

# Memorandum



TO	Executive Risk and Compliance Committee meeting
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	24 December 2018
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 October 2018 to 31 December 2018.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high profile requiring Board awareness

Although there was one claim that falls into the exception reporting it occurred in the month of December 2018 and is therefore included in this quarterly report.

## Decisions – October 2018 to December 2018

Approved	Declined	Total amount paid
5	8	\$158,344.98

**Decisions per quarter 2017/2018**

Quarter	Approved	Declined	Total amount paid
Jan 2017 – Mar 2017	1	3	\$133,802.28
Apr 2017 – Jun 2017	2	3	\$81,493.33
Jul 2017 – Sep 2017	2	8	\$141,705.79
Oct 2017 – Dec 2017	1	8	2,374.95
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98

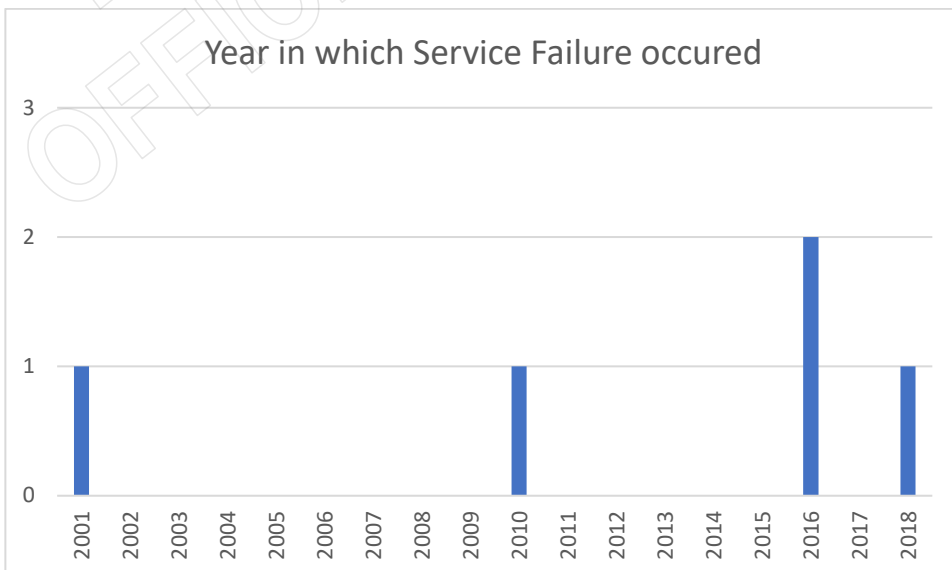
**Approvals**

The five claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]

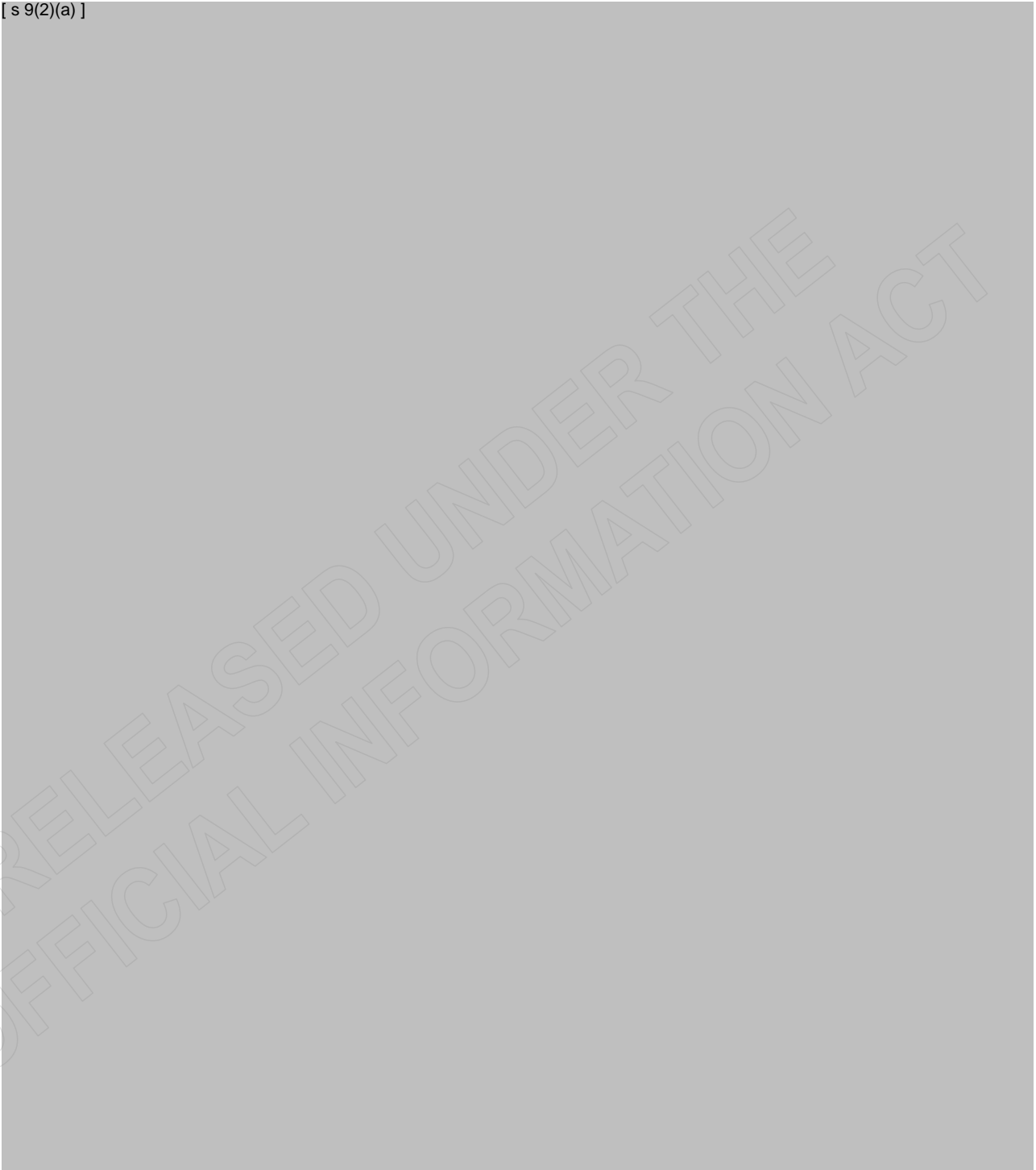
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Full details of these claims are included in Appendix One.



## Declines

The applications that were declined were as follows;

- [ s 9(2)(a) ]
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The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In all the declined cases above, either the first or second criteria was not met.

**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	15
Failure to proactively manage lump sum application for terminally ill client	13
Failure to investigate a recalculation of weekly compensation when presented with new information	7
Failure to assess need for social rehabilitation in a timely manner	5
Failure to consider new medical information resulting in an unnecessary review hearing	4
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Failure to calculate weekly compensation in a timely manner	4
Delay in reimbursement of residential care or other care costs	2
Failure to investigate cover in a timely manner – Other claim	2
Lack of communication with client	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for Independence Allowance	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1



Appendix One - Claims approved

Claim one	Amount awarded
[ s 9(2)(a) ]    <p>RELEASED UNDER THE OFFICIAL INFORMATION ACT</p>	\$10,000

<b>Claim two</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$4,490.81

<b>Claim three</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$2,934.62

Claim four	Amount awarded
[ s 9(2)(a) ]	\$2,710

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

Claim five	Amount awarded
[ s 9(2)(a) ]	\$138,209.55

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	26 March 2019
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 January 2019 to 31 March 2019.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high profile requiring Board awareness

There was one exception in this reporting period. As this exception occurred within this calendar month it has not been separately reported and instead is included in this report

## Decisions – January 2019 to March 2019

Approved	Declined	Total amount paid
3	3	\$153,339.32

### Decisions per quarter 2017/2019

Quarter	Approved	Declined	Total amount paid
Jan 2017 – Mar 2017	1	3	\$133,802.28
Apr 2017 – Jun 2017	2	3	\$81,493.33
Jul 2017 – Sep 2017	2	8	\$141,705.79
Oct 2017 – Dec 2017	1	8	2,374.95
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32

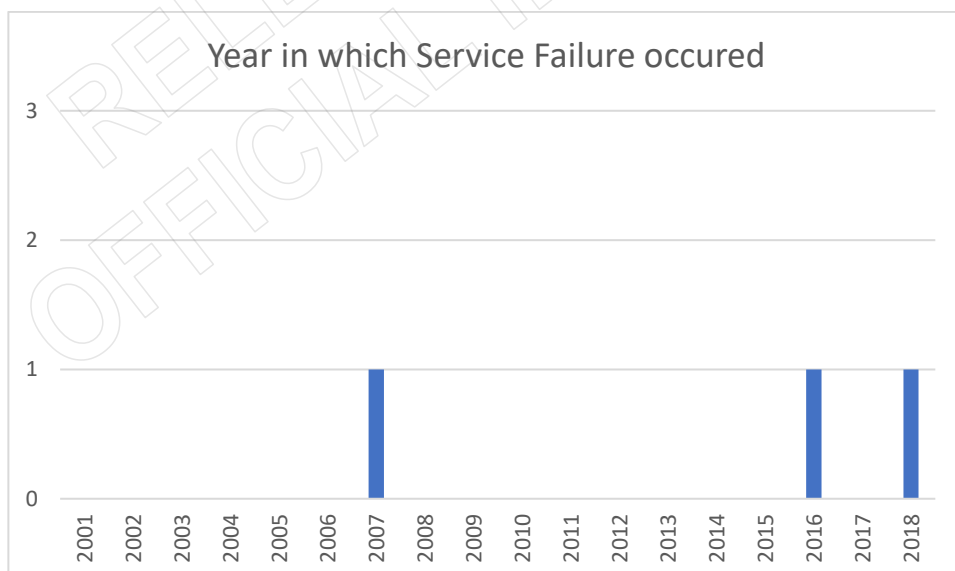
### Approvals

The three claims approved in the period of this report were for service failures as follows;

[ s 9(2)(a) ]


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Full details of these claims are included in Appendix One.



## Declines

The applications that were declined were as follows;

- [ s 9(2)(a) ]
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The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In all the declined cases above, the first criterion was not met.

**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	15
Failure to proactively manage lump sum application for terminally ill client	14
Failure to investigate a recalculation of weekly compensation when presented with new information	7
Failure to assess need for social rehabilitation in a timely manner	6
Failure to consider new medical information resulting in an unnecessary review hearing	5
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Failure to calculate weekly compensation in a timely manner	4
Delay in reimbursement of residential care or other care costs	2
Failure to investigate cover in a timely manner – Other claim	2
Lack of communication with client	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for Independence Allowance	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1





Claim two	Amount awarded
[ s 9(2)(a) ]	\$10,000

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Claim three	Amount awarded
[ s 9(2)(a) ]	\$5,129.77

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT



# Memorandum

TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	25 June 2019
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 April 2019 to 30 June 2019.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high profile requiring Board awareness

There were two exceptions in this reporting period. As these both occurred within this calendar month they have not been separately reported and instead are included in this report.

## Decisions – April 2019 to June 2019

Approved	Declined	Total amount paid
5	5	\$298,220.71

**Decisions per quarter 2017/2019**

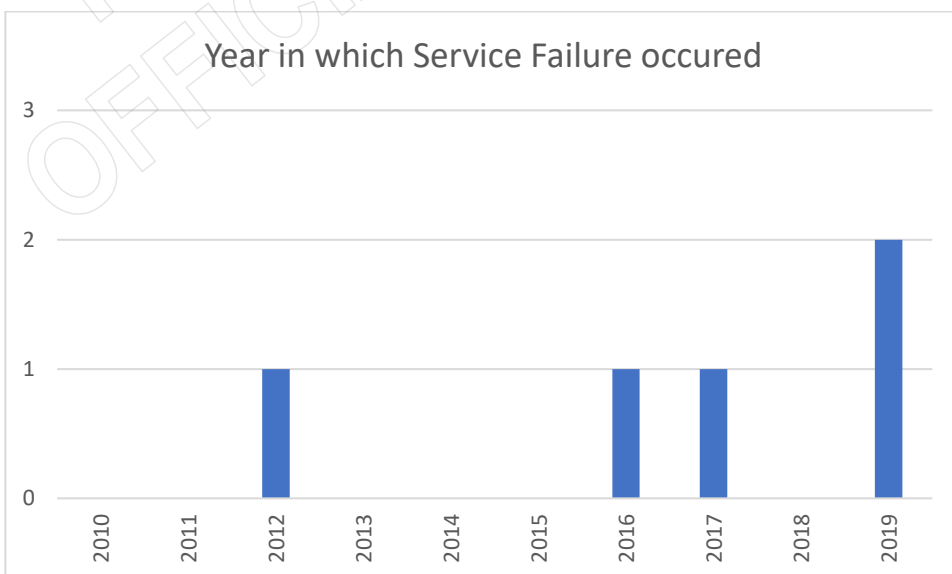
Quarter	Approved	Declined	Total amount paid
Jan 2017 – Mar 2017	1	3	\$133,802.28
Apr 2017 – Jun 2017	2	3	\$81,493.33
Jul 2017 – Sep 2017	2	8	\$141,705.79
Oct 2017 – Dec 2017	1	8	2,374.95
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71

**Approvals**

The five claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

Full details of these claims are included in Appendix One.



## Declines

The applications that were declined were as follows;

- [ s 9(2)(a) ]
- 
- 
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- 

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In all the declined cases above, the first criterion was not met.

**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	16
Failure to proactively manage lump sum application for terminally ill client	16
Failure to investigate a recalculation of weekly compensation when presented with new information	7
Failure to assess need for social rehabilitation in a timely manner	6
Failure to consider new medical information resulting in an unnecessary review hearing	5
Failure to calculate weekly compensation in a timely manner	5
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Delay in reimbursement of residential care or other care costs	2
Failure to investigate cover in a timely manner – Other claim	3
Lack of communication with client	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for Independence Allowance	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1

**Appendix One - Claims approved**

<b>Claim one</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$138,209.55

RELEASED UNDER THE OFFICIAL INFORMATION ACT









<b>Claim five</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$1,697

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	26 September 2019
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 July 2019 to 30 September 2019.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – July 2019 to September 2019

Approved	Declined	Total amount paid
3	12	\$38,971.11

**Decisions per quarter 2017/2019**

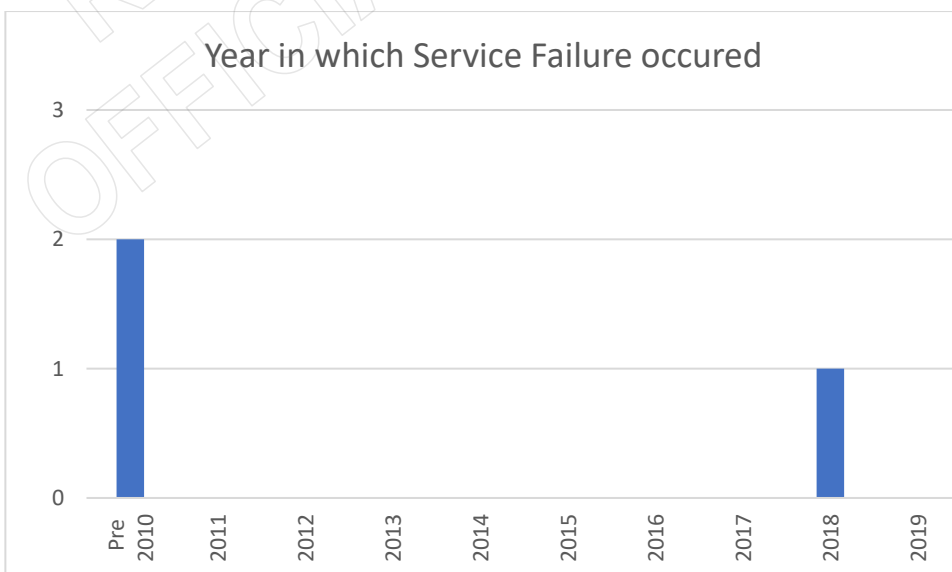
Quarter	Approved	Declined	Total amount paid
Jan 2017 – Mar 2017	1	3	\$133,802.28
Apr 2017 – Jun 2017	2	3	\$81,493.33
Jul 2017 – Sep 2017	2	8	\$141,705.79
Oct 2017 – Dec 2017	1	8	2,374.95
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11

**Approvals**

The three claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]
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Full details of these claims are included in Appendix One.





The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.


In all but one of the declined cases above, the first criterion was not met.

### Trend reporting (from September 2014)

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	16
Failure to proactively manage lump sum application for terminally ill client	16
Failure to investigate a recalculation of weekly compensation when presented with new information	8
Failure to assess need for social rehabilitation in a timely manner	6
Failure to consider new medical information resulting in an unnecessary review hearing	6
Failure to calculate weekly compensation in a timely manner	6
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Delay in reimbursement of residential care or other care costs	2
Failure to investigate cover in a timely manner – Other claim	3
Lack of communication with client	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for Independence Allowance	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1




**Appendix One - Claims approved**

<b>Claim one</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$29,471.11

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Claim two	Amount awarded
[ s 9(2)(a) ]	\$5,000

RELEASED UNDER THE OFFICIAL INFORMATION ACT

<b>Claim three</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$4,500

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	24 December 2019
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 October 2019 to 23 December 2019.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – October 2019 to December 2019

Approved	Declined	Total amount paid
6	8	\$154,975.50

**Decisions per quarter 2018/2019**

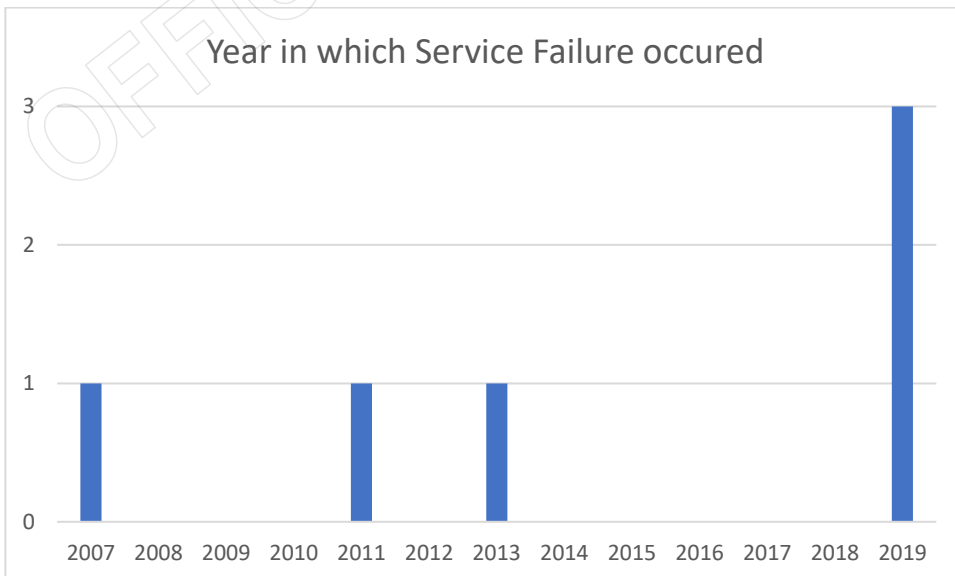
Quarter	Approved	Declined	Total amount paid
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50

**Approvals**

The six claims approved in the period of this report were for service failures as follows;


- [ s 9(2)(a) ]
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Full details of these claims are included in Appendix One.



## Declines

The applications that were declined were as follows;

- [ s 9(2)(a) ]
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The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In all the declined cases above, the first criterion was not met.

**Trend reporting (from September 2014)**


Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	17
Failure to proactively manage lump sum application for terminally ill client	17
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to assess need for social rehabilitation in a timely manner	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Failure to calculate weekly compensation in a timely manner	6
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Lack of communication with client	3
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1





<b>Claim two</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$32,159.11

RELEASED UNDER THE OFFICIAL INFORMATION ACT

<b>Claim three</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$27,873.04

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

<b>Claim four</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$11,263.94

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

<b>Claim five</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$6,928.74

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Claim six	Amount awarded
[ s 9(2)(a) ]  	\$4,210.67

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations Services
FILE REFERENCE	
DATE	30 March 2020
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 January 2020 to 30 March 2020.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were two exceptions in this reporting period. However, both of these occurred this month and are included in this report rather than being reported on separately.

## Decisions – January 2020 to March 2020

Approved	Declined	Total amount paid
3	2	\$328,537.66

**Decisions per quarter 2018/2020**

Quarter	Approved	Declined	Total amount paid
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66

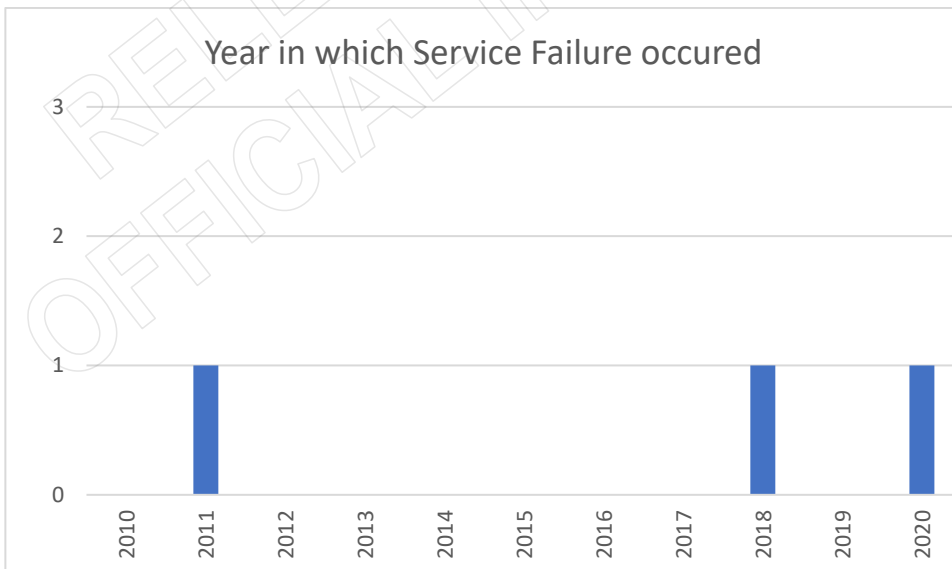
**Approvals**

The three claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]

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Full details of these claims are included in Appendix One.



## Declines

The two applications that were declined were as follows;

- [ s 9(2)(a) ]

- 

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In the declined cases above, the first criterion was not met.



**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	19
Incorrect weekly compensation entitlement advice given	18
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to assess need for social rehabilitation in a timely manner	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Failure to calculate weekly compensation in a timely manner	6
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Lack of communication with client	3
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1

**Appendix One - Claims approved**

<b>Claim one</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]    <p>RELEASED UNDER THE OFFICIAL INFORMATION ACT</p>	\$140,255.05



<b>Claim three</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$48,027.56

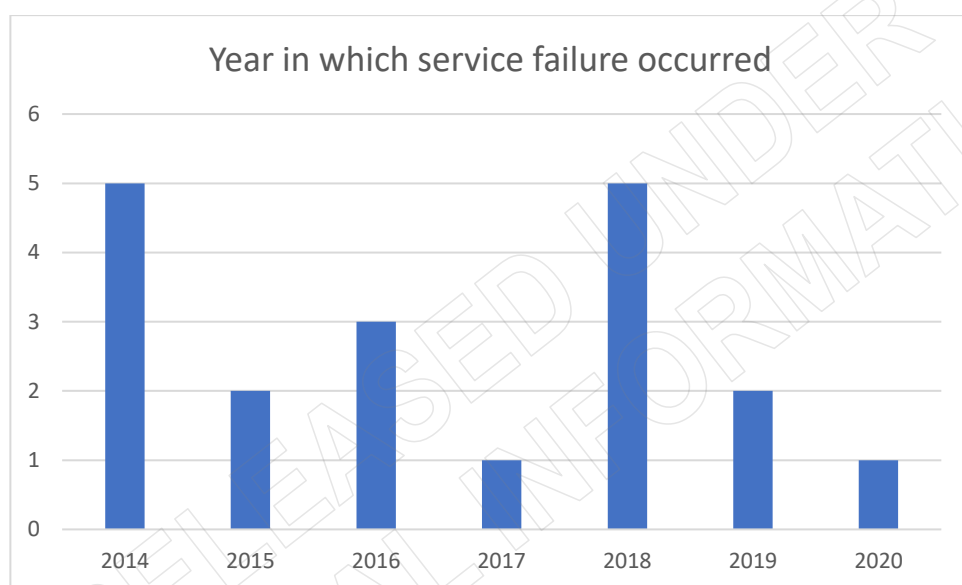
RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

## Appendix Two - Failure to proactively manage lump sum application for terminally ill clients

Since centralised reporting commenced in September 2014 there have been 19 claims where a payment outside the scope of statutory entitlements has been made based on ACC’s failure to facilitate access to lump sum compensation for terminally ill clients. The total cost of these payments has been \$2,248,243.07. All but three have been paid the equivalent of maximum lump sum compensation. All 19 claims have either been mesothelioma or treatment injury (cancer).

The reporting for payments outside the scope of statutory entitlements is logged in the month the payment is made. That does not co-relate to the actual time the service failure occurred. For example, in this quarterly report there are two reported incidents of failure to proactively manage a lump sum application for a terminally ill client. One of these occurred earlier this year whilst the other related to actions in 2018.

The table below outlines the number of claims and the year in which the actual service failure occurred.



Following the relatively high number of reported claims 2014, ACC implemented its first policy changes to target clients with a terminal diagnosis. Prior to this policy change an assessment of lump sum compensation could only occur where there was a physical examination of the client by the assessor. As this was deemed unrealistic in most cases, ACC allowed an assessment to occur ‘on the papers’ whereby the assessor would make the assessment based on the clinical notes provided by ACC, without seeing the client. This would enable an assessment to be carried out urgently, meeting the legislative criteria that the client must be alive when the assessment takes place. Cover for the injury still had to be decided before the referral to the assessor could be made. The other change at this time was that we no longer insisted a client formally ‘apply’ for lump sum compensation. We would proactively offer it instead.

The next improvement to the process came in late 2016 when ACC amended its policy to agree that the ‘assessment’ took place as soon as the assessor received the clinical notes, rather than wait for the assessor to write the report. In a few cases clients had passed away between the assessor receiving the referral and the report being written. Given that most assessments for terminally ill clients result in a whole person impairment of 100%, this is a known as soon as the referral is made and certainly as soon as the assessor receives the documents. Therefore, writing the report was not deemed necessary for an assessor to have turned their mind to the assessment. This policy still required cover to have been decided before the referral could be made though.

In 2017 ACC made further changes and implemented its policy for “Clients with rapidly deteriorating conditions policy”. This policy states that the IA/Lump sum team can prepare the claim file records for the assessment process **while** the claim for cover is still being considered. This reduces any delay between cover acceptance and the assessment outcome. While the cover decision is being finalised, the IA/Lump sum team can request a provider to complete an assessment based on the medical documents, without the need to see the client in person. Sometimes this assessment can be carried out by an appropriately qualified ACC Clinical Advisor.

This new policy was published in CHIPs (now Promapp) and a new Eos task requesting the provision of a Lump Sum application pack was marked as ‘urgent’ as soon as the client’s condition was noted as terminal. Further, a Knowledge Booster (advice of latest policy newsletter for frontline staff) item was published.

In 2018 guidance material was updated in CHIPS and the matter was also brought to staff’s attention through Te Ako, the Technical and Resolution Services newsletter. One further important change that was introduced in 2018, which arguably lead to the increase in claim numbers, was the introduction of a checklist in the accidental death unit. This checklist is applied to any claim that is transferred to the accidental death unit after it has been previously managed in a branch, or cover assessment centre. The checklist requires a mandatory check to see whether the client should have been assessed for lump sum compensation prior to their death. This change started to identify claims that could be considered for a payment outside the scope of statutory entitlements where previously no specific check would have been undertaken.

Following these actions in 2018 the numbers have reduced. It is also evident that the three cases for 2019 and 2020 (to date) have been characterised by staff focussing on either expediting cover assessment or ensuring support such as weekly compensation and palliative care are in place and have missed the requirement to also refer for a lump sum assessment. Despite these priority focus areas, it is acknowledged that it is essential that staff make the referral as soon as they receive the claim. The Client Service Leaders for Cover Assessment are committed to ensuring this happens.

We are also investigating the possibility of reporting functionality to flag any claim with a diagnosis of mesothelioma or cancer. However, this will need to wait for the new analytics platform.

Please also note that for the period that ACC’s ability to obtain clinical records is severely limited by Covid-19, we will arrange for an assessment to commence with whatever clinical information is available to us at the time the claim is lodged. That way an assessment can be initiated even if it is unable to be finalised until further clinical information is available. This will preserve a client’s entitlement to lump sum compensation even if they pass away before all the clinical records are available.

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Nicky Ashton, Acting Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope] Principal Advisor, Operations
FILE REFERENCE	
DATE	30 June 2020
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 April 2020 to 30 June 2020.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – April 2020 to June 2020

Approved	Declined	Total amount paid
3	3	\$26,562.31

**Decisions per quarter 2018/2020**

Quarter	Approved	Declined	Total amount paid
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31

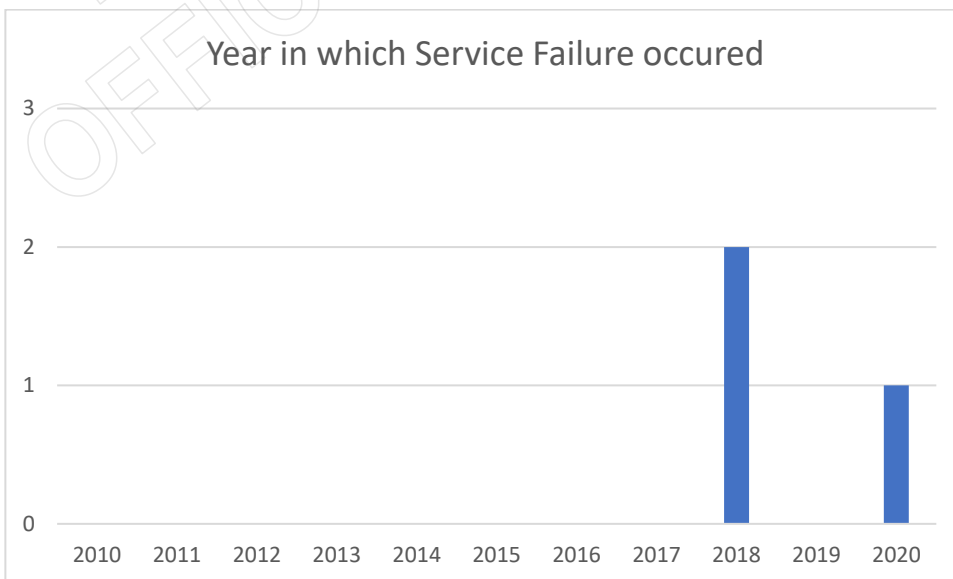
**Approvals**

The three claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]

- [Redacted]
- [Redacted]
- [Redacted]


Full details of these claims are included in Appendix One.





## Declines

The three applications that were declined were as follows;

- [ s 9(2)(a) ]
  - 
  -
- 

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation.

In the declined cases above, the first criterion was not met.


**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	19
Incorrect weekly compensation entitlement advice given	19
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	4
Lack of communication with client	3
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1

**Appendix One - Claims approved**

<b>Claim one</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$11,540.91

RELEASED UNDER THE OFFICIAL INFORMATION ACT

<b>Claim two</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$8,300

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

<b>Claim three</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$6,721.40

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope] Principal Advisor, Operations
FILE REFERENCE	
DATE	9 October 2020
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 July 2020 to 30 September 2020.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – July 2020 to September 2020

Approved	Declined	Total amount paid
5	6	\$138,668.48

**Decisions per quarter 2018/2020**

Quarter	Approved	Declined	Total amount paid
Jan 2018 – Mar 2018	0	7	\$0
Apr 2018 – Jun 2018	2	1	\$151,373.29
Jul 2018 – Sept 2018	5	5	\$111,018.66
Oct 2018 – Dec 2018	5	8	\$158,344.98
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

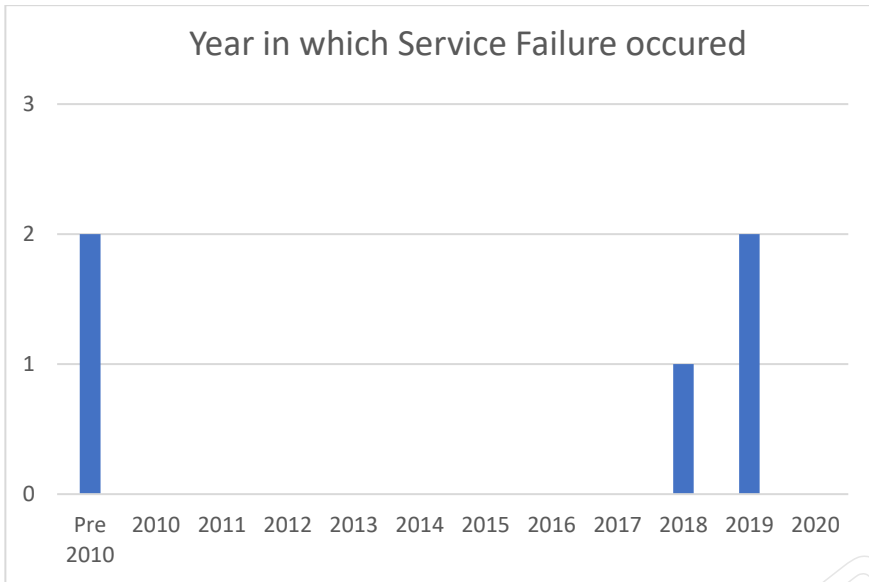
- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The five claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Full details of these claims are included in Appendix One.



### Declines

The seven applications that were declined were as follows;

[ s 9(2)(a) ]

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[ s 9(2)(a) ]



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**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	19
Incorrect weekly compensation entitlement advice given	19
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	5
Lack of communication with client	4
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	3
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1

### Appendix One - Claims approved

Claim one	Amount awarded
[ s 9(2)(a) ]	\$66,650

Claim two	Amount awarded
[ s 9(2)(a) ]	\$43,040.15

RELEASED UNDER THE OFFICIAL INFORMATION ACT



<b>Claim four</b>	<b>Amount awarded</b>
[ s 9(2)(a) ] 	\$5,000

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Claim five	Amount awarded
[ s 9(2)(a) ]	\$3,500

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope] Principal Advisor, Operations
FILE REFERENCE	
DATE	11 January 2021
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 October 2020 to 31 December 2020.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There was one exception in this reporting period. This exception occurred in the current month and is included in this report rather than being reported on separately.

## Decisions – October 2020 to December 2020

Approved	Declined	Total amount paid
5	4	\$147,266.15



**Decisions per quarter 2019/2020**

Quarter	Approved	Declined	Total amount paid
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The five claims approved in the period of this report were for service failures as follows;

- [ s 9(2)(a) ]

- 

- 

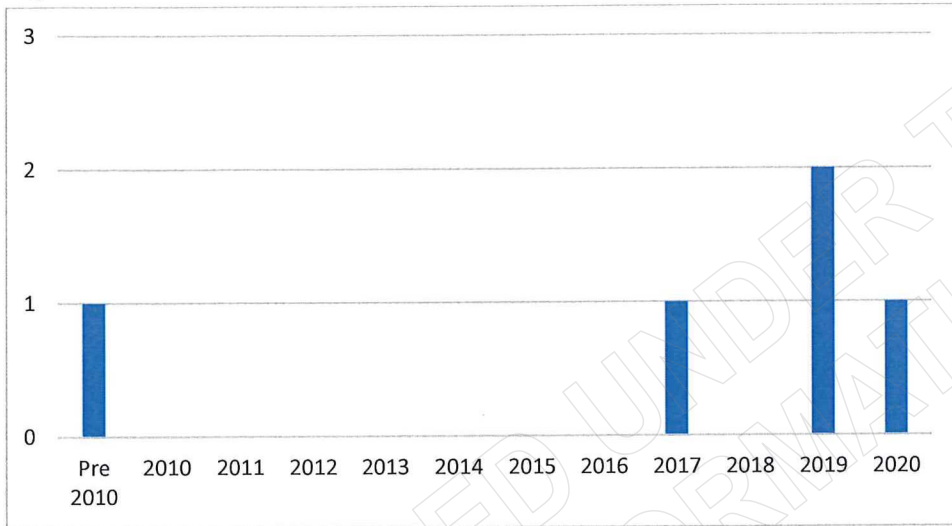
-

[ s 9(2)(a) ]

•



Figure 1: Year in which the service failure occurred;



Full details of the approvals are included in Appendix One.

### Declines

The four applications that were declined were as follows;

[ s 9(2)(a) ]


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•



• [ s 9(2)(a) ]



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OFFICIAL INFORMATION ACT

**Trend reporting (from September 2014)**

<b>Reason for payment</b>	<b>Number of claims</b>
Failure to proactively manage lump sum application for terminally ill client	20
Incorrect weekly compensation entitlement advice given	20
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Lack of communication with client	4
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	3
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to assess lump sum compensation under the 1982 Act	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

**Appendix One - Claims approved**

<b>Claim one</b>	<b>Amount awarded</b>
[ s 9(2)(a) ]	\$119,456.13

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

Claim two	Amount awarded
[ s 9(2)(a) ]	\$14,394.99

RELEASED UNDER THE OFFICIAL INFORMATION ACT



Claim three	Amount awarded
[ s 9(2)(a) ]	\$5,000

Claim four	Amount awarded
[ s 9(2)(a) ]	\$4,840.20

Claim five	Amount awarded
[ s 9(2)(a) ]	\$3,574.83

RELEASED UNDER THE OFFICIAL INFORMATION ACT



RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Scott Pickering, Chief Executive Mike Tully, Chief Operating Officer Gabrielle O'Connor, Head of Client Service Delivery
FROM	[Out of Scope] Principal Advisor, Operations
FILE REFERENCE	
DATE	7 April 2021
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 January 2021 to 31 March 2021.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – January 2021 to March 2021

Approved	Declined	Total amount paid
1	6	\$2,327.18

**Decisions per quarter 2019/2021**

Quarter	Approved	Declined	Total amount paid
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The one claim approved in the period of this report was for a service failure as follows;

[ s 9(2)(a) ]

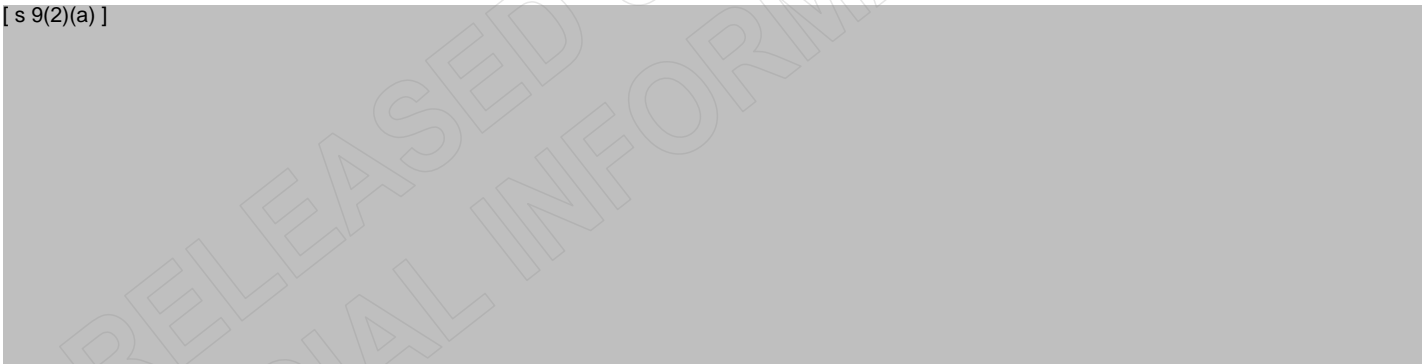
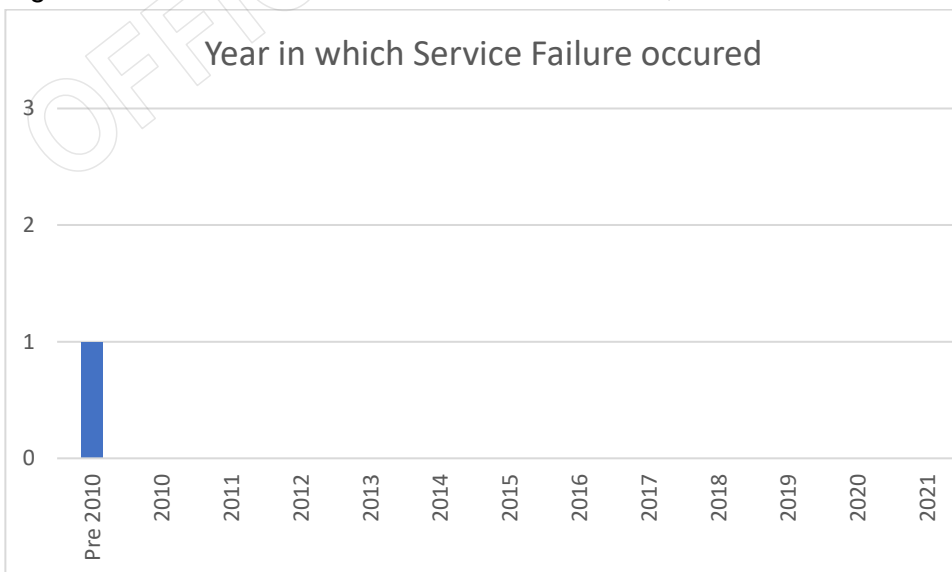


Figure 1: Year in which the service failure occurred;



## Declines

The six applications that were declined were as follows;

- [ s 9(2)(a) ]
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  - 
  - 
  - 
  -
- 

**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	20
Incorrect weekly compensation entitlement advice given	20
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Lack of communication with client	4
Failure to investigate cover in a timely manner	3
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

### Appendix One - Claims approved

Claim one	Amount awarded
[ s 9(2)(a) ]	\$2,327.18.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Mike Tully, Acting Chief Executive Gabrielle O'Connor, Acting Chief Operating Officer Phil Riley, Acting Head of Client Service Delivery
FROM	[Out of Scope], Principal Advisor, Operations
FILE REFERENCE	
DATE	7 July 2021
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 April 2021 to 30 June 2021.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting;

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – April 2021 to June 2021

Approved	Declined	Total amount paid
1	4	\$21,717.94

**Decisions per quarter 2019/2021**

Quarter	Approved	Declined	Total amount paid
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

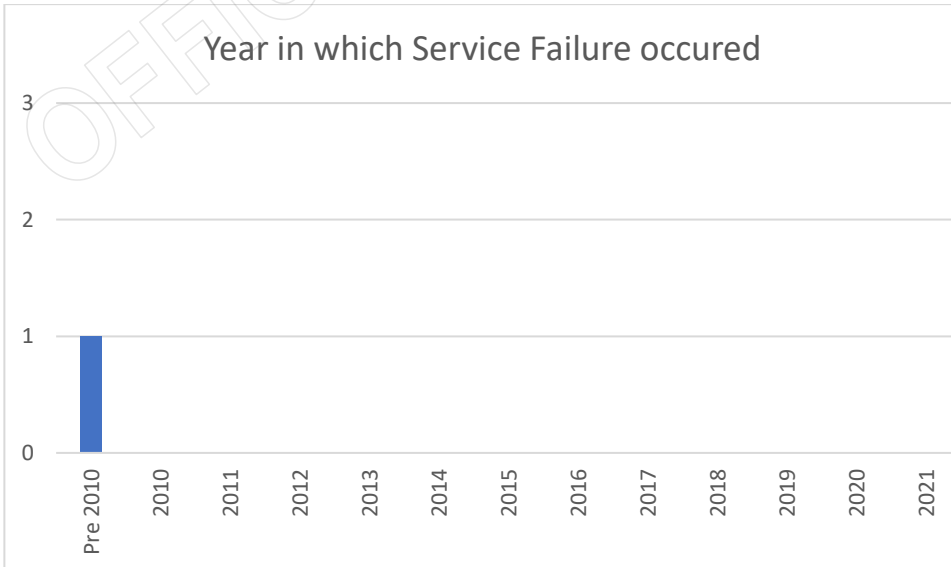
- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The one claim approved in the period of this report was for a service failure as follows;

- [ s 9(2)(a) ]

Figure 1: Year in which the service failure occurred;





## Declines

The four applications that were declined were as follows;

- [ s 9(2)(a) ]



**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	20
Incorrect weekly compensation entitlement advice given	20
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Lack of communication with client	4
Failure to investigate cover in a timely manner	4
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

Appendix One - Claim approved

Claim one	Amount awarded
[ s 9(2)(a) ]	\$21,717.94

RELEASED UNDER THE OFFICIAL INFORMATION ACT

# Memorandum



TO	Executive Risk and Compliance Committee
CC	Mike Tully, Acting Chief Executive Gabrielle O'Connor, Acting Chief Operating Officer Phil Riley, Acting Head of Client Service Delivery
FROM	[Out of Scope] Principal Advisor, Operations
FILE REFERENCE	
DATE	6 October 2021
SUBJECT	Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 July 2021 to 30 September 2021.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting.

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

Of note, ACC has received notification of two Chief Ombudsman's investigations into complaints about decisions to decline payments outside the scope of statutory entitlements. These decisions were made in July 2020 and November 2020. The requested information has been provided to the Ombudsman and we await any further contact.

## Decisions – July 2021 to September 2021

Approved	Declined	Total amount paid
2	4	\$95,096.74

**Decisions per quarter 2019/2021**

Quarter	Approved	Declined	Total amount paid
Jan 2019 – Mar 2019	3	3	\$153,339.32
Apr 2019 – Jun 2019	5	5	\$298,220.71
July 2019 – Sept 2019	3	12	\$38,971.11
Oct 2019 – Dec 2019	6	8	\$154,975.50
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94
July 2021 – Sept 2021	2	4	\$95,096.74

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The two claims approved in the period of this report were for service failures as follows.

- [ s 9(2)(a) ]
- [Redacted]

Further details are provided in Appendix One.

Figure 1: Year in which the service failure occurred



## Declines

The four applications that were declined were as follows.

- [ s 9(2)(a) ]



**Trend reporting (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	20
Incorrect weekly compensation entitlement advice given	20
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Failure to consider new medical information resulting in an unnecessary review hearing	6
Lack of communication with client or Estate	6
Failure to investigate cover in a timely manner	6
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

Appendix One - Claim approved

Claim one	Amount awarded
[ s 9(2)(a) ]	\$60,524.11







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# Memorandum

<b>TO</b>	Executive Risk and Compliance Committee
<b>CC</b>	Megan Main, Chief Executive Matthew Goodger, Acting Chief Operating Officer Phil Riley, Head of Client Service Delivery
<b>FROM</b>	[Out of Scope] Principal Advisor, Office of the Chief Operating Officer
<b>DATE</b>	10 January 2022
<b>SUBJECT</b>	Quarterly Reporting - Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 October 2021 to 31 December 2021.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments Outside the Scope of Statutory Entitlements is provided on a quarterly basis with two exceptions that require monthly reporting.

- Any payments over \$100k
- Any of a high-profile requiring Board awareness

There were no exceptions in this reporting period.

## Decisions – October 2021 to December 2021

Approved	Declined	Total amount paid
2	3	\$27,204.15

### Decisions per quarter 2020/2021

Quarter	Approved	Declined	Total amount paid
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94
July 2021 – Sept 2021	2	4	\$95,096.74
Oct 2021 – Dec 2021	2	3	\$27,204.15

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something, it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

### Approvals

The two claims approved in the period of this report were for service failures as follows.

- [ s 9(2)(a) ]
- 

Further details of these approvals are provided in Appendix One.

Figure 1: Year in which the service failure occurred



## Declines

The three applications that were declined were as follows.

- [ s 9(2)(a) ]



- 

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**Type of Service failure (from September 2014)**

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	21
Failure to proactively manage lump sum application for terminally ill client	20
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	9
Failure to consider new medical information resulting in an unnecessary review hearing	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Lack of communication with client or Estate	6
Failure to investigate cover in a timely manner	6
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1







# Memorandum

<b>TO</b>	Executive Risk and Compliance Committee
<b>CC</b>	Megan Main, Chief Executive Gabrielle O'Connor, Chief Operating Officer Phil Riley, Head of Client Service Delivery
<b>FROM</b>	[Out of Scope] Principal Advisor, Office of the Chief Operating Officer
<b>DATE</b>	4 April 2022
<b>SUBJECT</b>	Quarterly Reporting - Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 January 2022 to 31 March 2022.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Reporting of Payments outside the scope of statutory entitlements is provided on a quarterly basis to coincide with Executive Risk and Compliance Committee meetings. Whilst exceptions such as payments over \$100k and any of a high-profile requiring Board awareness were reported monthly, this no longer fits with reporting cycle.

Any risk associated with this change in the timetable for reporting is mitigated by payments over \$100k requiring sign off from the Chief Executive and any high-profile cases would still be brought to the attention of the Board directly. Further, other than a case reported in this quarterly report, there have only been two out of cycle exceptions reported in the past five years.

## Decisions – January 2022 to March 2022

Approved	Declined	Total amount paid
3	2	\$165,523.13



**Decisions per quarter 2020/2022**

Quarter	Approved	Declined	Total amount paid
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94
July 2021 – Sept 2021	2	4	\$95,096.74
Oct 2021 – Dec 2021	2	3	\$27,204.15
Jan 2022 - Mar 2022	3	2	\$165,523.13

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something, it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

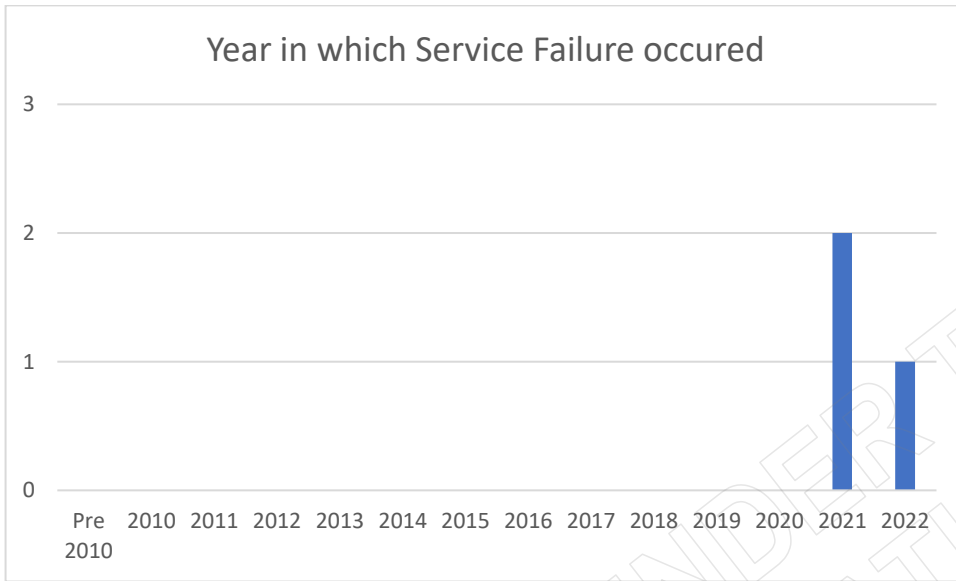
The three claims approved in the period of this report were for service failures as follows

- [ s 9(2)(a) ]
- [ s 9(2)(a) ]
- [ s 9(2)(a) ]

[ s 9(2)(a) ]

Further details of the approvals are provided in Appendix One.

Figure 1: Year in which the service failure occurred



### Declines

The two applications that were declined were as follows

- [ s 9(2)(a) ]

-

**Type of Service failure (from September 2014)**

Reason for payment	Number of claims
Incorrect weekly compensation entitlement advice given	22
Failure to proactively manage lump sum application for terminally ill client	21
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	9
Failure to consider new medical information resulting in an unnecessary review hearing	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Lack of communication with client or Estate	7
Failure to investigate cover in a timely manner	6
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1



Claim two	Amount awarded
[ s 9(2)(a) ]	\$10,857.72

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Claim three	Amount awarded
[ s 9(2)(a) ]	\$8, 676.10.

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# Memorandum

<b>TO</b>	Executive Risk and Compliance Committee
<b>CC</b>	Megan Main, Chief Executive Phil Riley, Acting Deputy Chief Executive Service Delivery
<b>FROM</b>	[Out of Scope] Principal Advisor, Office of the DCE, Service Delivery
<b>DATE</b>	5 July 2022
<b>SUBJECT</b>	Quarterly Reporting - Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests for a payment outside the scope of statutory entitlements for the period 1 April 2022 to 30 June 2022.

## Background

Payments outside the scope of statutory entitlements are payments made by the Client Service Delivery group to manage potential liabilities under the Crown Entities Act 2004, Section 17. These payments were once referred to as 'wrongful action' or 'ex-gratia' payments.

Following an Ombudsman finding into a claim for a payment outside the scope of statutory entitlements that was declined because there was no quantifiable financial loss, ACC is reviewing its policy and governance of these payments. It is anticipated that this new policy will be in place for the next quarterly reporting.

## Decisions – April 2022 to June 2022

Approved	Declined	Total amount paid
5	2	\$308,290.00

**Decisions per quarter 2020/2022**

Quarter	Approved	Declined	Total amount paid
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94
July 2021 – Sept 2021	2	4	\$95,096.74
Oct 2021 – Dec 2021	2	3	\$27,204.15
Jan 2022 - Mar 2022	3	2	\$165,523.13
Apr 2022 – Jun 2022	3	2	\$308,290.00

The criteria against which requests for a payment outside the scope of statutory entitlements can be considered are twofold:

- Where there has been a serious failure by ACC to do something, it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

**Approvals**

The five claims approved in the period of this report were for service failures as follows

- [ s 9(2)(a) ]
- 
- 
-



- [ s 9(2)(a) ]

- 

[ s 9(2)(a) ]

Given that not all the five reportable cases occurred within the Cover Assessment process, there is a wider Knowledge Management engagement to produce a learning product for all Recovery staff.

Further details of this quarter's approvals are provided in Appendix One.

**Declines**

The two applications that were declined were as follows

- [ s 9(2)(a) ]

-

**Type of Service failure (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	26
Incorrect weekly compensation entitlement advice given	22
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to calculate weekly compensation in a timely manner	9
Failure to consider new medical information resulting in an unnecessary review hearing	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Lack of communication with client or Estate	7
Failure to investigate cover in a timely manner	6
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

Appendix One - Claims approved

Claim one	Amount awarded
[ s 9(2)(a) ]	\$145,989.31

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Claim three	Amount awarded
[ s 9(2)(a) ]	\$7,481.95

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Claim four	Amount awarded
[ s 9(2)(a) ]	\$5,179.69

Claim five	Amount awarded
[ s 9(2)(a) ]	\$3,649.74



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# Memorandum

<b>TO</b>	Executive Risk and Compliance Committee
<b>CC</b>	Megan Main, Chief Executive Amanda Malu, Deputy Chief Executive Service Delivery
<b>FROM</b>	[Out of Scope] Principal Advisor, Office of the DCE, Service Delivery
<b>DATE</b>	5 October 2022
<b>SUBJECT</b>	Quarterly Reporting - Payments outside the scope of statutory entitlements

## Purpose

The purpose of this report is to advise the Committee of the outcomes of requests from clients for a payment outside the scope of statutory entitlements. This report covers the period 1 July 2022 to 30 September 2022. This report will be the last stand-alone quarterly report, as below.

## Policy Update and Implications

To date the criteria against which requests for a payment outside the scope of statutory entitlements were:

- Where there has been a serious failure by ACC to do something, it should have done in terms of legislative mandate, or an error in the way something was done; and
- It results in an actual and quantifiable loss for a claim with a right to seek compensation

ACC recently received a formal Ombudsman finding critical of our policy on payments outside the scope of statutory entitlements. The specific claim that was the subject of the Ombudsman's investigation contained a request for a payment which was declined by ACC because there was no quantifiable financial loss to the client, even though there had been a serious service failure found.

ACC has reviewed its policy and governance of these payments and the recommended changes have been approved by the Executive. The new policy, which includes compensation for non-financial loss, came into effect on 1 October 2022. Payments approved from that date will be included in the quarterly Customer Feedback Report, which will provide an overarching view of client complaints and will support identifying systemic themes.

At the last Committee meeting in which the previous quarterly report was discussed the Executive Risk and Compliance Committee requested a time series graph of the main reasons for service failures and a root cause analysis of each approval. These have both been added to this report.

**Decisions made – July 2022 to September 2022**

Approved	Declined	Total amount paid
2	5	\$29,740.05

**Decisions per quarter 2020/2022**

Quarter	Approved	Declined	Total amount paid
Jan 2020 – Mar 2020	3	2	\$328,537.66
Apr 2020 – Jun 2020	3	3	\$26,562.31
Jul 2020 – Sept 2020	5	6	\$138,668.48
Oct 2020 – Dec 2020	5	4	\$147,266.15
Jan 2021 – Mar 2021	1	6	\$2,327.18
Apr 2021 – June 2021	1	4	\$21,717.94
July 2021 – Sept 2021	2	4	\$95,096.74
Oct 2021 – Dec 2021	2	3	\$27,204.15
Jan 2022 - Mar 2022	3	2	\$165,523.13
Apr 2022 – Jun 2022	3	2	\$308,290.00
Jul 2022 – Sept 2022	2	5	\$29,740.05

**Approvals**

The two claims approved in the period of this report were for service failures as follows

- [ s 9(2)(a) ]
- [ s 9(2)(a) ]

Further details of this quarter’s approvals, including a root cause analysis are provided in Appendix One.

**Declines**

The five applications that were declined in this period were as follows

- [ s 9(2)(a) ]



[ s 9(2)(a) ]

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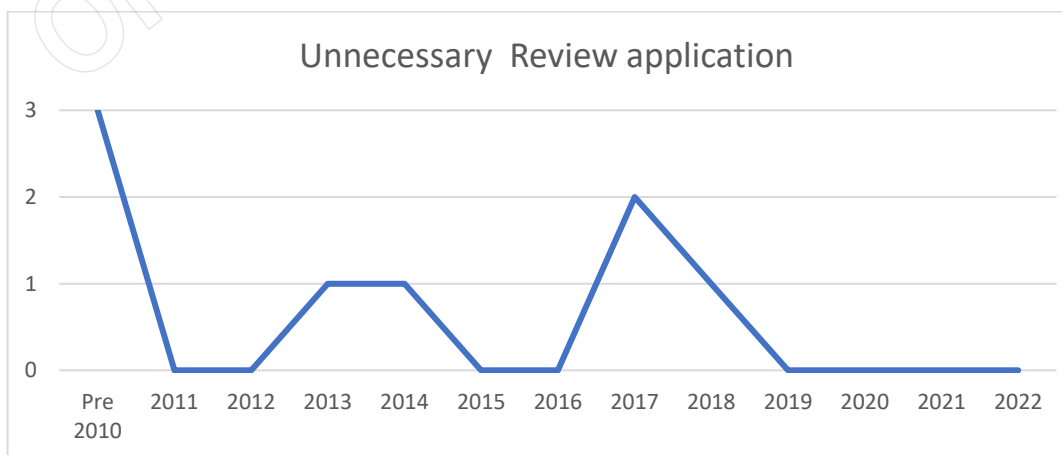
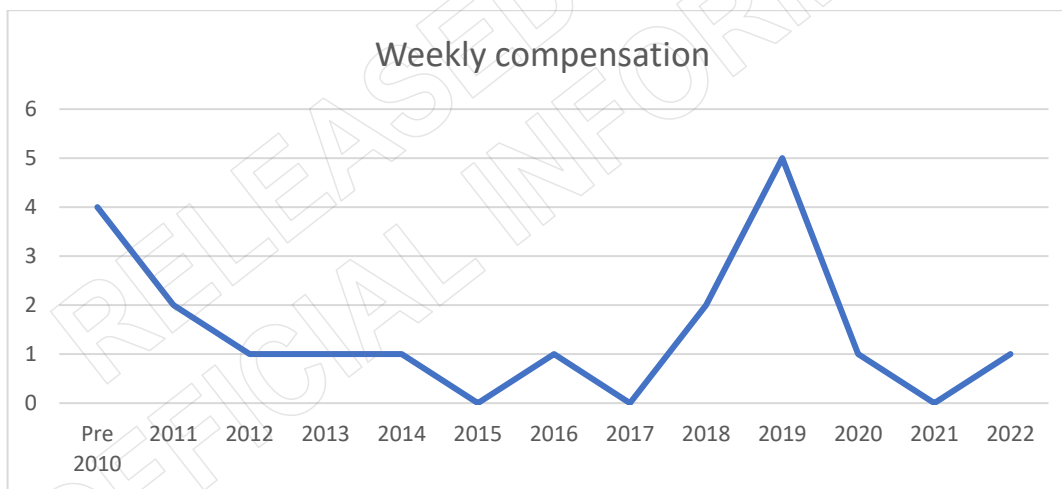
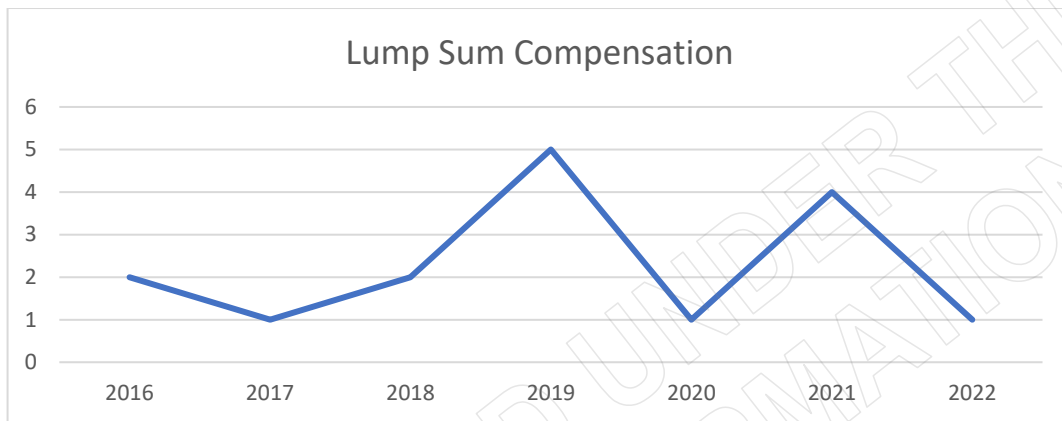
**Type of Service failure (from September 2014)**

Reason for payment	Number of claims
Failure to proactively manage lump sum application for terminally ill client	26
Incorrect weekly compensation entitlement advice given	22
Failure to calculate weekly compensation in a timely manner	11
Failure to investigate a recalculation of weekly compensation when presented with new information	9
Failure to consider new medical information resulting in an unnecessary review hearing	8
Failure to assess need for social rehabilitation in a timely manner	7
Insufficient investigation and gathering of information prior to deciding to cease weekly compensation	7
Lack of communication with client or Estate	7
Failure to investigate cover in a timely manner	6
Delay in reimbursement of residential care or other care costs	3
Failure to assess lump sum compensation under the 1982 Act	2
Delay in reimbursement of pharmaceutical costs	1
Incorrect advice of cessation of weekly compensation in relation to NZ Superannuation	1
Failure to investigate cover in a timely manner – Treatment Injury	1
Failure to follow the statutory process for cessation of Independence Allowance	1
Failure to follow the requirements of a PPPR order	1
Failure to follow transparent process in the assessment of lump sum compensation	1
Failure to advise terminally ill client of the Single Payment Option for I/A	1
Failure to implement historic rehabilitation recommendations	1
Application of an outdated policy	1
Incorrect lump sum compensation advice given	1
Failure to arrange a formal assessment of I/A	1
Failure to carry out agreed actions from a conciliation meeting	1
Incorrect information in relation to disentitlement provisions given	1

### Time series trend of the most prevalent types of Service failure

At the last meeting in which the report was discussed the Executive Risk and Compliance Committee requested a time series graph of the top reason for service failures. These time series graphs have been produced for the following service failures

- Failure to proactively manage lump sum application for terminally ill client
- Weekly compensation (incorporating 3 categories - incorrect weekly compensation entitlement advice given, failure to calculate weekly compensation in a timely manner and failure to investigate a recalculation of weekly compensation when presented with new information)
- Failure to consider new medical information resulting in an unnecessary review hearing





Claim two	Amount awarded
[ s 9(2)(a) ]	\$3,000

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