

Minutes of a meeting of the Board of the Accident Compensation Corporation held at ACC Boardroom, Level 11, PwC Tower, 188 Quay Street, Auckland on Thursday, 29 August 2019 at 9.00 am.

Present

Dame Paula Rebstock	Chair	(until 2.15 pm)
Mr James Miller	Temporary Deputy Chair	
Ms Anita Mazzoleni	Member	
Ms Kristy McDonald QC	Member	(until 4.00 pm)
Mr David May	Member	
Dr Tracey Batten	Member	
Mr John Brabazon	Member	

In attendance

Mr Scott Pickering	Chief Executive	
Mr Peter Fletcher	Chief Technology & Transformation Officer	
Mr Mike Tully	Chief Operating 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)	LEK Consulting	Item 4.1
9(2)(a)	LEK Consulting	Item 4.1
9(2)(a)	LEK Consulting	Item 4.1
9(2)(a)	Head of Workplace Safety and Levies	Item 6.5
9(2)(a)	Head of Procurement	Item 6.7
Ms Gabrielle O'Connor**	Head of Client Service Delivery	Item 4.1
9(2)(a)	Head of Provider Service Delivery	Item 6.1, 6.2, 7.2(b)
9(2)(a)	Acting General Counsel and Company Secretary	Items 6.1 & 7.2
9(2)(a)	Executive Advisor	Items 5.1 – 5.4
9(2)(a)	Manager Corporate Secretariat	
9(2)(a)	Senior Associate Company Secretary	

** Attended via telephone / videoconference

1 Procedural Business

1.1 Apologies

There were no apologies received for the meeting.

1.2 Register of Members' Conflicts of Interest Arising

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 Board on the key matters from the Board Investment Committee (BIC) meeting of 28 August 2019, focusing on the following:

- The Investment Governance Review undertaken by PwC. The Board had not yet received or accepted the Review.
- The *Feltex* case, which could be the subject of media attention.
- Other papers considered by the BIC included Strategic Asset Allocation constraints, and various quarterly reports. Regarding movements in the Strategic Asset Allocation constraints, Management would continue to be conservative.

2.2 Risk Assurance and Audit Committee

Ms Mazzoleni updated the Board on the key matters from the Risk Assurance and Audit Committee (RAAC) meeting of 28 August 2019, focusing on the following:

- The Annual Report had been recommended by the RAAC, subject to the matters set out in the Audit Report. The RAAC recommended that the Board Chair and the Temporary Deputy Chair sign the letter of representation to the auditors.

- The Audit Report had recommended a 'Very Good' on the statement of service performance and maintained 'Very Good' for the management control environment. The 'Good' result for the financial control environment would likely be upgraded to 'Very Good' next year.
- The Risk Mitigation Report had indicated there was a lot happening in key projects, including Next Generation Case Management (NGCM) and the Health Services Strategy (HSS). A forthcoming risk reset would bring ACC up to best practice risk management.
- The Risk Culture Survey, which had been completed by KPMG.
- Internal Assurance findings in respect of business continuity planning, the cyber security policy, and Whāia Te Tika. Various ICIP reports had also been considered. There would be an interim PIR for completed projects.

The Board discussed the 'adjusted profit' concept and its introduction into the Annual Report in the current difficult investment environment (which would continue to be a problem for next year's Annual Report as well), and how to explain what ACC can and cannot control.

In response to a Board query regarding whether the auditors review the models that are fundamental to Board decisions, the RAAC Chair explained that both Taylor Fry and the auditors review the assumptions for the OCL and there was a particular focus from the auditors on public equity valuation assumptions. The two big items for the auditors' work plan were the OCL and asset valuations.

The Board acknowledged Ms Mazzoleni's work to achieve the 'Very Good' result, and the leadership that Mr Miller had shown on the Investment Governance Review.

3 Board Only Session

During the Board only session, the Board considered matters relating to the establishment of the ACC Board HSS Advisory Committee, and to the Board membership of the RAAC.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the Board had approved the Terms of Reference for the ACC Board HSS Advisory Committee by written resolution on 14 August 2019.
- (b) **Appoint** Dr Tracey Batten as Chair of the ACC Board HSS Advisory Committee, effective 1 September 2019.
- (c) **Appoint** the following Board Members to the ACC Board HSS Advisory Committee, effective 1 September 2019:

- Dame Paula Rebstock
 - Ms Kristy Mc Donald ONZM QC
 - Ms Anita Mazzoleni
- (d) **Appoint** the following external Members to the ACC Board HSS Advisory Committee, effective 1 September 2019:
- NASODr Matire Harwood
 - Dr Api Talemaitoga
 - Dr Lloyd McCann
 - Professor Kathryn McPherson.

RESOLVED: The ACC Board resolved to **appoint** Mr Brabazon to the RAAC, effective 1 September 2019.

3.1 Chief Executive's Report

Items raised by Mr Pickering were:

- feedback on Branch visits following NGCM rollout
- pre-briefing on HSS and ECP papers
- pre-briefing on proposed new Hamilton and Dunedin sites
- pre-briefing on LEK review.

4 Presentation

4.1 Rehabilitation Performance Review

Mr Tully introduced Messrs ^{9(2)(a)}, ^{9(2)(a)} and ^{9(2)(a)} of LEK. ^{9(2)(a)} introduced the presentation and took the Board through the Executive Summary of the report. The Board discussed the presentation, including the following points:

- How ACC compared with Australia, where there had been a significant lengthening of duration in claims with workers' compensation, driven by mental injury claims—Mr Tully explained that Australian mental injury coverage was different from New Zealand's, however it was

understood that if there are mental issues alongside physical, the rehabilitation for the physical injury takes much longer. GPs were the link that would identify whether there were mental issues affecting the physical. 9(2)(a) explained that ACC lacked data on claimants presenting with a mental illness. However, mental health was being elevated globally, and intervening early in psychosocial issues increased the likelihood of correct outcomes. The Board asked that LEK pick this up in the report.

- Whether ACC's introduction in 2013 of the Service Needs Assessment (SNA) had pushed entitled claimants onto ACC support, even if they had no need for support and whether this had created a shift of focus from need to entitlement.
- Whether client outcomes had improved under the SNA process—9(2)(a) explained that customer satisfaction had increased, but LEK had not looked at medical outcomes. Mr Tully explained that claimants were receiving treatment more quickly. The Board suggested that it would be good if it could be shown that ACC had improved outcomes for its clients.
- Although the 70-day rehabilitation rate had not improved, the volume of claims was significantly greater. The question was whether to manage growth in claims or frontline capacity.
- During times of high employment, people were happier taking time off work. When workers were insecure with their job, they go back to work as early as possible. Regardless of the employment rates, the self-employed and older people took the least time off work due to the need to keep the business running, and job-insecurity, respectively.
- Whether LEK should review sensitive claims data separately—9(2)(a) explained that while sensitive claims were growing quickly, they represented a small proportion of total claims and, alone, were not driving the volume. However, given the impact of sensitive claims on the OCL strain, the Board suggested that it was worth reviewing the information in different ways.
- Whether DHB clients were being pushed onto ACC—9(2)(a) explained that the data did not suggest this.
- Whether there was a clear solution to the volume growth—9(2)(a) explained that, while it was more the external environment than ACC, or client or provider behaviour, that was the main driver, there were still some internal issues. The ups and downs of the economic cycle would always be the main driver.
- How ACC could improve its forecasting—9(2)(a) explained that there was an amplification effect correlated to GDP, but workforce growth and attitude to taking time off work also impacted. Mr Healy explained that there was a time lag when there was a shift in the economy.

The outlook now was softening; it was a question of how quickly it would happen. The Board asked that, when ACC set its budget, the correlations be unpacked.

- The need for ACC to improve its data collection.
- Whether ACC needed different staff KPIs—9(2)(a) explained that LEK proposed a more holistic approach to measurement than simply rehabilitation rates.
- The way the system incentivised people into making ACC claims.

The Board queried the implications of the report. 9(2)(a) explained that ACC needed to carefully monitor anticipated changes, particularly to the economy and job security, and plan ahead for them. ACC should also consider its approach to WC exit points.

5 Operational Reporting

5.1 (a) ICIP Reporting

Board discussion focused on the following:

- Whether the reset of WC days paid in the Service Agreement had been agreed at the Budget discussion—Mr Fletcher confirmed that it had.
- Whether the request to the ECA in August for ICIP funding for High Tech Imaging (HTI) had been approved—Mr Fletcher confirmed it had and that HTI was back on green in terms of approvals.
- Mr Fletcher would include Mr Brabazon in the next NGCM teleconference.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the ICIP July 2019 Monthly Update.
- (b) **Note** the good progress that had been made in delivery of ICIP.
- (c) **Note** the Investments Technology Issues Report.

5.1 (b) Quarterly Business Review Update

Mr Tully briefed the Board on Management's Quarterly Business Review (QBR) process, highlighting the following:

- The QBR was for staff to talk to the Executive about the areas ACC needed to focus on.
- At the last QBR the focus was on benefits tracking:
 - For business customers, 53.2% of interactions with ACC were now digital; there had been 47% growth in the digital user base.
 - For providers, spinal cord injury clients were receiving the right treatment in the right way, with a 55% improvement in services. This represented a c.\$1.5 million gain for the Scheme. This had been achieved through working with DHBs, ambulance and the contracting.

Mr Pickering noted that 70% of businesses in New Zealand are interacting through digital—ACC had made investments in digital services and now New Zealand was responding. The Board suggested that this be reflected in the Annual Report.

Mr Pickering invited interested Board Members to attend the QBR sessions.

5.1 (c) Operational and Financial Performance including claims cost

Mr Healy presented the report. In response to a Board query, Mr Healy explained that the high claims costs for July were mainly due to there being one more working day in July than budgeted; the impact of the additional day was \$20 million.

In response to a Board query as to whether Mr Healy's budgeting process was setting unreasonable expectations, Mr Healy explained the difficulties presented by the impact of external influences. The Board suggested doing more work for next year based on the LEK input.

With sensitive claims costs increasing 25% faster than anticipated, the Board asked that Management do more work to understand the drivers. Mr Healy explained the long lag between the injury and the claim, making it difficult to forecast. The Board suggested that the Annual Report explain this. The Board noted the underreporting of sexual violence.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the Claims Cost performance
- (b) **Note** the Operational and Financial Performance

5.1 (d) Q4 Customer Dissatisfaction and Escalated Complaints Report

The Board congratulated Ms Powell on the quality of the Report. Ms Powell explained that the team sought the Board's input as to whether the Severity Index was about right for now. The Board confirmed it was, and that it should stay in place for three or four quarters before any change.

The Board noted the high correlation of complaints to poor customer service and asked that the Report flesh out responses to those complaints. Ms Powell explained that NGCM initiatives included development of capability frameworks, so the statistics should reduce.

The Board asked to be involved in supporting, by allocating capital, the resolution of systems problems, such as IT problems resulting in mixed up bookings.

The Board asked, in relation to the statistics regarding the timeliness to close out complaints, to have the range for the outliers included in the report. For example, if a complaint took six months to resolve, the Board should know that. The Board queried Management's timeframe to see dissatisfaction rates coming down and to what target level.

ACTION: Management to include in the next Quarterly Complaints Report the range of days taken to close out complaints outside of SLA, timeframe and target level for reduced dissatisfaction with responses to complaints, and the number of complaints that sit below the sub-threshold of severity.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the key insight themes, contributing factors, and actions being taken by the organisation contained within the Quarter 4 Customer Dissatisfaction and Complaints report. In particular, the increase in complaints escalated to the Customer Resolutions team in Quarter 4.
- (b) **Note** that there were 13 Severity two and two Severity three customer complaint cases (including those escalated to the Customer Resolutions team and those dealt with by the Issues Management and Media teams) during Quarter 4, and that management has taken the appropriate actions (outlined in Appendix 2, Board Dossier of Complaints and Issues – Quarter 4) to address them.
- (c) **Note** the progress ACC continues to make to build its full complaints system, and the addition of issues escalated to Issues Management and Media teams now analysed against the severity model and reported on.

- (d) **Note** the work underway to develop analytical detection of individuals who pose a high likelihood of escalating a complaint, prompting timely alerts to the Chief Operations Officer and Head of Client Service Delivery to initiate a proactive service recovery response.

6 Board Papers

6.1 (a) Health Sector Strategy Reset

Mr Tully introduced Messrs ^{9(2)(a)} and ^{9(2)(a)} from PwC, the lead delivery partner. Mr Tully highlighted the following from the presentation on the HSS:

- Costs have been growing across ACC.
- Under the test and learn approach there were four core projects—ECP, HTI, non-acute rehab, and integrated homecare.
- The recommendations of several HSS reviews—the ICIP target of \$75 million in benefits from the HSS should be achieved, however, there was wider potential value across the health sector. If a targeted approach was not taken, ACC was unlikely to achieve those wider benefits. IQAs had identified that the HSS should be lifted to the whole of ACC.
- The delivery plan over the next two years and the milestones to 2021. The immediate focus was to establish an overarching strategy, including for data across the wider health sector.
- The governance structure and progress made. A capability lift across the organisation was required.

The Board discussed the extent to which, in order to move to the commissioning for outcomes framework, capability needed to be developed. It was important not to underestimate how far was needed to go to bring the strategy to fruition. Mr ^{9(2)(a)} explained the phases of work PwC had undertaken to identify the current levels of capability in the organisation.

The Board queried the timing of progress, and whether some easy wins were achievable such as proofs of concept (POCs) or case studies to show providers that something would be good for their business. Mr Tully explained that the four core projects were part of that and were achieving good results. But bigger programmes of work like Escalated Care Pathways (ECP) could send a signal to the wider health sector about commissioning for outcomes.

The Board expressed agreement with the wider strategy but indicated concern that ACC not slow down while building capability. Mr Pickering explained that operationalising ECP would be a

significant uplift to the market, and ACC was exploiting the current POCs. Mr Pickering confirmed that ECP would be rolled out by the end of December.

The Board discussed the figures and questioned how ECP was to be paid for. Mr Fletcher explained that the remaining ICIP spend was tracking well under the total amount set aside. The Board noted that the HSS's allocated budget was \$30 million and asked Management to be very clear about where the money was to come from.

Mr Dyer confirmed to the Board that the HSS reset was needed. The HSS had not had a great deal of funding or attention. Much ground work had been laid to get the sector ready, and now was the time to capitalise on that and move forward with the HSS.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the update on the Health Sector Strategy.
- (b) **Endorse** the reset approach, subject to being satisfied on the financials.
- (c) **Note** that a detailed delivery plan, covering the work programme for the first half of 2020, will be presented to the Board in November 2019.

6.1 (b) Escalated Care Pathways – Phase 2 Expansion Funding Approval

Mr Tully introduced the paper: ECP would make a real difference by providing coordinated care from the beginning of the patient's journey. ACC was partnering with six consortia across the pathways of complex musculoskeletal injuries. Mr Tully explained the financial implications and noted that there would be a stage gate at 18 months to evaluate progress, before moving on to the second stage contracts.

The Board requested a break-down of the benefits of the \$42 million spend. ^{9(2)(a)} explained that more would be paid upfront for shorter, more intense, multidisciplinary intervention, resulting in a shorter time that a person is off sick. The ACL POC was seeing the re-injury rate dropping from 30% to 4% after 18 months. This was a significant difference and a promising trend.

The Board requested confirmation of the funding costs. ^{9(2)(a)} confirmed the OPEX increase was \$42 million more than the current budget. The Board noted that this would require approval and suggested circulating a paper to clarify the funding from ICIP, the funding from OPEX, and in which year the benefits accrued.

The Board queried the lack of risk-sharing with providers in the proposal. 9(2)(a) explained that research showed that there should be no risk-sharing in year 1, comparables in year 2, and introduction of risk-sharing in year 3 and beyond. If risk-sharing was brought in now it would likely introduce a new perverse incentive to prefer treating 'well' patients with likely good outcomes.

9(2)(a) confirmed the approach outlined by 9(2)(a) as being best practice.

In response to a Board query regarding the contracts, 9(2)(a) explained that the contracts with individual providers would cover the partnership arrangements, the service schedule of deliverables, and the measures for monitoring outcomes.

The Board sought satisfaction that ACC would meet its contracting requirements, and clarification of where the funding was coming from.

In response to a Board query regarding legal assurance, Ms Roche noted that the implications of ACC's statutory responsibilities regarding the making of cover decisions were still being worked through. In response to a Board comment on Privacy Impact Assessments, Ms Roche agreed that there were other issues, including what ACC would delegate to the consortia in the contracts in respect of ACC's functions relating to the Privacy Act, and what would be retained by ACC. This was all part of the ongoing legal review.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that at its October 2018 meeting, the Board approved a new Elective Surgery contract for a 5-year term (3+2), with the expectation that purchasing for outcomes models would be in place by the end of this period.
- (b) **Note** that, at the February 2019 Board meeting, ACC updated the Board on progress with co-design and procurement of a new outcomes model for delivering coordinated integrated care to people with musculoskeletal injuries, namely the Escalated Care Pathways (ECP).
- (c) **Note** that ECP is an innovative project that requires a significant shift in provider business models and care delivery, and in how ACC supports the sector. A four-year test and learn phase is planned to build capability and develop baseline measures that will inform a future scaled-up service.
- (d) **Note** that a full business case for ECP can be found in the Resources section of Board Books.
- (e) **Note** that the total whole-of-life contract size of the six partnerships is expected to be \$432.6 million over four years. This is \$162.7 million above what we would expect to pay under the existing Vocational Rehabilitation, Elective Services and Physiotherapy

contracts. This comprises: \$139.6 million in health services improvement and early interventions, \$16.7 million in provider project costs and \$6.4 million in ACC project costs.

- (f) **Note** that, while up-front costs are higher, the projected lifetime costs for the ECP clients are estimated to be \$97.3 million lower than baseline, resulting in an NPV of \$39.0 million for the project. The estimated benefits are projected to peak in 2023 and thereafter tail off – the majority are not assumed to recur into the future.
- (g) **Note** that targeted outcomes include a weekly compensation days reduction, with an average reduction of 30 days –based upon early ACL proof of concept results – compared with an overall ICIP weekly compensation target reduction of 5.5 days and current enterprise performance of 3.6 days increase.
- (h) **Note** that such an innovative model has not operated at scale nor for an extended period and therefore carries some significant uncertainty in respect of the targeted outcomes. For this reason, a Stop/Go evaluation and decision point has been included after the first 18 months of the contract. An evaluation and further business case will be presented to the Board seeking approval to continue with the remainder of the four-year contract.
- (i) **Note** that operation of this value-based commissioning model beyond the four-year contract period will require further evaluation and consideration once we have more insight into its performance.
- (j) **Accept** the assessment of risk as acceptable, noting that the key risks have been considered and that robust contract management, effective performance management and a staged approach provide mitigation.
- (k) **Note** the proposed funding (to be clarified by Management) for stage 2: \$55.5 million, comprising \$42 million in health services improvement and early interventions, \$9.5 million relating to provider project costs, and \$4 million in ACC project costs.
- (l) **Delegate** to the Chair of RAAC and the Chair of the Board HSS Advisory Committee the sign off of the satisfactory clarification of the funding for stage 2 of the \$55 million.
- (m) **Delegate** signing authority for ECP contracts to Mike Tully, Chief Operating Officer.
- (n) **Note** that signing of the contracts is subject to sign-off by the General Counsel and completion of any outstanding actions from the Privacy Impact Assessment.
- (o) **Note** that the ECP contracts comply with the Government Rules of Sourcing.

6.2 Extension to the Impairment Assessment Contract

Mr Tully presented the paper.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that Impairment Assessments are required under the Accident Compensation Act 2001 to determine clients' eligibility for lump sum compensation or an independence allowance.
- (b) **Note** that the current Impairment Assessment Services (IAS) contract will expire on 30 November 2019, and is proposed to be extended for up to nine years (including two two-year rights of renewal).
- (c) **Note** the Whole of Life Cost (WoLC) of the proposed extension, including the renewal periods, from 1 December 2016 to 30 November 2028 is estimated at \$79.16 million.
- (d) **Note** that, as the WoLC is greater than \$30 million, under ACC's Corporate Delegations the Board is required to approve this extension.
- (e) **Note** that the proposed extension would have no material impact on the OCL or Levies.
- (f) **Approve** an extension to the IAS contract for a maximum term of nine years (an initial term of five years from 1 December 2019 to 30 November 2024, plus two further rights of renewal, each of two years, to 30 November 2028 (5+2+2)).
- (g) **Note** the proposed extension is compliant with the Government Rules of Sourcing and ACC Procurement Policy.

6.3 Hamilton and Dunedin Accommodation – Preferred Suppliers

Mr Healy introduced an updated paper which he tabled at the meeting. Mr Healy's briefing included the following:

- Management was ready to proceed to negotiations with two preferred suppliers: Tainui Group Holdings (Tainui) for Hamilton and Ngāi Tahu Property (Ngāi Tahu) for Dunedin. Tainui had responded in line with the acceptable criteria, but there was further negotiation required with Ngāi Tahu.
- There were some risks to be noted, including getting a lease extension on existing sites.
- 9(2)(j) [REDACTED]

Board discussion focused on the following:

- 9(2)(j) [REDACTED]
- The appropriate lease term.

- Regarding future risk, whether climate change issues had been considered in respect of rising sea levels. Mr Healy would look into this for the two sites.
- Building an option into the contract to give the Investments Team a first right to purchase (and whether that should relate to the building or the lease) on completion. If this could not be negotiated, then the Investments Team should have first right of refusal on any sale. Mr Pickering requested the Board's guidance if neither of those was acceptable to the suppliers.
- What Management's plans were regarding co-location with a medical centre or rehabilitation facilities. Mr Pickering explained that this would be discussed at a later stage in the negotiations, and that for now Management was seeking guidance on the terms on which to base the initial negotiations with the preferred suppliers.
- The need to be disciplined in the negotiations: on-time, on-budget and on-spec were the most important non-negotiable terms. Management needed to be hardnosed about those terms. Dunedin needed to be given the go-ahead as soon as possible, given the potential impacts of the new hospital build there. To protect ACC there had to be LDs that crystallised if the developer missed key dates.
- Mr Miller and Mr Brabazon would form a sub-committee of the Board to assist Management to deal with negotiation issues quickly.
- Whether an option should be included in the contracts for taking additional space in the buildings in later years. Mr Pickering indicated that he would seek guidance from the Board on the approach to take with the suppliers on this, and on the other proposed negotiation points, if the suppliers disagreed.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that ACC has completed a Stage 1 Request for Proposal (RFP) to the four shortlisted suppliers for Hamilton and Dunedin accommodation to select preferred suppliers.
- (b) **Note** that the RFP process was endorsed by an external probity advisor that it is compliant with the Government Rules of Sourcing.
- (c) **Approve** progression to enter into final negotiations with preferred suppliers with the intention of entering into Development Agreements with:
 - i. Tainui Group Holdings for the supply of a new-build leased accommodation solution in Hamilton.

- ii. Ngāi Tahu Property for the supply of a new-build leased accommodation solution in Dunedin, noting the key commercial risks around Ngāi Tahu Property's proposal.
- (d) **Delegate** authority to Mr Miller and Mr Brabazon to assist Management with all negotiation decisions.
- (e) **Approve** delegation to the Chief Financial Officer to negotiate, in consultation with Mr Miller and Mr Brabazon, an appropriate market-aligned position before advising Ngāi Tahu Property that they are the preferred supplier for Dunedin. If suitable commercial terms are not able to be agreed, then the Chief Financial Officer will engage with a selected Board Member, or Members (as the Board Chair determines), to agree options to address the concerns.
- (f) **Note** the risks associated with the selection process.

6.4 Annual Report 2019

Mr Healy introduced the Annual Report, noting that Management was aiming for a media release in late September. Board discussion focused on the following:

- The RAAC had already reviewed the financial statements and service performance report, and had provided to Mr Healy some suggestions on the notes to the financial statements.
- Any Board suggestions for the notes to the accounts should be sent to Mr Healy, who would obtain further RAAC sign-off for any changes to the notes.
- Whether the statement from the Board should commence with the CEO's achievements and the matters he could control, as occurred in normal company reports, rather than commencing with the falling interest rates and the possibility that levies could be raised. Mr Beattie noted that these were unusual times, and that ACC's deficit was extremely significant. He suggested that the Annual Report identify this upfront and note the external economic factors beyond ACC's control and that other insurance companies around the world were facing this. Expectations should also be set for a large deficit next year. Mr Beattie explained the strategy to saturate the communications throughout the Annual Report to explain the context of the result.
- The basis of the investment report should be the excellent headline number. It should also tell the story of why the investment reserves were needed. Mr Beattie noted that the media release would include Q & As which would answer these types of questions.
- The RAAC Chair reiterated the importance of focusing on the result. The Annual Report should identify the subsequent event: there was already a \$4.9 billion deficit as a result of the further interest rate drop post balance date (which was also impacting other entities); then it should say

what this might mean for the levies, describing this as options; then explain why the OCL was so large; then explain the purpose the OCL served.

- An explanation should be given in the Annual Report on why the reduction in interest rates had caused the bad result: the expectation of future investment earnings was lower, and everyone is impacted by this.
- The timing of the Annual Report was crucial so that it would be released prior to the Crown accounts. Mr Beattie highlighted the importance of pre-conditioning ahead of the release.

RESOLVED: The ACC Board resolved to:

- (a) **Provide** any further detailed feedback on the draft AR19 to the Chief Financial Officer, John Healy no later than 5.00pm Monday 2 September 2019.
- (b) **Approve** the release of this draft AR19 (including Financial Statements) to Treasury, Ministry of Business, Innovation and Employment (MBIE), the Minister's Office and EY.
- (c) **Delegate** authority to the Board Chair, the Temporary Deputy Chair and the RAAC Chair for final approval of the AR19 post adjustments of any Board feedback, subject to completion of the outstanding matters listed in the EY Audit Closeout Report.
- (d) **Note** the proposed timeline for AR19 (section 6).
- (e) **Note** that the RAAC had recommended to the Board approval of the audit report.

6.5 Update on Accredited Employers Programme Redesign

9(2)(a) introduced the paper, noting the following:

- The paper presented issues with the Accredited Employers Programme (AEP), aligned to six key issues the Minister was concerned about.
- The problem was the significant decay in the durable return to work rate in the programme, while ACC's return to work rate had improved over this period (although ACC's was still not at the level achieved under the AEP).

Ms Powell and 9(2)(a) confirmed to the RAAC Chair that all the adverse internal assurance findings had been resolved. 9(2)(a) noted that there were still some challenges transitioning out of Transformation into continuous delivery. A follow up would be brought to the RAAC in November 2019.

9(2)(a) confirmed to the Board that Management and WorkSafe were working together to achieve the goal of moving employers towards continuous improvement. However, the data collected by AEP did not provide insight into individual performance and relied on an annual research evaluation. This limited the conversations with WorkSafe about the key issues for employers.

In response to a Board query, 9(2)(a) explained that there were two problems: decaying experience for workers in the AEP, and the data currently collected made it difficult to provide assurance about how the programme was performing.

The Board noted that AEP did not feature in company Board discussions the way WorkSafe does, and that Boards do not have visibility of AEP and of how employers can achieve a better levy outcome.

Ms Powell reported that Management was engaging with the Minister in the next few weeks to discuss at a high level the options provided to the Board.

ACTION: Management to follow up on the Economic Incentives Review internal assurance findings regarding AEP.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the Ministry of Business, Innovation and Employment (MBIE) completed a review of the Accredited Employers Programme (Programme) in 2018, and made six recommendations, which the Minister asked ACC to address jointly with MBIE.
- (b) **Note** that, although data held is insufficiently comprehensive, and its quality is inconsistent, we know that the Programme in its current state:
 - i. delivers declining return to work outcomes and low worker satisfaction, particularly when the claim is managed by a third party administrator (TPA), but it still delivers better return to work outcomes and lower compensation costs than for non-Programme claims
 - ii. does not adequately incentivise businesses to continuously improve performance, and
 - iii. has operational inefficiencies.
- (c) **Agree** to us continuing to explore (internally and with our external customers and other stakeholders) a high-level redesign of the Programme that will address Programme issues identified by us and recommendations made by MBIE.

- (d) **Note** that we will update you further in October and seek your decision on proposed high level redesign, costing and implementation options in November, and your final decision on redesign, costing and implementation by February 2020 (in advance of May 2020 consultation).

6.6 Enterprise Risk and Compliance Report

Mr Raubal introduced the Report, focusing on the following:

- Overall the risk exposure had reduced, driven by improved treatment plan activity. Several risks were rated higher than need be and would be re-rated to reasonable levels.
- Strategic risk remained high, primarily due to the HSS's part in benefits delivery.
- An emerging risk was how ACC responds to the Government's wellbeing agenda.
- Change risk was going surprisingly well. However, the main financial benefits were lagging.
- The risk refresh had been discussed at RAAC. The risks were too consolidated currently and were rated higher than necessary. Risk owners were having difficulty linking treatment plans to reducing the risk profile. Only high and extreme risks would be reported to the Board.

The Board asked Mr Raubal to consider the impact of the Zero Carbon Bill. Mr Raubal would include this in the next quarter's report and cover off the Investments side of the business too.

The Board queried the 'ordinary consequence' exposure. Mr Raubal noted it was covered in the Legal Report and explained that the range was highly dependent on two key assumptions: firstly, that there would be limited impact of the decision on prior claims, and secondly that claimant behaviour would not change significantly. Mr Raubal could not provide the potential broader range, as there was no way to predict a change in claimant behaviour. He would keep the two assumptions under close watch.

RESOLVED: The ACC Board resolved to:

Note the Enterprise Risk and Compliance Report.

6.7 PwC Master Service Extension and new PwC Statement of Work

Mr Pickering reported that he was comfortable that the expense was relative to the size of the contract, and he noted that the contract included a performance component. In response to a

Board query as to why only two of the renewal periods were being exercised now, Mr Pickering explained that this was to maintain commercial tension, and that with the work programme moving into continuous delivery, different skills may be required.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that in 2016 PricewaterhouseCoopers (PwC) was selected as ACC's transformation partner, to deliver key strategic and advisory services for the Integrated Change Investment Portfolio (ICIP).

Master Services Agreement

- (b) **Note** that ACC has a Master Services Agreement (MSA) with PwC that sets out the terms of PwC's services as transformation partner for the period from August 2016 to August 2019.
- (c) **Note** that ACC wishes to exercise two of the MSA's three available one-year 'renewal periods', to extend the MSA to 9 August 2021.
- (d) **Note** that there is a nil cost value impact for the MSA extension, the cost impact will fall under the new SoW for FY2019/20.
- (e) **Note** that under the Corporate Delegation Framework, Board approval is required for this MSA extension.
- (f) **Approve** the exercise of two of the MSA's three available one-year 'renewal periods', to extend the MSA to 9 August 2021.

Statement of Work

- (g) **Note** that the ACC projects assisted by PwC are defined in the SoW which covers Next Generation Case Management (NGCM), Client Payments (CP), Health Services Strategy (HSS), Engagement Platforms and Enablement Services.
- (h) **Note** that the execution of the SoW for FY2019/20 plus an estimation of PwC spend for FY2020/21 will enable PwC resources to be deployed up to a maximum Whole of Life Cost of \$94 million.
- (i) **Note** that under the Corporate Delegations Framework, Board approval of the SoW is required.
- (j) **Note** the SoW complies with both ACC Procurement Policy and the Government Rules of Sourcing.
- (k) **Note** that the MSA extension and new SoW have no impact on the OCL or levies.
- (l) **Approve** the execution of the SoW for FY2019/20.

- (m) **Delegate** signing of the Statement of Work and the MSA extension letter to the Chief Executive.

7 Performance Reports

7.1 Health, Safety and Wellbeing Report

The Board took the Health, Safety and Wellbeing Report as read, noting the good outcome on SafePlus.

RESOLVED: The ACC Board resolved to:

- (a) **Note** progress toward becoming a leader in health, safety and wellbeing.
- (b) **Note** there was one notifiable events in July 2019.
- (c) **Note** the health, safety and wellbeing performance indicators.

7.2 Legal Report and Policy Update

a) **Legal Report – LEGALLY PRIVILEGED**

The BIC Chair noted the high quality and usefulness of the Torchlight update and noted that it would be considered by the BIC. He referred to the *Feltex* case that had been discussed at the BIC meeting the previous day. The Board queried the appropriateness of being involved in *Feltex*.

The BIC Chair suggested that the BIC consider the level of delegated authority that triggers the decision to enter into investments litigation, along with questions around the costs and benefits of litigation, applying the model litigant policy, risk and return, and reputational issues. The Board suggested the BIC consider the trigger point at which the decision should be escalated to the Board or to the BIC. The Board queried whether the BIC was receiving the right level of legal input at the right point in any decision to become involved in, or to continue with, investments litigation.

RESOLVED: The ACC Board resolved to:

- (a) **Note** that the ACC projects assisted by PwC are defined in the SoW which covers Next Generation Case Management (NGCM), Client Payments (CP), Health Services Strategy (HSS), Engagement Platforms and Enablement Services.
- (b) **Note** ACC ran a very successful workshop for its external counsel in July 2019.

- (c) **Note** the *Stafford* judicial review proceeding has recently increased in complexity as the plaintiff has joined seven new Crown entity/State owned enterprise respondents who own land in the Nelson area and seeks interim orders prohibiting the disposal of that land pending the outcome of the proceeding.
- (d) **Note** in relation to current significant litigation in the Court of Appeal and High Court:
- i. the *Ng* test case on the meaning of 'ordinary consequence' of treatment is set down for hearing on 20 February 2020;
 - ii. the *Larkin/Hoare* case was heard in the High Court on 15 August 2019 and judgment was reserved;
 - iii. ACC has filed its application for leave to appeal in the *Calver* case.
- (e) **Note** the summary and debrief of the Torchlight litigation.

b) **Policy Update**

The Board sought an explanation of recommendation (h), as it appeared to have the Board approving funding from a Vote Labour Market appropriation. ^{9(2)(a)} and Ms Roche explained the funding that had been set aside in Votes Labour and Health for St John ambulance, and its being contingent on the outcome of an independent review of the service. Most of ACC's cost came through the Non-Earners' Account (NEA). Management was seeking approval from the Board to spend the NEA component. The recommendation would be amended to reflect this.

Dr Batten and Mr May indicated their availability to review for approval of the advice in Papers One and Two in recommendation (g).

RESOLVED: The ACC Board resolved to:

Funding and future direction of ambulance services

- (a) **Note** that ACC continues to work with the Ministry of Health and the National Ambulance Sector Office (NASO) on a suite of four Cabinet papers relating to air and road ambulance services:
- i. Paper One: a report back in September 2019 on the first stage of procurement for the emergency air ambulance service, and approval to begin design on the second procurement round;

- ii. Paper Two: a report on the outcome of the review of St John's financial position and service delivery, and approval for a release of stabilisation funding, due in September or October 2019;
- iii. Papers Three and Four: advice about options for the future direction of ambulance services, with initial advice due to Ministers by December 2019, and final advice co-ordinated with the Health and Disability System Review in 2020.

Paper One: Reconfiguration of the National Air Ambulance Service

- (b) **Note** that a number of technical issues for this paper are being finalised by NASO, and Management expects the paper will be ready for consideration shortly after the Board meeting.

Paper Two: Stabilisation funding for Road Ambulance Services

- (c) **Note** that the existing cost to ACC of the emergency road ambulance contract is \$378m, between 2017/18 and 2020/21.
- (d) **Note** that Cabinet previously agreed to reserve, in Budget 2019, \$21 million from Vote Health and Vote Labour Market for the stabilisation of road ambulance services over 2019/20 and 2020/21.
- (e) **Note** that ACC's contribution to road ambulance stabilisation funding, if approved, is expected to be up to \$8 million from Vote Labour Market appropriation and up to \$4.1 million from levied Accounts over 2019/20 and 2020/21, to be released in three payments, with the final quantum of any release of funding in the three tranches being subject to the findings of the report on the independent review of St John and subsequent work.
- (f) **Note** that providing the stabilisation funding would have a negligible impact on the outstanding claims liability and levies.

Delegated approval for Papers One and Two, including release of stabilisation funding

- (g) **Delegate authority** to the Board Chair and one or two other Board Members, as determined by the Board Chair, to approve the advice in Papers One and Two.
- (h) **Delegate authority** to the Board Chair and one or two other Board members, as determined by the Board Chair, to approve additional spend of up to \$8 million from the Non-Earners' Account (NEA), contingent on ACC receiving an appropriation of that amount for the NEA, and if so, up to \$4.1 million from levied Accounts over 2019/20 and 2020/21 for road ambulance services.
- (i) **Note** that the release of each tranche of stabilisation funding will coincide with the approval of Cabinet Papers Two, Three and Four.

Other updates

- (j) **Note** that Cabinet has approved technical policy changes to the Accident Compensation Act 2001, to be progressed through the omnibus Regulatory Systems Amendment Bill (No 3).
- (k) **Note** that ACC is working to develop further suitable topics for consideration in the next omnibus Regulatory Systems Amendment Bill (No 4).
- (l) **Note** that MBIE will seek Cabinet approval to undertake a public consultation process in late 2019 on options to increase review costs paid under the Accident Compensation (Review Costs and Appeals) Regulations 2002.

8 Board Administration

8.1 Minutes of Meeting held on 25 July 2019

APPROVED: the ACC Board approved the minutes of the meeting held on 25 July 2019, subject to the following changes:

- Amend the third bullet point in 2.1: “Ms Champness would consult Mr May and Mr Brabazon to would look at the recommendations for the team for the current year.”
- Amend 6.6 recommendation (e) to add that no fair value certificate is required under ACC legislation.

8.2 Schedule of Matters Arising

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

8.3 Confirmation of Decisions Made Out of Cycle

RESOLVED: the ACC Board resolved to:

Confirm the one decision made out of cycle for the period of 18 July 2019 to 21 August 2019 as recorded in the attached Board decision Register.

8.4 Annual Work Programme

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

9 General Business

There was no General Business.

10 Confirmation of Next Meeting

To be held at the Dunedin Public Art Gallery, 31 The Octagon, Dunedin on Thursday, 26 September 2019 at 8.30 am.

Closure

The meeting closed at 4.50 pm.

Approved

Chair Date