the information. ACC had not been doing that, although clients were notified of the WC assessment (but not in advance) and told that they have the right to have a review. 9(2)(a) viewed it as a technical breach of the Act and explained that the Privacy Commissioner was also likely to see it that way. Although it was a systemic failure, ACC had started complying with the requirement.

In response to Board queries, 9(2)(a) explained that ACC would likely need to write to the c.8,500 impacted clients to explain what had happened. The legislation needed to be amended and ACC would seek an exemption. The Board thanked 9(2)(a) for his excellent work.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the Privacy Commissioner encourages agencies to publish transparency reports as a way of being open about information shared, principally for enforcement purposes
- (b) **Note** that to date only one New Zealand company and no government agencies produces an annual transparency report on the sharing of information
- (c) **Note** that the SCC's inquiry into External Security Consultants, and the model standards that have resulted, require agencies to be more open about investigative functions
- (d) **Note** that a transparency report is a way of being upfront with clients about how we share and use information, builds trust and confidence and is a demonstration of ACC's value of being *Fair and Open*
- (e) **Agree** that ACC publish an annual transparency report as described in this paper on our website
- (f) **Note** that prior to publication, we will notify you through the *Weekly Report* that the report has been finalised, and will attach the final version.

6 Performance Reports

6.1 Legal Report and Policy Update

- (a) Policy Update

The Board took the paper as read. Ms Roche reported on the State Sector Act reform Cabinet paper, which appeared not to have changed significantly since the earlier version.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the current areas of policy activity.
 - (b) **Agree** a shortlist of options for the funding policy review.
 - (c) **Endorse** the advice in the attached briefing 'Report to the Minister for ACC and the Minister of Statistics: Data improvement initiatives'.
 - (d) **Note** the summary information about the policy work underway within the legislative modernisation programme, as signalled in the March policy update report.
 - (e) **Note** ACC has proposed a suite of technical changes to workplace safety provisions, to make the provisions more flexible, consistent, less prescriptive and easier to interpret.
- (b) Legal Report

The General Counsel provided an update on the *Stafford* appeal which had been heard in the Court of Appeal that morning. In response to a Board query, the General Counsel explained that it was a test case, as it was a private law matter but involved a Treaty of Waitangi background.

The Board discussed whether Board members should be able to attend at Court hearings. The Board Chair asked Board Members to clear it with the Chair before attending any legal proceedings.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the Court of Appeal will hear the *Stafford* case on the morning of 17 April 2019.
- (b) **Note** the case on appeal in *ACC v Ng*, the Test Case on the meaning of 'ordinary consequence of treatment', has been filed but no fixture has been allocated pending judicial determination of a procedural issue.
- (c) **Note** Cover for mesothelioma is an area in which the boundaries of the Scheme are being tested in litigation including in a High Court hearing, scheduled for 16 May 2019, concerning inhalation of asbestos as a novel basis for cover for asbestosis, outside of the work-related cover for disease provisions of the Accident Compensation Act 2001.

6.2 Health, Safety and Wellbeing Report

Ms Champness provided highlights from the paper.

The Board discussed the staff turnover figures in the Appendix to the report, noting the differences between Branches. Ms Champness explained that, overall, turnover was running at 16%. Two reasons for that were, firstly, the current strong employment market—the New Zealand-wide figure was 17%—and secondly, the change ACC was undertaking, particularly in the Client group. It was important to note that the high-performer turnover was only 10%, which was pleasing.

The Board discussed staff redundancy provisions. Ms Champness explained the provisions. She described the planning for the change process and she explained that Management was comfortable with it but realised that the situation needed to be managed well.

The Board thanked Ms Champness for her excellent work.

RESOLVED: The ACC Board resolved to:

- (a) **Note** actions underway to mature our safety system, demonstrate safety leadership and strengthen our safety culture.
- (b) **Note** there were no notifiable events in March 2019.
- (c) **Note** the health and safety performance indicators.

7 Board Administration

7.1 Minutes of Meeting held on 28 March 2019

APPROVED: the ACC Board approved the minutes of the meeting held on 28 March 2019.

7.2 Schedule of Matters Arising

The Board **noted** the Schedule of Matters Arising.

7.3 Confirmation of Decisions Made Out of Cycle

RESOLVED: the ACC Board resolved to:

Endorse the one decision made out of cycle.

7.4 Annual Work Programme

NOTED: The ACC Board **noted** the annual work programme.

8 General Business

The Board Chair acknowledged the exceptional work that had been achieved by Resolution Services. The Board expressed its thanks to the Team over lunch (to which the Resolutions Services Team from the Hutt Valley had been invited as representatives of all the Teams).

Dr Batten and Mr Brabazon reported to the Board on their site visit to the Counties Manukau Branch in early April 2019 as part of their induction. They acknowledged the very complex cases ACC’s staff deal with, and the professionalism of the staff.

The Board thanked Mr Wilson for his excellent service to ACC and to the Board and wished him well in his career move.

9 Confirmation of Next Meeting

To be held at the ACC Boardroom, Level 11, PwC Tower, 188 Quay Street, Auckland on Thursday, 30 May 2019 at 9.00 am.

Closure

The meeting closed at 4.15 pm.

Approved

Chair

Date