

**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, 21 March 2019 at 9.00 am.**

**Present**

Dame Paula Rebstock	Chair
Ms Anita Mazzoleni	Member
Mr James Miller	Member
Ms Kristy McDonald QC	Member
Mr David May	Member
Ms Leona Murphy	Member
Dr Tracey Batten	Member
Mr John Brabazon	Member

**In attendance**

Mr Scott Pickering	Chief Executive
Mr Mike Tully	Chief Operating Officer
Mr Peter Fletcher	Chief Technology & Transformation Officer
Ms Deborah Roche	Chief Governance Officer
Mr Herwig Raubal**	Chief Actuarial and Risk Officer
Mr John Healy	Chief Financial Officer
Ms Emma Powell	Chief Customer Officer
Ms Sharon Champness	Chief Talent Officer
Ms Gabrielle O'Connor**	Head of Client Service Delivery
9(2)(a)	Head of Digital Channels
9(2)(a)	Project Manager
9(2)(a)	Manager Corporate Secretariat
9(2)(a)	General Counsel and Company Secretary
9(2)(a)	Senior Associate Company Secretary

\*\* Attended via videoconference

## 1 Procedural Business

### 1.1 Apologies

No apologies were 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 during the Board only session on the key matters from the Investment Committee meeting held on 20 March 2019.

## 3 Board Only Sessions

### 3.1 Chief Executive's Report

Mr Pickering discussed the following topics with the Board:

- Update on ACC response to Christchurch shootings.
- NGCM Consultation update.
- EOS 8.8 progress.
- Property update.

At 1.35 pm the Board returned to a Board only session to discuss matters related to the shootings in Christchurch on 15 March 2019.

The Board resolved, if ACC were asked whether it was prepared to contribute to the financing of the gun buyback that had been announced by the Government, to **delegate** to the Board Chair the authority to agree an amount between \$15 million and \$20 million per annum for up to four

consecutive years, and that the Board Chair would exercise that delegated authority in consultation with Mr Miller and Ms McDonald ONZM QC.

At 4.15 pm the Board returned to a Board only session for a further update on matters related to the shootings in Christchurch on 15 March 2019.

### **3.2 Strategic risk discussion: Reliable, Safe and Secure Information Technology**

Mr Raubal introduced the paper. The Board congratulated Mr Fletcher on the successful rollout of Eos 8.8.

Mr Fletcher outlined the key risk areas for technology (which had previously been presented to the Risk Assurance and Audit Committee (RAAC)), focusing on:

- The use of data and information, and cyber security. There was a detailed plan for improving ACC's use of data maturity, which was underpinned by key initiatives including Analytics and the data management platform. The treatments under information management formed part of the management plan. Cyber security was being actively managed with a wide range of activities.
- Delivering change. Stability risk would be largely determined by ACC's ability to execute change successfully. The two main things impacting stability were obsolescence and changes to the estate. This year, with the level of change, the way we execute will be extremely important. There was a series of actions underway to move ACC to a more iterative model of change.

In response to questions and comments from the Board—

- Mr Fletcher explained that an unlimited amount of money could be spent on cyber security, so it was important to think about the aspects of the business that should receive the most focus. Management had run Game of Threats with Tier 3 leaders and had worked with the business units to determine where the cyber security focus should be. There were no areas, particularly, where a conscious decision had been made to not invest in cyber security. Mr Fletcher added that the Integrated Change Investment Portfolio (ICIP) had been helpful; as new platforms and processes were put in place, ACC took a view on the level of security needed and build it in.
- Mr Fletcher explained that decommissioning should have been added to the risk discussion. Management was conscious of it and it was front of mind for Analytics.

- Mr Raubal explained that the risks should be rated High now (the recommendation in the Board paper erroneously stated that they were Medium), but the plan was to reduce the risks to Medium.

**ACTION:** Management to update the Gartner IT Score on information management maturity and cyber security environments for the Risk Assurance and Audit Committee (RAAC).

**RESOLVED:** The ACC Board resolved to:

- (a) **Review** the strategic intention to “support ACC with reliable, safe and secure information technology” using the Five Lines of Assurance approach.
- (b) **Note** that the overall (residual) risk profile for this strategic intention is assessed as “High” with treatment plans and assurance activities in place to retain the rating at “High” by ensuring that this risk does not increase in a challenging internal and external environment.

## 4 Operational Reporting

### 4.1 ICIP Reporting

Mr Fletcher summarised the report, focusing on the following points:

- Very good progress had been made over the month, with the highlight being the successful delivery of the Eos 8.8 upgrade. This was significant, because Eos 8.8 was a prerequisite for Client Payments (CP), and Next Generation Case Management (Next Gen), and there was now a lower risk of these programmes being held up.
- Good progress had been made in the past month with Next Gen. This was reflected in its status changing from red to amber.
- While good progress was being made in Analytics, a change made by the supplier to a component that was to be used to load core data into the data lake had impacted progress. Nevertheless, Management was still planning to have the platform complete by June 2019.
- CP1 continued to track well. The amber rating reflected some concerns in late February, most of which had been resolved. The project was nearing the point where Management would be asking for Board support and approvals. Mr Fletcher requested a sub-group of the Board, to meet fortnightly (approximately three meetings) so Members could gain a fuller understanding

of the project. The Board Chair, Mr Brabazon, Ms Murphy, Mr Miller, and Ms Mazzoleni would form the sub-group for CP1.

Mr Fletcher updated the Board on the support that ACC's technology team was providing to the Investments team. A roadmap of work was underway and the technical support people had been engaged.

In response to a question from the Board, Mr Fletcher explained that ICIP would address only ACC's core systems. Some smaller systems outside the core would need updating over time. Management had a focus on decommissioning, so that nothing key was left behind.

The Board thanked Mr Fletcher and his team for their hard work and for the good, clear report. The Board asked for more benefit reporting to be included.

**RESOLVED:** The ACC Board resolved to:

**Note** the ICIP Report.

## **4.2 Performance Report**

The Board sincerely acknowledged the work of ACC's front line staff, and all ACC's staff, in supporting people in Christchurch, following the shootings. The Board was extremely proud of the work, and asked for its acknowledgement and thanks to be passed through to ACC staff. If anything was needed from the Board, it should be escalated without hesitation.

### (a) Claims Costs

Mr Healy reported on the fixes needed for the impacts on reporting of motor vehicle accidents and Injury Prevention (IP) under the automated Claims Front End Establishment system. This was likely to be fixed over the next four to six weeks. The impact was not material due to the low volume of motor vehicle claims. Currently, an estimated 1.4% increase was being built into the reporting. The fixes would refine the system to pick up more of the claims automatically.

### (b) Operational and Financial Performance Report

Mr Healy introduced the report. He advised that Management had started an RFP process for a potential external provider to review ACC's rehabilitation performance. Mr Pickering added that he anticipated having a response by early-April with work starting in May 2019.

Mr Healy explained that the Performance Report now included information on forward-looking indicative levies and the trajectory of solvency levels in each Account. This showed a drop in solvency across all Accounts and the potential for more significant levy increases in the next levy round. The Board asked that the Minister be provided with a forward-looking update on solvency.

Mr Healy provided the Board with a handout that included further information on solvency. He explained that the first page of the handout showed the falling solvency, with the Non-Earners' Account (NEA) already below target and projected to worsen, and the Earners' Account and Motor Vehicle Account projected to fall below the 105% target. The Board discussed whether the target solvency rate was 105% or the range of 100% – 110%. Mr Raubal explained that 105% was used for the levy calculations. The Board expressed the view that the funding policy was meant to drive the calculation method, not the other way around. The target needed to be confirmed.

In response to Board questions and comments, Mr Healy explained that—

- the budget numbers were shared with Treasury, but the indicative levy numbers were not.
- ACC would henceforth include indicative levies information in the Quarterly Report to the Minister, and would try to highlight the solvency numbers and potential future levy increases.
- the available levers for the solvency problem were to either increase levies or to review access to the Scheme. However, increased investment in IP might help to change the solvency trajectory.

Mr Healy reported that review numbers, health and safety, and privacy performance continued to trend positively. The Net Trust Score would likely be updated for April, as the survey would be run in March 2019.

The Board discussed the proposed performance and budget metrics. Mr Healy explained that, according to projections, economic growth would tail off. The Board suggested that Management build in a standard margin of error for the performance projections, and that the separate Accounts' projections (which Mr Healy had explained sit behind the budget projections) be shown in the budget, to give ACC's stakeholders visibility of the solvency risks.

In response to a Board query, Mr Raubal suggested that demographic change to case mix was not as a big a risk as was generally thought.

**RESOLVED:** The ACC Board resolved to:

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

## 5 Presentations

### 5.1 Accelerating Digital in ACC

Mr Tully introduced 9(2)(a) and 9(2)(a) the Board and explained that digital was not about technology, it was about transforming the delivery of services. The presentation would provide a view of the work the Digital and Channels Team was doing, what had been achieved, and what would be coming in the future.

9(2)(a) presentation focused on the following:

- Digital was a key enabler of ICIP. Work would not have advanced as far as it had today without Juno and other technology investments coming online. Sixty-five percent of businesses now interacted with ACC digitally through MyACC for Business.
- Digital would enable ACC to handle volume growth better and help accelerate ICIP benefits. Next Gen's Launch Pad had over 7,000 registered users for MyACC for Client.
- The biggest opportunity for digital was service transformation, which could be categorised in three ways:
  - Assisted was where staff served customers directly. Assisted services added the most value to vulnerable customers or more complex interactions.
  - Self-service, which was the most commonly held view of what digital was, although often behind the scenes it was transacted by people. It involved products like apps, chatbots, and web pages that enabled customers to serve themselves.
  - Application Programming Interface (API), which was a software intermediary that allowed two applications to talk to each other, and connecting behind the scenes.

- ACC had started to evolve into self-service, with manual tasks evolving into digital, and some use of APIs. Over the past twelve months, the percentage of claims submitted digitally had increased from 13% to 50% with providers. Once MyACC tasks were able to be automated, there would be an opportunity to redeploy resources at administrative hubs.
- The Digital and Channels Team was also working with collections and recoveries. Management was looking at how it could automate a proactive communications platform to encourage people, who owed ACC money, to pay earlier. This would reduce ACC's collection costs, which were currently outsourced.

In response to queries from the Board, 9(2)(a) explained that, in relation to APIs for providers, ACC was mostly working with the larger PHOs. The challenge would be to work with the smaller providers. She was mindful of the potential for reputational issues. ACC's target was to have 100% of business transactions move to digital within five years. Mr Pickering explained that ACC would work with the smaller providers to help them move to digital transacting. 9(2)(a) explained the benefits to GPs through introducing an API; the time spent filling out ACC forms would be significantly reduced, allowing providers to spend more time with patients. This could help with ACC's Net Trust Score among not just providers but also the 92% of ACC clients who only deal with ACC through providers.

9(2)(a) explained that ACC was working with the Office of the Privacy Commissioner to obtain a TrustMark on MyACC for Client. The Office of the Privacy Commissioner was positive about the levels of privacy for MyACC for Client. Moreover, the claims processed through MyACC were more efficient. For example, ACC needed to follow up on only one in 30 applications for weekly compensation (WC) in MyACC, while three in ten manual applications needed follow-up.

In response to a Board query, 9(2)(a) explained that providers, not clients themselves, fill out the ACC45 form online. Ultimately, the client would make the claim. This would take a large cost out of the provider's business.

9(2)(a) explained how digital could work with the Health Sector Strategy (HSS). In response to a query from the Board regarding how the HSS was empowering clients to manage their own health, 9(2)(a) explained that smart supports, which would help predict what a client might need based on their injury and where they were in their recovery, were being added to MyACC for Client. This would empower customers to further manage their own claims. The Board asked that ACC be as ambitious with the HSS as it was in the rest of ICIP. 9(2)(a) explained that the



Digital and Channels Team was working closely with Provider Service Delivery (PSD) to ensure PSD had the tools and support it needed.

In response to a query from the Board regarding what was limiting the pace and scale of the team's activities, 9(2)(a) explained that digital was advancing at exactly the right pace and keeping in step with the significant ICIP investments. The worst thing would be to fall out of step with the ICIP changes.

9(2)(a) then provided an example of what the future might look like, by using Amazon's Alexa to register an injury, book an appointment with his preferred provider, order a taxi, and alert his emergency contact of the issue. The prototype had been built by 9(2)(a) team. The Board expressed great interest in the technology.

The Board thanked 9(2)(a) and 9(2)(a) for the excellent presentation and requested that 9(2)(a) elevate any roadblocks to the Board, as ACC needed to continue innovating with digital.

**RESOLVED:** The ACC Board resolved to:

**Note** the ACC Digital Update.

## 6 Board Papers

### 6.1 Client Payments Funding Request

Mr Tully briefed the Board on the Client Payments Phase 2 (CP2) funding request, focusing on the following:

- This was the second of three business cases to transform the CP system through:
  - Moving to more efficient and effective payments processes using Eos.
  - Enabling a better client experience through integration with MyACC.
  - Allowing flexibility for future legislative change through a more modern and flexible system.
  - Reducing risk and increasing operational resilience by replacing the out-of-date and increasingly difficult to support Pathway system.
- CP2 would build on the CP1 project which would go live in early May 2019. The overall estimate for all CP work was \$85 million, which remained within the Board-agreed range of

\$80 million – \$130 million. This request was for \$36.2 million of funding to deliver CP2 by June 2020. CP2 would cover:

- The remaining (pre-2010 legislation) WC payments.
- Replacement and upgraded processing for accidental death entitlements, lump sum payments, and independence allowance payments.
- The remaining client payments, including some payments from Medical Fees Processing.
- Management was also requesting the Board to approve \$12 million of Board-controlled contingency, noting that no contingency drawdown had been required for CP1. The project plan would allow ACC to meet or come close to the requirement from Internal Revenue (IR) that ACC exit the Pathway PAYE process by 31 March 2020. It would also generate capability for up to a 42 FTE saving over the next three years, in addition to the 12 FTE saving from CP1, subject to a small legislative change that was required to allow ACC to use IR Payday Filing.
- A further funding request was anticipated toward the end of 2019, for CP Phase 3, relating to decommissioning the Pathway system and closing the project.

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

- Eos had standard payments functionality but it did not have the functionality to calculate WC.
- two-thirds of the cost estimate was to move away from Pathway. Management was confident about that amount, based on CP1.
- ACC had six subject-matter experts, half of whom were based in Dunedin and the rest in Hamilton, but that they travelled to other ACC sites.
- he had confidence that the current system had been adequately examined and specified and was ready for the Eos solution.

In response to Board queries about the contingency being sought, <sup>9(2)(a)</sup> explained that it reflected Management's confidence in the level of funding required for CP2. Asking approval of the contingency was in line with previous funding requests to the Board. Mr Tully added that the money would be held in reserve and only be accessed with Board approval. Mr Pickering explained that the contingency recommendation demonstrated only that there *could* be a need for it, and that Management wanted to signal this well in advance. The Board decided that it would not approve contingency for a specific project, because it then becomes seen as part of the budget.

In response to a query from the Board regarding the need for legislative change in order to access the benefits, Mr Squire explained that the current legislation was very prescriptive. Mr Tully

explained that the Minister agreed with the proposed change and that it should be enacted by next year.

**RESOLVED:** The ACC Board resolved to:

- (a) **Note** the significant progress made against the April 2018 CP1 Business Case and completion of the Initiation Phase for CP2.
- (b) **Approve** the funding and drawdown of \$36.2 million, excluding contingency, to proceed with the CP2 of the project.
- (c) **Note** the total cost of the Client Payments project is estimated at \$85.6 million, excluding contingency. This will be reforecast to include any updated CP3 costs and contingency required in the final business case.
- (d) **Note** that CP2 will deliver the remaining Eos-based calculation and payments functionality for all client entitlements not already covered by CP1 in three releases, beginning in late 2019.
- (e) **Note** that CP2 will deliver additional client payments functionality currently managed in systems, other than Pathway (specifically the Medical Fees Processing system) across three releases, predominantly in CP2 Release C.
- (f) **Note** that the project financial benefits of \$45.1 million over the 10 years through to FY2029/2030 remain as per the original business case, subject to a legislation change allowing use of Real Time Earnings information from Inland Revenue.
- (g) **Note** that Client Payments is a key part of delivering the wider ICIP change that has a committed weekly compensation reduction component of 5.5 days by 2023/24.
- (h) **Note** that the attribution of the overall benefit is difficult to assign to any single project, but that Management is committed to delivering the overall target.
- (i) **Note** that Management will continue to update the outlook of the weekly compensation days paid as Client Payments progresses.
- (j) **Note** that the ongoing business as usual costs have been estimated to reduce by \$2.7 million over the 10 years through to FY2029/30.

- (k) **Note** the case for change includes:
  - i. Reducing system risk and increasing operational resilience
  - ii. Future proofing the payments system for legislative change
  - iii. Further enabling business transformation
- (l) **Note** that because of the phased approach, Eos (for new compensation payments) and Pathway (for other entitlements), will coexist until the completion of CP2 data migration. Management continues to accept the risks associated with this coexistence, with actions in place to mitigate both likelihood and impact.
- (m) **Note** that the Net Present Value remains negative, however, the project is part of the wider, NPV-positive ICIP, and the Client Payments investment and funding request has been factored into the ICIP costs and benefits.
- (n) **Note** that the ICIP approval from Cabinet covers the scope and value of this proposal. Further specific Cabinet approval is not required.
- (o) **Note** the full CP2 business case is available on request.
- (p) **Note** a final business case, that includes an update on estimated costs and timelines for CP3, will be presented to the Board in late 2019.

## 6.2 A New Approach for Injury Prevention

The Board held this paper over to a later meeting.

## 6.3 Treatment Injury Publication

The Board had considered the paper in the Board only session, and had agreed that no media release should be made. However, the Board would have a discussion about the Treatment Injury publication at a future meeting.

**RESOLVED:** The ACC Board resolved to:

- (a) **Note** the publication of the third edition of *Treatment Injury Information: Supporting Treatment Safety* in April 2019.

- (b) **Note** the publication will be released on the ACC website.

## 6.4 Finance Papers

- (a) Service Agreement

Mr Healy explained that some of the targets for the Service Agreement would likely be lowered from previous targets. One of the key measures was the improvement in WC days paid for 2019/20. There was discussion as to whether the proposed change could wait until after the April ICIP workshop. Mr Healy explained that the budget assumed a certain profile in the realisation of ICIP benefits, which had now been pushed back. The proposed change would be to get back to the target of a 5.5-day improvement by 2023/24, but push back the improvements until after the 2019/20 financial year. The Board agreed, noting that ACC needed to be realistic when it put the budget to government.

Mr Healy explained the proposal to move the public trust and confidence survey to an online survey instead of a phone survey. The Board expressed hesitation about accepting this change—changing measures would have a negative effect and it would be difficult to explain the difference in numbers. The Board discussed the proposed question for the measure and suggested that the questions be correlated to drivers: if ACC was surveying employers, questions should be related to the drivers of employer levies, if surveying customers they should be about perceptions of the service; etc. Mr Healy explained that the plan was to bring the Service Agreement to the Board for approval in April and that Management was attempting to find a measure additional to the Net Trust Score to help satisfy the Office of the Auditor-General.

The Board discussed the volume measure for IP included in the performance report. Mr Healy pointed out that the full year target was for IP programmes to result in 11,000 claims avoided, and 3,900 had been achieved at YTD. In the Board's view, that seemed a very small number. The Board queried there being no IP benefits measured for some of the violence prevention measures, and noted that that impacted the other IP numbers.

The Board suggested that Management use the Service Agreement to highlight how levy setting translated to longer-term solvency targets, to inform key stakeholders about the effects of ACC's proposed levies not being recommended.

**RESOLVED:** The ACC Board resolved to:

- (a) **Review** the first draft of the SA19/20 and provide feedback as appropriate.

(b) **Approve** the release of SA19/20 to Treasury, MBIE and EY for their review prior to submission to the Minister for ACC.

(b) Budget

Mr Healy referred the Board to the handout he had provided earlier in the meeting, focusing on the following:

- The first page showed the solvency trends for the budget. The calculation of levies used 105% for the levied Accounts and 88% for the NEA. By the end of the four-year period the levied Accounts were tracking below the target range.
- The second page related solely to the NEA which was already well below 88%. By the end of this year it would be at 68.5%. He noted that it assumed the current appropriation request would not be accepted, which seemed very likely.
- The third page showed investment income and how the forecasts for investment returns have fallen over time since 2009, with the 2019/20 budget forecast at about 4%.
- The fourth page showed the figures by Account.
- The fifth page showed claims volumes. This was a key input into the budget. The trajectory of growth had dipped significantly in 2008-2010 due to the GFC. Most of the bounce-back was likely economically driven. Mr Healy was assuming 3% growth for overall claims and 5% for WC claims. Mr Healy had spoken with <sup>9(2)(a)</sup> [REDACTED] in the Investments team on his views on economic assumptions, particularly around nominal GDP. <sup>9(2)(a)</sup> [REDACTED] had indicated that he viewed the Treasury forecasts as optimistic in terms of growth.

The Board suggested that the real number that seemed to drive claims volume growth was the employment rate. Mr Healy confirmed that 2/3 of the new claims were in the Earners' Account.

The Board discussed the data in the handout. In response to Board questions and comments Mr Healy explained that—

- the Treasury assumption was optimistic at 5.5% nominal GDP, and the employment rate was coming down, and in his view, 5% for WC volume growth was reasonably prudent. However, Mr Healy would consider the Board's suggestion that he put it at 6% for next year and then taper it down. He would also look at the economic data around the growth spikes in new claims and in WC claims in the past, to help inform forecast growth.

- the projection for claims costs was 7.4%. Mr Healy's assumptions included an amount for health services pay negotiations, based on the Nurses' MECA settlement.
- Mr Healy had discussed relevant consensus forecasts with 9(2)(a) whose view was that the Treasury forecast was optimistic.
- the budget assumed that the levies recently recommended would not go through, but that levy increases in the future would be back in line with the funding policy.
- Mr Healy set the budgets on the basis of a reasonable central estimate, but with conservatism implied into the claims volume forecasting.
- as the seventh page of the handout showed, looking at the pre- and post-ICIP benefits, costs would be higher if not for ICIP. IT operating cost was increasing year on year on the back of new systems, and that level would run higher than it had historically. But ACC had under-invested in systems and was now trying to invest in more digital and have better control and security. That impacted IT operating cost.

Mr Pickering accepted the Board's point that the operating costs increase of 8% was high. He explained that Management had challenged the operating costs bottom up. ACC was in a transitional year and had not realised as much in FTE benefits as had been hoped, due to more people being retained for the transition into the new model. Some project costs were higher than had been hoped. Mr Healy would prepare a waterfall graph to show where the costs were.

After further discussion, the Board suggested that there were macro changes occurring, with \$1 billion going onto OBEGAL and investment returns down. It was important to articulate this clearly so that it would not come as a shock to the government.

In response to further Board queries, Mr Healy explained that—

- ACC's Investments team had taken consensus forecasts into account, but the projected return reflected the Investment team's view that rates would not rise significantly.
- the eighth page of the handout showed the difference between what ACC was being charged by Health and what DHBs were being charged. That was another area coming through as a significant increase.
- restructuring expenses were not shown in ACC's budgets, and historically those expenses have been accepted as a budget variance.

- the table under paragraph 3.12 of the budget Board paper showed the ICIP overall project total of \$60 million for CAPEX and \$100 million for OPEX, but the split was never precise, as it depended on what could be capitalised and depreciated. However, the overall spend was shown as \$160 million.

The Board suggested that the WC figure be adjusted upward in the budget, and that there should be more for IP in order to reduce the flow into new claims and WC.

**RESOLVED:** The ACC Board resolved to:

- Approve** the Budget and Forecast for the financial years 2019/20 to 2022/23; subject to any amendments arising from the Board's review and final Government decisions on Non-Earners' Account appropriation proposals., subject to the changes discussed.
- Delegate** to the Chair and the RAAC Chair the final approval of the Budget and Forecast for the financial years 2019/20 to 2022/23 for incorporation in the Crown's Budget Economic and Fiscal Update (BEFU) (after adjustment for any financial impacts arising from the Board's review, Cabinet decisions on funding) and inclusion in the Service Agreement for submission to the Minister for ACC.

## 6.5 Solnet Solutions Limited New Master Service Agreement

The Board had considered the paper in the Board only session and had passed the resolutions:

**RESOLVED:** The ACC Board resolved to:

- Note** the earlier MSA ended in October 2018.
- Note** Legal Services has reviewed the new MSA.
- Note** the original MSA predated the Government Rules of Sourcing and the extension is exempt from the Government Rules of Sourcing under the exemption that provides that a change of supplier cannot be made for technical reasons and would cause substantial duplication of costs for ACC.
- Note** approval to enter the new MSA is required because the whole of life cost (up to \$54m) exceed the Chief Executive's delegations.



- (e) **Approve** the execution of the new MSA for the value of \$10.5 million for the duration of the new agreement (October 2018 – September 2023, if both rights of extension are exercised).

## 7 Performance Reports

### 7.1 Health, Safety and Wellbeing Report

The Board had considered the Report in the Board only session.

**RESOLVED:** The ACC Board resolved to:

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

### 7.2 Legal Report and Policy Update

- (a) Legal Report

The General Counsel summarised the Report, focusing on:

- The *Stafford* litigation: the Court of Appeal hearing was still on track for 17 April, and leave to intervene had been confirmed by the Attorney-General.
- The test case on 'ordinary consequence': ACC would be filing the case stated in the next week and was tracking the claims now accepted that would not have been accepted prior to the High Court decision. The number of those was still low, although some were serious. It was anticipated that by June 2019 Management should be able to provide the Board with an assessment of the financial impact of the additional accepted claims.

- 9(2)(h) [REDACTED]

- 9(2)(h) [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

The General Counsel briefed the Board on two matters not mentioned in the Report: the Human Rights Review Tribunal proceedings that had been commenced in 2018 had a filing date for late-March, for which ACC had to file a reply to the claims. In response to a Board query, the General Counsel explained that it was not yet known when the hearing would be—the Tribunal was very under-resourced.

The second new matter was a Coronial matter. Emotive words had been used about ACC’s management of a deceased person’s claim. However, a third-party administrator on behalf of an accredited employer had been managing it, not ACC. There was unlikely to be publicity, as the matter was a suicide.

**ACTION:** Management to report to the Board on the total costs of the *Stafford* case when it was over.

**RESOLVED:** The ACC Board resolved to:

- (a) **Note** the High Court has granted ACC leave to appeal to the Court of Appeal against the High Court decision on the meaning of 'ordinary consequence' in the Treatment Injury Test Case.
- (b) **Note** an internal ACC Working Group is monitoring and analysing treatment injury claims for cover to assess the impact of the new High Court guidance on the meaning of 'ordinary consequence' of treatment.
- (c) **Note** that—
  - i. the Human Rights Review Tribunal declared the Social Security Act requirement for an income-tested benefit to be abated at 100% of weekly compensation unlawfully discriminates against the benefit recipient on the grounds of employment status; and
  - ii. ACC is working through the potential operational and policy implications of that decision.
- (d) **Note** a number of District Court Appeals due to be heard in the week beginning 25 February 2019 will likely attract media attention.

(b) Policy Update

The Board had considered the Report in the Board only session.

**RESOLVED:** The ACC Board resolved to:

- (a) **Note** the current areas of policy activity.
- (b) **Note** ACC has responded to the Board's request, at the February Board meeting, for additional information on the TimeOut product and the legislative test for injury prevention investment.
- (c) **Note** ACC will provide additional advice, developed with MBIE, on whether the TimeOut product could respond effectively to labour market conditions.
- (d) **Note** ACC will provide further detail in the April Board report about active areas of policy work within the scope of the Legislation Modernisation Programme.

- (e) **Note** ACC's continued involvement in work to support the Government response to the recommendations of the Government Inquiry into Mental Health and Addiction, and the State Sector Act review.

## 8 Board Administration

### 8.1 Minutes

- (a) Minutes of Meeting held on 28 February 2019

**APPROVED:** the ACC Board approved the minutes of the meeting held on 28 February 2019, subject to adding a reference to a suggestion Mr Brabazon had made, regarding bringing business onside and that ACC represents good value for money.

- (b) Minutes of Meeting held on 10 March 2019.

**APPROVED:** the ACC Board approved the minutes of the meeting held on 10 March 2019.

### 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:

**Note** that no decisions were made out-of-cycle for the period 21 February 2019 to 14 March 2019.

### 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 ACC Boardroom, Level 7, Justice Centre, 19 Aitken Street, Wellington on Wednesday 17 April 2019 at 9.00 am.

**Closure**

The meeting closed at 4.35 pm.

Approved

Chair .....

Date .....