

Minutes of a meeting of the Board of the Accident Compensation Corporation held via videoconference on Thursday, 19 December 2019 at 9.00 am.

Present

Dame Paula Rebstock	Chair
Ms Anita Mazzoleni	Member
Mr James Miller	Temporary Deputy Chair
Mr David May	Member
Ms Kristy McDonald QC	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	Item 3.1
Mr Paul Dyer	Chief Investment Officer	Item 2.2
9(2)(a)	Executive Advisor	Item 2.2
9(2)(a)	Head of Workplace Safety & Levies	Item 4.1
9(2)(a)	Senior Policy Advisor	Item 4.1
9(2)(a)	Head of Health, Safety and Wellbeing	Item 5.1
Ms Ainsley Simmonds	Acting General Counsel and Company Secretary	
9(2)(a)	Manager Corporate Secretariat	
9(2)(a)	Senior Associate Company Secretary	

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 Board Only Session

2.1 Chief Executive's Report

Items raised by Mr Pickering were:

- Whakaari/White Island – debrief and update.
- Surgical mesh issue update.
- Location update – Hamilton, Dunedin and Albany.
- Gateway review update.
- Investment Office update.
- ACC – Zero Carbon Act discussion.

RESOLVED: The ACC Board resolved to:

Note the Chief Executive's Report.

2.2 ACC – Zero Carbon Act Discussion

The Board discussed a draft discussion paper that had been provided by Management that morning on the Zero Carbon Act. Mr Dyer briefed the Board on the content of the paper, including possible broad options that could be adopted by ACC to reduce the carbon footprint of its portfolio over time. Board discussion focused on the following:

- The Board was aiming for full compliance with the Government's expectations as expressed in legislation and in documents such as the annual Letters of Expectations, and also with ACC's Ethical Investments Policy. Regarding option 4, the second bullet point (i.e., to exclude from the portfolio businesses which spend >30% of their revenues on thermal coal with no clear path to reduction), Mr Dyer confirmed to the Board that it was not yet known to which investee companies this would apply and that it was only those in respect of the first bullet point (i.e., to exclude those which generate >30% of their revenues from thermal coal) that were known. He also confirmed that ACC could exclude those in the first bullet point without excluding those in the second. The Board agreed that options 1 to 4 (first bullet point) should be executed quickly, while for options 4 (second bullet point), 5, and 6 further consideration was needed.
- Whether ACC should develop its own carbon policy, to become a leader in this area, and obtain senior leadership expertise in the area.
- How quickly ACC's \$52 million of coal stocks should be exited, and whether it was possible to reward carbon users for good practices that reduce their carbon use.
- The importance of setting a baseline measure and of improving ACC's ESG reporting.

ACTIONS: In relation to the Zero Carbon Act, Management to—

- Provide the Board with a workplan, allocating the tasks to appropriate areas of the business.
- Provide an overarching Framework for all of ACC (including the investment function), and a principles-based Policy.
- Provide an analysis of the option 4 second bullet point exclusions.
- Provide, via the Board Investment Committee, advice on the further steps ACC will need to take as a significant investor.

RESOLVED: The ACC Board resolved to:

- (a) **Agree** to implement by mid-February 2020 options 2, 3, and the first bullet point of 4, as set out in the draft paper, being:
- Aligning with other groups focused on climate change;
 - Portfolio monitoring of greenhouse gas emissions;

- An exclusion policy that excludes from the portfolio businesses that generate greater than 30% of their revenues from thermal coal.
- (b) **Direct** Management to provide analysis to the Board on the exclusions that would result from implementing the second bullet point of option 4 (i.e. excluding from the portfolio businesses that spend more than 30% of their revenues on thermal coal with no clear path to reduction).
- (c) **Note** that Management advised the Board that, having undertaken preliminary analysis, implementing the exclusion policy referred to in Resolution (a)—
 - could be achieved quite quickly; and
 - would result in a modest negative impact on the portfolio, through removing the 17 identified companies, in which ACC had c.\$52 million invested.
- (d) **Direct** Management to provide advice to the Board, via the Board Investment Committee, on the further steps ACC will need to take as a significant investor.
- (e) **Direct** the Chief Executive to provide to the Board an overarching Policy and a Framework for all of ACC that also covers the Investment function.

3 Operational Reporting

3.1 (a) ICIP Reporting

Mr Fletcher highlighted the successful imbedding of Next Generation Case Management (NGCM) and Client Payments 2 deployments. Ms O'Conner briefed the Board on key achievements with NGCM, focusing on the following:

- Ten percent of overall claims volume was now through NGCM, and 80% of short-term claims were going through the STCC recovery team in Dunedin.
- Low complexity claims were not yet seeing the full effect of the new ways of working, as many of the claims were migrated from the previous systems.
- Vocational rehab was achieving similar positive performance to that which had been achieved in LaunchPad.
- Migrated clients using the Heartbeat feedback tool had provided a lower overall satisfaction result than in LaunchPad. This was likely due to the migration over to Heartbeat of older

grievances. However, feedback cases were being closed out, on average, a whole day faster than in LaunchPad.

- Ninety-four percent of tasks were completed within Service Level Agreements.
- A high proportion of staff in the Tranche 1 rollout were new recruits. Their engagement and speed to competency were impressive. In the ENPS scores, the Tranche 1 results were above the rest of the country. Staff were very engaged, and this would impact the KPIs.

The Board discussed the update, noting that Management should be proud of the tremendous progress. The Board asked if there were any areas other than Vocational rehab where Management could expect to see improved cost performance under NGCM. Ms O'Connor would cover this in the March 2020 NGCM update to the Board.

In response to a Board query, Ms O'Conner commented that she was extremely pleased with the progress throughout the year, particularly with how the deployments had gone, and that the uptake from the frontline had exceeded expectations. The Board noted that it was now time to switch attention to ICIP benefits realisation.

In response to a Board query regarding the Health Sector Strategy (HSS) deadlines referred to in the report, Mr Tully explained that two of the six ECP contracts had been signed, with two more very close to signing, and that the first claims had already started coming through. A note would be provided to the Board before Christmas regarding the HTI POC issues.

Mr Fletcher reported that: benefits were still tracking amber overall; a Management team had been established to develop detailed benefits reporting to the Board; a continuous delivery quarterly planning session had taken place during the week with Treasury, GCDO and the Ministry of Health; and the draft ICIP Cabinet paper had been provided to the Minister.

In response to a Board query on the Business Continuity Plan issue for Investments technology, Mr Fletcher reported that his team had created virtual machines to enable members of the Investments Team to work remotely.

ACTION: Management to include further opportunities for improved cost performance in the March 2020 NGCM progress report.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the ICIP November 2019 Monthly Update.

(b) **Note** the Investments Technology Issues Report.

3.1 (b) Operational and Financial Performance including Claims Costs

Mr Healy reported that the softening of the claims growth trend was continuing, but had been offset by wage inflation, and in terms of rehab performance more claimants were remaining on the Scheme, impacting costs. This had slightly improved for November, but was still above the year-end target. There had been a marked increase in fatalities claims and this impacted the Serious Injury rate. Ms Powell explained that the claim patterns raised queries about potential mis-claiming. Management was investigating this.

The Board's discussion focused on the following:

- Whether Mr Healy had modelled short-term claims rehab scenarios for results that could be sustained and that would both impact the annual result and enable ACC to understand what good looks like—Mr Healy would work on the modelling.
- Whether the budget was accurate and reasonable—Mr Healy confirmed that it was good in some areas such as claims costs; return to work performance had been realistic and had been adjusted in the budget the previous year; and as NGCM continued to roll out, he would reassess the target for the following year. He noted that it would be challenging to gauge realistic targets until the NGCM rollout was complete.
- The impact of recent rises in interest rates—Mr Healy reported that, up to 18 December, bond yields had increased to the point where ACC now had a \$1.4 billion surplus. He was confident that it would still be positive at the half year end. Mr Healy also reported that the single effective discount rate had increased and was now higher than in June 2019. This would have a negative impact on investments, but that was much smaller than the positive impact on the OCL. In addition, Cabinet had approved the new Funding Policy. This gave more confidence that ACC would be on a better trajectory in the future.
- Reported increases in FTE across operations and corporate—Mr Healy would check this and report back to the Board.
- The reported high impact event in Eos on 4 November—Mr Fletcher responded that there were no residual concerns; the root cause of all events had been identified.

- The higher than expected average treatment cost per claim—Management was working with Provider Service Delivery on the elements of this.
- Whether the impact on the deficit in the income statement showed in the Aide Memoire to the Minister—Mr Healy had not included the impact on the balance sheet. The Board asked Management to consider whether it would be useful to provide this to the Minister.

ACTION: Management to model the short-term rehab rates results to see what could impact the annual result.

RESOLVED: The ACC Board resolved to:

- (a) **Note** the Claims Cost performance.
- (b) **Note** the Operational and Financial Performance.
- (c) **Note** the information provided in the Aide Memoire.

4 Board Papers

4.1 Revised Levy Setting Round Timetable and Proposed Consultation

The Board queried whether the timing of levy consultation was legally the Board's decision or the Minister's decision. Ms Powell explained the convention that ACC operates under, with public consultation having to be agreed by Cabinet.

The Board discussed with Management the scenario of a delay in forming a Government post-election. Ms Roche explained the process that operates through DPMC to ensure that statutory timeframes will be met post an election. Ms Powell confirmed that Management had briefed the Minister on the risks and constraints associated with the timing.

The Board asked Management to urgently provide a clear legal view as to who makes the final decision regarding the timing of the levy consultation—the Board or the Minister. The Board discussed the political implications of this. The Board asked that all the recommendations in the paper, except (c) in so far as it related to *content*, and the paper itself, be held over until the legal advice was received. The Board suggested that the paper may need to be withdrawn because of the way it was written. The Board delegated authority to the Board Chair, Mr Miller and Ms McDonald QC for final approval of the recommendations once the advice was received.

RESOLVED: The ACC Board resolved to:

- (a) **Agree** to include the following items in the consultation:
 - i. ER Phase 2, to strengthen consequences for unwanted performance, and ER Groupings; and
 - ii. E-mobility services.
- (b) **Note** that Management would urgently provide legal advice as to whether the Board or the Minister makes the final decision regarding timing of the levy consultation.
- (c) **Delegate authority** to the Board Chair, Mr Miller and Ms McDonald QC to approve recommendations for levy consultation following receipt of the legal advice.

5 Performance Reports

5.2 Health, Safety and Wellbeing Report

The Board took the Report as read. Ms Champness highlighted the Client Service Delivery Campaign. The Board thanked Ms Champness and Ms Vautier for the good year of work.

RESOLVED: The ACC Board resolved to:

- (a) **Note** progress toward becoming a leader in health, safety and wellbeing.
- (b) **Note** there were no notifiable events in November 2019.
- (c) **Note** the health, safety and wellbeing performance indicators.

5.3 Legal Report and Policy Update

(a) Legal Report – LEGALLY PRIVILEGED

The Acting General Counsel summarised the report. The Board discussed the disclosures reporting appended to the report, focusing on the following:

- In response to a Board query, Ms Simmonds confirmed that the reporting was solely for internal use.

- In respect of the feedback loop, and how a whistle-blower would know that the issue had been closed out, Ms Simmonds noted that closeout would depend on the particular issue and whether it had been processed through Talent or Integrity Services. The Board suggested that Ms Simmonds engage with the Chief Talent Officer about this.
- Whether a post-review process would be helpful following an investigation, as it could be gruelling for both the whistle-blower and the alleged wrong-doer.

RESOLVED: The ACC Board resolved to:

- (a) **Note** ACC has provided information on suing for personal injury to the Royal Commission into Abuse in State and Faith-based Care.
- (b) **Note** *Ng – treatment injury* the Court of Appeal has given a preliminary view that ACC's further evidence will be admitted.

Disclosures reporting

- (c) **Note** that the Disclosures Committee has oversight of and triages all reported instances of suspected wrongdoing and serious wrongdoing.
- (d) **Note** that work is underway to ensure a prevention-led approach is taken in raising awareness of the OK2Say reporting channel.
- (e) **Note** that the Disclosures Committee recently reviewed ACC's processes against the State Services Commissioner's "Speaking Up" model standards and have determined that ACC's policies and procedures are compliant.
- (f) **Agree** to receiving annual reports on disclosures and the application of the Protected Disclosures Policy and procedures once ratified by the Disclosures Committee.

- (b) **Policy Update**

Ms Roche introduced the Policy Update.

The Board queried whether it should be made explicit in the Public Service Bill that, in the case of conflict between a Crown agent's statutory framework and the Bill, the Crown agent's statutory framework prevails. The Board noted the statement in the report that Management was hopeful that ACC's view would be considered for future drafts of the Bill, and queried why ACC was not

intending to submit on this point. The Acting General Counsel explained the accepted legal position that specific obligations in a Crown agent's statutory framework would override the general points of the Bill.

The Board suggested that if the issue was important ACC should make a submission on this point, noting that it was preferable to avoid legal challenges due to the conflict of provisions issue not having been made explicit in the Bill.

The Board asked Management to clarify its view on whether to make a submission. The Board did not agree to recommendation (i) of the Policy Update.

RESOLVED: The ACC Board resolved to:

Legislative modernisation

- (a) **Note** that the Minister intends to progress a bid for the 2020 government legislation programme, and to seek associated policy decisions from Cabinet in February 2020.
- (b) **Note** that the Board has previously considered most topics intended for the Minister's legislation programme bid.
- (c) **Agree** to support the inclusion of two further topics in the Minister's legislation programme bid:
 - i. Aligning the timing of changes to the minimum full-time weekly compensation rate with when changes to the minimum wage come into effect.
 - ii. Amending legislation so that consequential conditions are covered as part of the original causative injury claim.

(d) 9(2)(f)(iv) [REDACTED]

Ministry of Health Budget 2020 proposals

- (e) **Note** that cost estimates are available for a Ministry of Health Budget 2020 proposal to reduce co-payment costs for clients.

- (f) **Note** that the most costly option to reduce co-payment costs for clients would increase the outstanding claims liability by \$28.4 million in 2021/22, rising to \$32 million in 2025/26.

ACC Funding Policy Review

- (g) **Note** that Management will provide a verbal update about Cabinet's consideration of the Cabinet paper proposing changes to ACC funding settings.

Public Service Legislation Bill

- (h) **Note** that ACC Legal has reviewed the Public Service Legislation Bill to assess any potential legal risk, in light of the changes made to the Bill before it was introduced.
- (i) **Note** that the Board will be updated of any changes that affect ACC as the Bill progresses through the select committee phase.

6 Board Administration

6.1 Minutes of Meeting held on 27 November 2019

APPROVED: The ACC Board approved the minutes of the meeting held on 27 November 2019, subject to adding a Matter Arising regarding the OCL action plan.

6.2 Schedule of Matters Arising

The Board discussed the Schedule of Matters Arising and asked that all Matters have due dates. In response to a Board query regarding the HTI POC and the 'regularisation' information, Corporate Secretariat noted that the due date for the HTI POC Matter was January 2020. The regularisation information would also be provided to the Board soon.

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

6.3 Confirmation of Decisions Made Out of Cycle

RESOLVED: the ACC Board resolved to:

Note that there were no decisions made out of cycle for the period of 22 November 2019 to 12 December 2019.

6.4 Annual Work Programme

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

7 General Business

The Chair of the HSS Advisory Committee reported that, regarding the independent member who had not attended the Committee’s meeting in November 2019, she had spoken with the member who confirmed she was committed to the role and would be attending the Committee meetings in future.

8 Confirmation of Next Meeting

To be held via video/audio conference on Wednesday, 29 January 2020 at 1.00 pm.

Closure

The meeting closed at 12.45 pm.

Approved

Chair

Date

