



22 November 2024

Ref: DOIA-REQ-0005781

P Robins

Email: fyi-request-28937-7a7d079c@requests.fyi.org.nz

Tēnā koe P Robins

Thank you for your email of 27 October 2024 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982 (the Act), the following information:

I request briefings:

2425-1012

2425-0749

BRIEFING-REQ-0002936

BRIEFING-REQ-0002687

Please find attached two of the requested briefings, with some information withheld under the following sections of the Act:

- | | |
|-------------|--|
| 9(2)(a) | to protect the privacy of natural persons, including that of deceased natural persons; |
| 9(2)(f)(iv) | to maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials; and |
| 9(2)(g)(i) | to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty. |

MBIE is withholding the remaining two briefings in full (including the titles) under section 9(2)(f)(iv) of the Act, both briefings concern ongoing decisions yet to be undertaken by the Minister and Cabinet. Details of the documents are provided in the table below.

#	Description/Title	Withholding grounds
	2425-1012 [<i>Title withheld</i>]	Withheld in full, including title, under 9(2)(f)(iv)
1	2425-0749 Review of the Product Safety Policy Statement: Foam-filled furniture	9(2)(g)(i)

2	BRIEFING-REQ-0002936 Abuse in Care Royal Commission recommendations on the Accident Compensation Scheme	9(2)(a), 9(2)(f)(iv)
4	BRIEFING-REQ-0002687 [Title withheld]	Withheld in full, including title, under 9(2)(f)(iv)

I do not consider that the withholding of this information is outweighed by public interest considerations in making the information available.

If you wish to discuss any aspect of your request or this response, or if you require any further assistance, please contact OIA@mbie.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Nāku noa, nā



Zoreen Ali
Manager Ministerial Services
Building, Markets and Resources



BRIEFING

Review of the Product Safety Policy Statement: Foam-filled furniture

Date:	20 September 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2425-0749

Action sought		
	Action sought	Deadline
Hon Andrew Bayly Minister of Commerce and Consumer Affairs	<p><i>Either</i></p> <p>Agree to continue the Product Safety Policy Statement: Foam-filled furniture.</p> <p><i>Or</i></p> <p>Agree to revoke the Product Safety Policy Statement: Foam-filled furniture.</p>	4 October 2024

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Glen Hildreth	Manager, Consumer Policy	04 901 0687		
Chris Cuthbertson	Policy Advisor	04 901 8301		✓

The following departments/agencies have been consulted:
Ministry for Regulation, Fire and Emergency New Zealand, MBIE Consumer Services

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments:

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BRIEFING

Review of the Product Safety Policy Statement: Foam-filled furniture

Date:	20 September 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2425-0749

Purpose

To provide you with the report of the Product Safety Policy Statement: Foam-filled furniture review (the **Report**) and seek decision on continuing the Policy Statement.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that we have conducted a review of the Product Safety Policy Statement: Foam-filled furniture, as required under section 30B of the Fair Trading Act 1986.

Noted

- b **Note** that we recommend continuing the Policy Statement.

Noted

EITHER

- c **Agree** to continue the Product Safety Policy Statement: Foam-filled furniture.

Agree / Disagree

OR

- d **Agree** to revoke the Product Safety Policy Statement: Foam-filled furniture.

Agree / Disagree

- e **Note** that your decision must be published on MBIE's website.

Noted


Glen Hildreth
Manager, Consumer Policy

Hon Andrew Bayly
Minister of Commerce and Consumer
Affairs

20 September 2024

..... / /

Background

1. In 2019, the Minister of Commerce and Consumer Affairs published the Product Safety Policy Statement: Foam-filled furniture (the **Policy Statement**) under section 30A of the Fair Trading Act 1986 (the **FTA**). Section 30B of the FTA requires us to review policy statements every five years. Accordingly, we reviewed the Policy Statement and have provided you with a report setting out our recommendations.
2. The Policy Statement provides non-binding guidance for manufacturers, importers and retailers of foam-filled furniture products. The intention behind the Policy Statement was to address concerns about the combustibility and ignitability risks of residential foam-filled furniture (**FFF**) containing flexible polyurethane foam (**FPUF**).
3. It set the expectation with importers and manufacturers of FFF that they:
 - a. measure the fire resistance of FFF (e.g. time it takes for furniture to ignite); and
 - b. consider the fire resistance of FFF against applicable standards and international regulatory requirements.
4. It also set expectations that retailers inform consumers about:
 - a. the fire resistance of FFF; and
 - b. additional information regarding features in relation to fire safety.

Review of the Policy Statement

5. We carried out a review to understand what changes, if any, had been made in response to the Policy Statement.

Industry response has been limited

6. Consultation with retailers, manufacturers and suppliers of FFF indicated the industry response to the Policy Statement has been limited.
7. One major retailer of FFF indicated that wool, which is naturally more fire resistant than FPUF, has become a large part of their business and a component of their furniture. Other industry stakeholders did not follow the Policy Statement's guidance, either because of a lack of awareness of the Policy Statement, or the costs of adhering to the guidance are uneconomical.
8. There has been minimal adoption of technologies to increase fire resistance of FPUF since the Policy Statement was released.

It is unclear how effective the Policy Statement has been

9. Fire deaths have not reduced consistently since the Policy Statement was published.
10. Although five years is a short time to expect to see change in these measures, the limited industry response suggests that the Policy Statement has not been effective at reducing risks posed by FFF.

Limitations of the review

11. Repeated attempts to contact a major manufacturer of FPUF and FFF was met with no response. Furthermore, we focused on the industry response, rather than how consumers had responded, as the Policy Statement was aimed at manufacturers, suppliers and retailers.
12. s 9(2)(g)(i) [REDACTED]
[REDACTED] We therefore had to rely on existing data and research and have not commissioned any new research in carrying out this review. Furthermore, existing research and data on causes of fires in New Zealand, and statistics on house fires and associated deaths and injuries are limited and not regularly published in any detail.

Conclusions and recommendations

13. It is unclear what role FPUF plays in residential fires and fire deaths in New Zealand. Based on the information we do hold, it appears unlikely the Policy Statement has reduced risks of death and injury, and it is unclear whether it will do so in the future.
14. Section 30B of the FTA requires that following a review, we recommend the Policy Statement be either:
 - a. continued
 - b. amend
 - c. revoked
 - d. replaced.
15. We have assessed the above options against their likelihood to minimise risk of deaths, injuries and damage to residential property, while minimising costs to industry consumers and society as a whole.
16. There is insufficient information to suggest what, if any, amendments to the Policy Statement could be made to improve these outcomes. Similarly, there is insufficient information to suggest what the Policy Statement could be replaced with. Accordingly, we have ruled out those two options.
17. Continuing or revoking the Policy Statement appear to be viable options.
18. While it is unclear whether the Policy Statement has had a material impact on the minimising risk of deaths, injuries or damage to residential property, nothing suggests it has increased these risks. Continuing the Policy Statement is therefore unlikely to have a negative impact on this outcome, and it does not impose significant costs on anyone.
19. It is also difficult to assess the impact of revoking the Policy Statement. If the Policy Statement has had no material impact on minimising harm, then revoking it is unlikely to have an impact. However, as it is the primary piece of guidance available to manufacturers and retailers, increasing the awareness of the Policy Statement may increase its impact.
20. We consider that there may be merit in retaining the Policy Statement for at least a further five years.

Consultation

21. The Ministry for Regulation stated there is conflicting evidence between the impact of FFF on fires in New Zealand when compared internationally, and questioned whether more can be done to resolve such uncertainty around the data by working with FENZ.
22. Should you agree to continue the Policy Statement, we will work with FENZ on what actions they can take to gather more information regarding the impact of FFF on fires in New Zealand. This will help inform a future review of the Policy Statement.

Next steps

23. The Policy Statement and Report are annexed to this briefing for your consideration.
24. As a product safety policy statement is a non-binding guidance document and has a relatively narrow focus, MBIE does not consider Cabinet approval is required for continuing or revoking the Policy Statement.
25. The FTA requires your decision to be published on MBIE's website. We will arrange this and liaise with your office.

Annexes

Annex 1: Product Safety Policy Statement: Foam-filled furniture

Annex 2: Review of Product Safety Policy Statement: Foam-filled furniture

Annex 1: Product Safety Policy Statement: Foam-filled furniture

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Product Safety Policy Statement

Foam-filled furniture

Reducing the risk of fire-related harm from household furniture products

This product safety policy statement is issued by the Minister of Commerce and Consumer Affairs pursuant to section 30A of the Fair Trading Act 1986

Hon Kris Faafoi - Minister of Commerce and Consumer Affairs

On this day being: 17 July 2019

Introduction

This Product Safety Policy Statement is made by the Minister of Commerce and Consumer Affairs under section 30A of the Fair Trading Act 1986. It is being issued with the expectation that manufacturers and retailers will ensure their foam-filled furniture products are safe for consumers to have in their living spaces.

This Product Safety Policy Statement highlights the risks associated with foam-filled furniture as a class of goods. It provides guidance for manufacturers and retailers on reducing the risk of harm to consumers from fire, when foam-filled furniture is involved.

The Ministry of Business, Innovation and Employment (MBIE) will review this Product Safety Policy Statement within two years of being issued and report to the Minister of Commerce and Consumer Affairs.

Policy Statement approach and intention

A Product Safety Policy Statement enables industry to self-adjust, by establishing an expected safety benchmark for the goods that are subject of the statement. The intention is that the Product Safety Policy Statement will address the identified safety issues with those goods, without more formal regulatory intervention being required. There are two policy objectives underlying this Product Safety Policy Statement: to minimise deaths, injuries and damage to property, while also minimising the costs to industry, consumers and society as a whole.

A Product Safety Policy Statement allows the industry to voluntarily follow guidelines and create a positive change to help increase consumer safety. Product Safety Policy Statements are a comparatively new approach to product safety in New Zealand. The success of the approach will depend on the willingness of the industry to respond to voluntary guidelines.

MBIE recognises that tackling the risk to consumers emanating from foam-filled furniture requires a coordinated and responsible approach by government, manufacturers, importers and retailers working together. By working with the industry, MBIE hopes to guide the industry to making changes within its supply chain and manufacturers that effectively decreases the risk from foam-filled furniture.

Product Safety Policy Statements are a recent addition to the product safety regulatory regime in New Zealand. The success of the Product Safety Policy Statement will depend on the engagement of manufacturers and retailers in the development and implementation of guidance, and the monitoring of its impact. MBIE will work with the industry to map out a pathway to compliance between industry and MBIE, in order to decrease the number of preventable fire deaths and injuries to consumers. This approach relies on the industry to consider and, where necessary and practicable, to adjust its practices.

Definition of foam-filled furniture and scope of the Product Safety Policy Statement

What is foam-filled furniture?

Flexible polyurethane foam (FPUF) is a common component in a wide range of furniture sold in New Zealand. There are a number of risks associated with FPUF as it increases the combustibility and ignitability of furniture. A number of injuries and fatalities have been connected to the presence of FPUF.

The seating element of furniture often contains foams for added comfort. Other widely used types of foam that fill furniture are made from:

- Rubber-based biological material such as 100% natural latex derived from the sap of the rubber tree; or
- Petroleum-based chemicals such as polyurethane and synthetic latex (also known as natural latex) derived through the process to make petroleum from crude oil; or
- Petroleum-based chemicals combined with biological material such as rubber or soy.

Foam can be measured by density and firmness:

- Density can be measured by the weight of the foam per cubic metre/foot
- Firmness, or Indentation Force Deflection, can be measured by the weight it takes to compress the foam by one third

Scope of the Product Safety Policy Statement

For the purpose of this Product Safety Policy Statement, foam-filled furniture includes but is not limited to residential furniture that has been designed for personal use in living spaces such as houses, sleep-outs and baches, caravans and campervans, and recreational boats. This includes but is not limited to couches and seats, and mattresses and sleeping swabs.

For the purpose of this Product Safety Policy Statement, foam-filled furniture does not include commercial furniture that has been designed and tested for use in commercial settings.

There are a number of reasons why this Product Safety Policy Statement focuses on residential settings. Consumers are more at risk in residential settings than in a commercial property, because domestic premises often do not have to have sprinkler systems and fire extinguishers, fire-resistant escape routes, or are smoke-free. Consumers are also more likely to be asleep in their living spaces, further reducing the time available to escape from a fire. These factors reduce the amount of time consumers have to get away from a property when fire ensues.

Safety issues relating to foam filled furniture

Foam-filled furniture is a source of combustible material provides fuel in the event of a fire, as it can:

- catch fire easily
- burn and spread quickly
- give off toxic gases.

an average 3-piece suite made with flexible polyurethane foam has the combustible potential of 10 litres of fuel and is a high risk for harm or death through burns and/or inhalation of toxic gases

Manager Fire Investigation, Fire and Emergency New Zealand

Consumers need time to get away from fire when it threatens their life. Petroleum-based foam, such as FPUF, contain chemicals that increase the combustibility of a fire, increase the and danger from the fire due to the:

- Ease with which the chemicals ignite
- Speed with which the chemicals cause the fire to burn
- Heat energy the chemicals give off
- Toxic gases, such as carbon monoxide and hydrogen cyanide, the chemicals produce

“If petroleum-based foam-filled furniture catches fire, vast amounts of flammable fire gases are quickly released so that there is insufficient oxygen available to support combustion in the room. This leads to superheated flammable and toxic gases spreading throughout the building until they reach areas of fresh air. This then ignites, and causes the fire to extend into rooms that were previously untouched by the original source of the fire.”

Manager Fire Investigation, Fire and Emergency New Zealand

Coroner’s reports show that more people die of respiratory poisoning (ie through smoke inhalation) than of burns from the flames themselves. From 2006 to 2016, 177 people died in the course of avoidable residential structure fires. From 2012 to 2017 there were 1,227 fire-related injuries.

Guidance for manufacturer, importers and retailers

This Product Safety Policy Statement provides guidance and establishes a product safety benchmark for the goods that are the subject of the statement. This enables manufacturers and retailers to self-regulate in the foam-filled furniture industry to increase consumer safety.

The guidance sets out:

- a suggestion for a benchmark fire-resistance rating for foam-filled furniture
- guidance on how retailers, manufacturers and MBIE can inform consumers on the safety and fire-risks of foam-filled furniture
- a proposed mechanism for monitoring the impact of this Product Safety Policy Statement on the product safety regulatory regime

A benchmark fire-resistance rating for foam-filled furniture

Fire and Emergency New Zealand report that, prior to the introduction of FPUF, the time it took for a New Zealand residential room to become fully involved in fire could take up to 30 minutes. With the introduction of FPUF to furniture this has reduced to 3-4 minutes.

By limiting the risk of ignitability and combustibility of furniture, it is expected that the time that people have to escape a house fire can be increased. By following the implementation advice below, the furniture industry can contribute to fire safety. There are international jurisdictions that have mandatory fire safety standards for furniture that can be consulted as guidelines for the industry:

- United Kingdom: Upholstered Furniture (Fire) (Safety) regulations (HMSO, 1988)¹
- State of California: Technical Bulletin 116²
- Republic of Ireland: S.I. No. 336 – industrial Research and Standards (Fire Safety) (Domestic Furniture) Order, 1988³

Implementation advice for manufacturers and importers and retailers of foam-filled furniture

Under the Consumer Guarantees Act 1993, goods supplied to a consumer must be of acceptable quality. This includes a requirement that they must be safe. Under the Fair Trading Act 1986, goods are considered unsafe if with reasonably foreseeable use (including misuse), the goods will, or may, cause injury or harm to any person.

Manufacturers and importer

Manufacturers should consider the furniture as a whole. There are a range of ways to improve fire resistance, such as the chemical composition of the foam in furniture, and the use of fire resistant materials for fillings, interliners and outer covers.

To assist with the design, manufacture and sourcing of safer foams and materials for consumer products, the standards listed below set out performance and test criteria for ignitability.

- AS/NZS 3744.1 Furniture—Assessment of the ignitability of upholstered furniture. Ignition source—smouldering cigarette
- BS EN 1021-1 Furniture. Assessment of the ignitability of upholstered furniture. Ignition source smouldering cigarette
- BS 5852 Methods of test for assessment of the ignitability of upholstered seating by smouldering and flaming ignition sources.
- AS/NZS 3744.2 Furniture—Assessment of the ignitability of upholstered furniture. Ignition source—match-flame equivalent
- BS EN 1021-2 Furniture. Assessment of the ignitability of upholstered furniture. Ignition source match flame equivalent
- BS 5852 Methods of test for assessment of the ignitability of upholstered seating by smouldering and flaming ignition sources.

¹ <http://www.legislation.gov.uk/ukxi/1988/1324/contents/made>

² <http://www.bearhfti.ca.gov/industry/116.pdf>

³ <http://www.irishstatutebook.ie/eli/1988/si/336/made/en/print>

Manufacturers should measure the fire-resistance of foam-filled furniture, that is, the:

- time it takes for furniture to ignite; and/or
- temperature at which furniture produces a flashover (the sudden and rapid spread of fire through the air).

Manufacturers, retailers and importers are encouraged to consider the performance of their furniture against at least one of performance and test criteria referenced above.

Retailers

Retailers should inform consumers about the fire-resistance of foam-filled furniture. Consumers should be provided with additional information regarding features in relation to fire safety. Foam-filled furniture should have a fire-resistance rating that could be communicated through:

- Information on websites
- Signs on furniture
- Being told by the sales assistant
- Written statement
- Permanent labels on the furniture.

Monitoring and effectiveness

This Product Safety Policy Statement is intended to address concerns about the risks of combustibility and ignitability of foam-filled furniture in household furniture.

It is understood that it may take some time for redesigned products to become available to suppliers and consumers. Voluntary compliance with the Product Safety Policy Statement will be monitored closely over the next two years, and feedback on its effectiveness will be sought from the relevant stakeholders.

If the Product Safety Policy Statement is found to be ineffective in reducing the number of injuries and incidents related to foam filled furniture, other measures under the Fair Trading Act 1986 may be considered by the Minister. This may include regulations requiring compliance with a mandatory product safety standard.

If you have any questions, see

<https://www.consumerprotection.govt.nz/guidance-for-businesses/complying-with-consumer-laws/understanding-product-safety/>

or email

tradingstandards@mbie.govt.nz.

Annex 2: Review of Product Safety Policy Statement: Foam-filled furniture

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MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HIKINA WHAKATUTUKI



Review of the *Product Safety Policy* *Statement: Foam-Filled Furniture*

Report to the Minister of Commerce and
Consumer Affairs pursuant to section 30B of the
Fair Trading Act 1986

September 2024

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Executive Summary

Flexible polyurethane foam (FPUF) is a common component in a wide range of furniture sold in New Zealand. FPUF poses risks due to its high combustibility and ignitability.

To address risks from FPUF, on 17 July 2019 the Minister of Commerce and Consumer Affairs released the Product Safety Policy Statement: Foam-filled furniture (the **Policy Statement**). A Policy Statement sets guidelines and expectations on safety benchmarks, enabling industry to self-adjust and address safety issues with goods without formal regulatory intervention. Under section 30B of the Fair Trading Act 1986, the Ministry of Business, Innovation and Employment (**MBIE**) is required to review the Policy Statement by 17 July 2024.

As part of the review, we investigated adherence to the Policy Statement, engaged with furniture suppliers, the Environmental Protection Authority and Fire and Emergency New Zealand (**FENZ**).

This report sets out our findings and recommendations from our review of the Policy Statement.

We found:

- There has been limited change in the use of FPUF and very limited adoption of technologies to increase fire resistance within the furniture industry.
- Industry engagement with the Policy Statement has been limited and its guidance has largely not been adhered to.
- The number of avoidable residential fires remain largely similar.
- There is insufficient evidence to determine the extent foam-filled furniture contributes to avoidable residential fires and avoidable residential fire deaths in New Zealand.

Due to insufficient evidence to warrant revoking or amending the Policy Statement, we consider there may be merit in continuing it until further evidence becomes available. A different response could be considered if improvements can be made to the evidence base.

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List of Acronyms

AS/NZS	Australia/New Zealand Standard
BS	British Standard
BS/EN	European standard adopted as a British standard
CO	Carbon Monoxide
CPSC	Consumer Product Safety Commission
DBT	UK Department of Business and Trade
FENZ	Fire and Emergency New Zealand
FFRs	Furniture and Furnishings (Fire)(Safety) Regulations 1988
FPUF	Flexible Polyurethane Foam
FTA	Fair Trading Act
HCN	Hydrogen Cyanide
HSNO	Hazardous Substances and New Organisms Act 1996
LOI	Limiting Oxygen Index
MBIE	Ministry of Business, Innovation and Employment
PolyBDE	Polybrominated Diphenyl Ether
PentaBDE	Pentabromodiphenyl Ether
POP	Persistent Organic Pollutants
S.I. No. 336	Statutory Instruments. No. 336
TB117-2013	California Technical Bulletin 117-2013
TBBPA	Tetrabromobisphenol A
TBDE	Tetrabromodiphenyl Ether
TCEP	Tris (2-chloroethyl) Phosphate
TCPP	Tris(chloropropyl) Phosphate

1 Introduction

1. The Fair Trading Act 1986 (**the FTA**) provides options to address product safety issues. These options include:
 - a. product safety policy statements, which provide voluntary guidance and enable industry to self-adjust by establishing an expected benchmark for types of goods
 - b. unsafe goods notices, which prohibit the supply of types of goods and are issued where it appears goods will or may cause injury
 - c. product safety standards, which can set out design, testing and manufacturing requirements for types of goods.

Product Safety Policy Statement: Foam-Filled Furniture

2. In 2019 the Minister of Commerce and Consumer Affairs (**the Minister**) released the *Product Safety Policy Statement: Foam-filled furniture* (**the Policy Statement**) under section 30A the FTA. The Policy Statement points to overseas fire-resistance rating benchmarks, and New Zealand and overseas standards that set out performance and test criteria for ignitability to as non-binding guidance for manufacturers and importers of foam-filled furniture products to reduce the harm to people and property caused by fires involving foam-filled furniture.
3. The Policy Statement also encourages retailers of FFF to inform consumers regarding the fire-resistance and information regarding fire-safety of FFF being sold.
4. Under section 30B of the FTA, MBIE is required to review the statement within five years of its issue. This report summarises our review and is structured into five main sections:
 - a. an overview of the risks posed by foam-filled furniture
 - b. a summary of the Policy Statement
 - c. a summary of developments since the Policy Statement was issued
 - d. an assessment of the effectiveness of the Policy Statement
 - e. conclusion and recommendations.

2 Overview of the risks and the Policy Statement

What is foam-filled furniture?

5. Foam-filled furniture is furniture containing flexible polyurethane foam (FPUF).
6. FPUF is a synthetic polymer material used in a wide range of furniture sold in the New Zealand market. FPUF provides support and cushioning, and can be found in lounge suites, couches, seats and mattresses.
7. FPUF is cost-effective to manufacture and can be cut, moulded or combined with other materials. It first became commercially available in the 1950s and has been estimated to make up between 40% and 70% of the New Zealand furniture market.¹

Risks of foam-filled furniture

8. FPUF is a combustible material which increases the potential danger of residential fires due to how easily it ignites, the speed at which it burns, the heat released and the toxic chemicals given off.
9. The flammability of FPUF results from its chemical composition, porous structure and low 'limiting oxygen index' (LOI). Its porous, open-cell structure allows oxygen to diffuse within the foam. LOI is the minimum concentration of oxygen that will support combustion of the material. For FPUF, LOI is around 18 per cent, which is significantly below the atmospheric concentration of oxygen (21 per cent).²
10. As a result, FPUF furniture can be a significant source of combustible material that results in a high heat output and rapid spread of fire. European testing in the early 1990s found that many furniture items using FPUF produced over 1,000 kW of heat, and some over 2000 kW of heat, sometimes within a few minutes of ignition. These peak heat release rates are sufficient to cause a 'flashover' in some settings, where all combustible material in an enclosed room ignites near-simultaneously.³
11. During combustion, FPUF releases carbon monoxide (CO), hydrogen cyanide (HCN) and other toxic gases.⁴ These exacerbate the risk posed by residential fires. CO and HCN are major

¹New Zealand Institute of Economic Research. (2019). *Burning Couches: A cost-benefit analysis on regulating for fire retardants in foam furniture*. Page 41.

²Yadav, A et al. (2022). Recent Advancements in Flame-Retardant Polyurethane Foams: A Review. *I&EC Research*, 61, 15049.

³Björn Sundström, 'Combustion behavior of upholstered furniture. Important findings, practical use, and implications', *Fire and Materials*, 2021;45: 97–113.

⁴McKenna, S and Hull, T. (2016). The fire toxicity of polyurethane foams. *Fire Science Reviews*, 5(3), 1.

asphyxiant gases present in fires that can lead to incapacitation. While CO is present in all fires, HCN is generated in fires where FPUF is present.⁵

Evidence of contribution to fire deaths and injuries

12. While there is a strong theoretical case for why foam-filled furniture is a significant fire hazard, supported by some international evidence, there is very limited evidence of the role of foam-filled furniture in recent residential fires in New Zealand and resulting deaths and injuries.
13. In the UK, the prevalence of foam-filled furniture was identified as one of the main contributors to an approximate doubling of fire deaths that occurred between the 1950s and the 1980s.⁶ England's fire statistics for 2010–2020 show that upholstered items (beds, mattresses and furniture) were the material or item first ignited in 12% of domestic fire incidents, but were responsible for 29% of fatalities. They were also identified as the main material responsible for fire development in 16% of fires and 43% of fatalities.⁷ In the US, upholstered furniture was the first item ignited in 17.3% of residential fire deaths from 2018–2020.⁸
14. The last comprehensive analysis in New Zealand appears to have been a report produced by Chelsia Wong at the University of Canterbury in 2001, which looked at fire incident statistics from 1996–2000. Upholstered furniture and utensils (including chairs, sofas and beds) were identified as the first ignited item in two fatalities (1.6%).⁹ This is far lower than recent statistics from other countries. Upholstered furniture is likely to have been first ignited in some fires where the material was unidentified.
15. Upholstered furniture was confirmed to be 'involved' in 45 fatal fires (35.4%), which means that it was one of the objects ignited and part of the fuel load, and was likely to have been involved in a further 24 fatal fires (18.9%). This does not necessarily mean that it was a decisive contributor to the fatalities, however.
16. A 2018 review of fire deaths from 2007–2014 found that 50% of fatal fires began with ignition of fabric, but it is unclear what proportion of these involved foam-filled furniture. There was

⁵ W. Woolley and A. Wadley, "Studies of the thermal decomposition of flexible polyurethane foams in air, *Fire Res. Notes*, vol. 951, pp. 1 – 17, 1972.

⁶ McKenna, S and Hull, T. (2016). The fire toxicity of polyurethane foams. *Fire Science Reviews*, 5(3), 1.

⁷ Office for Product Safety & Standards (2023) *Fire Risks of Upholstered Products*, <https://assets.publishing.service.gov.uk/media/642e8b80fbe62000c17ddb5/fire-risks-of-upholstered-products-main-report.pdf>.

⁸ Consumer Product Safety Commission, 2018 – 2020 Residential Fire Loss Estimates, <https://www.cpsc.gov/s3fs-public/2018-to-2020-Residential-Fire-Loss-Estimates-Annual-Fire-Loss-Report-Final.pdf>.

also a large decrease in unintentional fire deaths generally, from 0.7 per 100,000 people in 1991-1997 to 0.28 deaths per 100,000 people in 2007–2014.¹⁰

Existing regulations in New Zealand

17. Under the Consumer Guarantees Act 1993, goods supplied to a consumer must be of acceptable quality. This includes a requirement that they must be safe.¹¹ However, in the case of goods that are unsafe, this is enforced solely by consumers exercising rights to refunds, which would be unlikely to occur with a fire hazard.
18. There are currently no regulations under the FTA for foam-filled furniture.
19. There are three voluntary Australia/New Zealand standards which set out performance and test criteria for ignitability:
 - a. AS/NZS 3744.1:1998 Furniture – Assessment of the ignitability of upholstered furniture – Ignition source – Smouldering cigarette
 - b. AS/NZS 3744.2:1998 Furniture – Assessment of the ignitability of upholstered furniture – Ignition source – Match-flame equivalent
 - c. AS/NZS 3744.3:1998 Furniture – Assessment of the ignitability of upholstered furniture – Ignition sources – Nominal 160 mL/min gas flame and nominal 350 mL/min gas flame
20. AS/NZS 3744.1 and AS/NZS 3744.2 are technically equivalent to and have been reproduced from ISO 8191.1:1987 and ISO 8191.1:1988 respectively.

Product safety policy statement: foam-filled furniture

21. The Policy Statement sought to address concerns about the combustibility and ignitability risks of residential foam-filled furniture. It set expectations for manufacturers, importers and retailers of foam-filled furniture that are summarised below.

¹⁰ Rebbecca Lilley, Bronwen McNoe & Mavis Duncanson (2018), *Unintentional domestic fire-related fatal injury in New Zealand: 2007-2014*, 30 June 2018, <https://fireandemergency.nz/assets/Documents/Files/Report-167-Unintentional-domestic-fire-related-injury-in-New-Zealand.pdf>.

¹¹ Consumer Guarantees Act, s7

SUMMARY OF THE POLICY STATEMENT

- **FPUF** in furniture catches fire easily, burns and spreads fire quickly, and when on fire gives off toxic gases more deadly than the fire itself.
- **Manufacturers** should measure the fire resistance of foam-filled furniture by measuring the time it takes for furniture to ignite; and/or the temperature at which furniture produces a flashover.
- **Retailers** should inform consumers on the safety and fire-risks of foam-filled furniture, for example by displaying fire-resistance ratings on websites, signs and labels on the furniture.
- **Manufacturers and importers** should consider ways to improve fire resistance, such as the use of fire-resistant materials and improving the chemical composition of foam used in furniture.
- **Manufacturers, importers, and retailers** should consider the performance of their furniture against specified 'AS/NZS' or 'BS EN' standards for fire-resistance, as well as the:
 - United Kingdom: Upholstered Furniture (Fire) (Safety) Regulations 1988
 - State of California: Technical Bulletin 116
 - Republic of Ireland: S.I. No. 336 – Industrial Research and Standards (Fire Safety) (Domestic Furniture) order, 1988.

3 The review

Context for the review

22. Section 30B of the FTA requires MBIE to:
 - a. review a product safety statement within 5 years after its issue (and if renewed, every 5 years thereafter)
 - b. immediately following the review, prepare a report on the review for the Minister.
23. The report must include recommendations to the Minister on whether a policy statement should be continued, amended, revoked, or replaced.

Methodology

24. In determining the effectiveness of the Policy Statement, we sought to answer:
 - a. What options are there for reducing the risks presented by foam filled furniture?
 - b. How has industry responded to the Policy Statement?
 - c. Have there been any technological developments that could help mitigate the risk caused by foam-filled furniture in the future?
 - d. To what extent have these responses decreased risks posed by foam-filled furniture?
25. As part of the review, we have:
 - a. investigated adherence to the Policy Statement
 - b. engaged with key industry stakeholders, including manufacturers and retailers, about how they responded to the Policy Statement
 - c. engaged with the Environmental Protection Authority and FENZ.

Limitations to the review

26. We did not investigate consumer responses to the Policy Statement. The Policy Statement was aimed at manufacturers, importers and retailers, and we have focused the review on their response.
27. Repeated attempts to contact a major manufacturer of FPUF and furniture containing FPUF was met with no response.

28. We are also relying on existing data and research, and have not commissioned any new research in carrying out this review. Existing research and data on causes of fires in New Zealand is limited and much of it is out of date.
29. Furthermore, it has been five years since the Policy Statement was published. Given the lags present in a response to the policy statement (design and testing of new furniture, and replacement of exiting furniture in homes), five years is a short time to expect to see a change in avoidable residential fires and residential fire deaths.

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4 How has the industry responded to the Policy Statement?

30. In late 2023, MBIE contacted retailers, distributors, and manufacturers of FPUF and furniture containing FPUF to understand how they responded to the Policy Statement and whether there were any corresponding impacts on their businesses.

Benchmarking

31. The Policy Statement encourages industry to consult legislation from the UK, USA and the Republic of Ireland as guidelines on how they can contribute to fire safety.
32. One major retailer indicated they were aware of overseas legislation, including those in the USA, UK and EU, they did not indicate they acted on this guidance in the Policy Statement.
33. Other retailers, distributors, and manufacturers did not indicate they acted on this guidance.

Manufacturers - use of standards

34. The Policy Statement sets out a list of standards to assist with the design, manufacture and sourcing of safer foams and materials for FFF.
35. One major New Zealand retailer of foam-filled furniture reported that wool has become a large part of their business, and it has begun incorporating wool into their furniture and beds containing FPUF. Wool has fire-retardant properties and is used to cover layers of FPUF, making such furniture more fire-resistant than furniture stuffed solely with FPUF. FENZ supports the use of cotton and wool.
36. Cost was identified by a major retailer as a major barrier to using more fire-resistant materials and potential change to furniture designs. Using alternatives to chemical flame retardants was discussed as an option, however retailers reported trade-offs between providing furniture with characteristics consumers want against manufacturing costs. This retailer also indicated that they do cigarette and match testing, testing can be expensive and is typically driven by commercial activities when requested.
37. A foam distributor reported that while some customers specifically request fire retardant foam, they don't promote it as it costs considerably more than normal foam.
38. One major retailer had not acted on the Policy Statement due to lack of awareness, but indicated it was willing to look into steps to take on the guidance of the Policy Statement. It indicated it would first speak with suppliers on how fire retardance could be achieved through the composition of foam.

Informing consumers

39. The Policy Statement encourages retailers to inform consumers about the fire-resistance of FFF.
40. Although one major retailer of FFF advertises the fire-resistant property of wool they have incorporated into their products, no other retailers we spoke to indicated they have taken steps to inform consumers about the fire-resistance of FFF.

Impact of industry response

41. Overall, industry engagement with the Policy Statement has been limited. Industry has generally not followed guidance on the benchmark fire-resistance of FFF, the use of standards set out in the Policy Statement, and informing consumers on fire-resistance of FFF.

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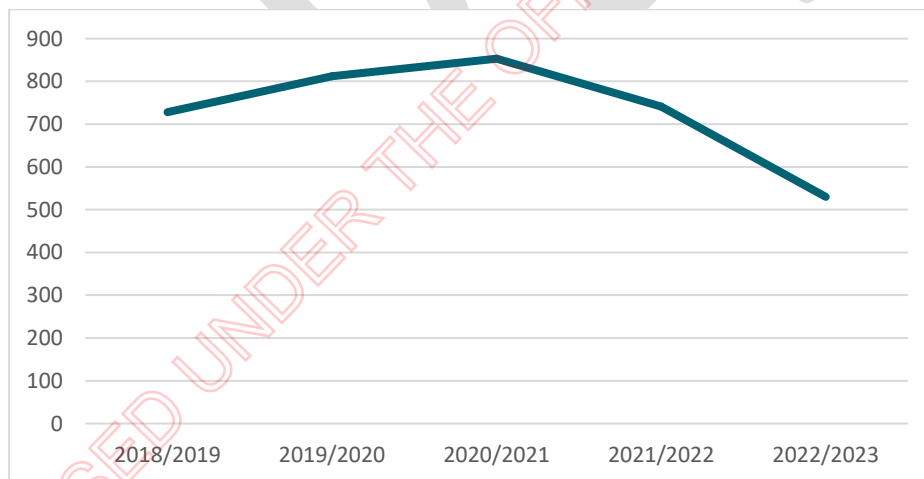
5 Assessment of the effectiveness of the Policy Statement

42. There were two policy objectives of the Policy Statement: to minimise deaths, injuries and damage to property, while also minimising the costs to industry, consumers and society as a whole.
43. Avoidable residential fire deaths have not reduced consistently since publication of the Policy Statement.¹² Although the number of residential fires has remained somewhat consistent since the Policy Statement was published, FENZ stated that the severity of damage to property has reduced over time.¹³
44. Our overall assessment is that the Policy Statement is unlikely to have reduced deaths and injuries from residential fires. The existing stock of foam-filled furniture is expected to be replaced over the coming 10-20 years. However, the limited industry response to the Policy Statement also suggests that the Policy Statement is not reducing risks posed by foam-filled furniture.

There is limited data on recent residential structure fires in New Zealand

45. Data on the number of residential structure fires is not regularly published in New Zealand. There is no data on the role of foam-filled furniture in recent fires.

Figure 1 Residential structure fires attended



¹² Fire and Emergency New Zealand. (2023). Residential Structure Fires attended by TLA. [OIA2023-00011372 Residential Structure Fire statistics NZ and Auckland \(fireandemergency.nz\)](#)

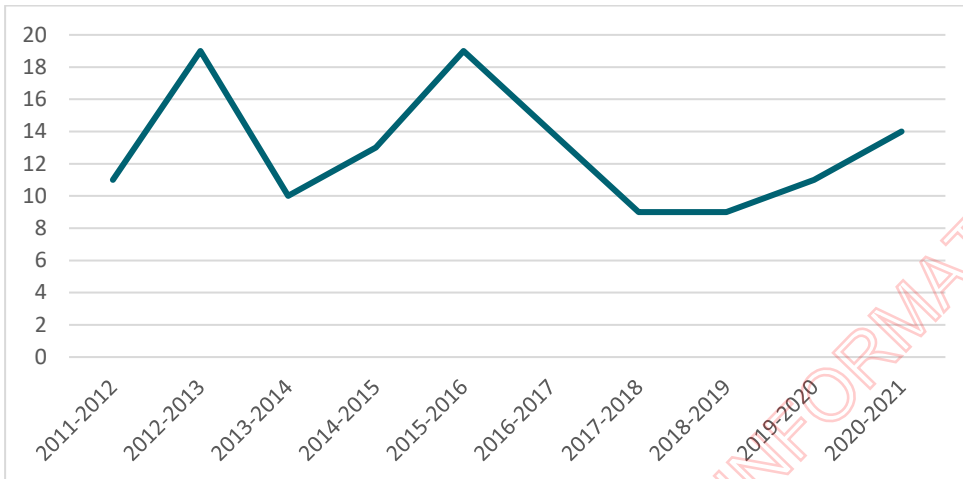
¹³ Fire and Emergency New Zealand. (2023). Residential Structure Fires attended by TLA. [OIA2023-00011372 Residential Structure Fire statistics NZ and Auckland \(fireandemergency.nz\)](#); (23 November 2023). MBIE meeting with Fire and Emergency New Zealand. Wellington

Source: Fire and Emergency New Zealand, Official Information Request 2023-00011372¹⁴

46. The number of residential structure fires has remained somewhat consistent since the Policy Statement was published, although there was a decline in the 2022/23 financial year.

There has been no clear change in deaths from residential fires

Figure 2 Avoidable residential fire deaths by year



Source: Fire and Emergency New Zealand, Annual Reports 2011 - 2021

47. The fire death rate has remained relatively consistent between 2011 and 2021. Similarly, as discussed in section 2, there is no data on the extent to which foam-filled furniture contributed to recent deaths.

¹⁴ <https://fireandemergency.nz/assets/Documents/Files/OIA-11372-Table-of-Residential-Structure-Fires-Attended.pdf>

6 International regulatory developments

48. Since the Policy Statement was published in 2019, there have been a number of developments in the regulation of foam-filled furniture in the United Kingdom and the United States of America.

United Kingdom

49. Flame retardants are applied extensively to textiles and furniture in UK, especially compared to other countries.¹⁵
50. The Furniture and Furnishings (Fire) (Safety) Regulations 1988 (the **FFRs**) aim to protect consumers from harm resulting from highly combustible domestic upholstered furniture. The FFRs regulate the use of FPUF and require:
- filling materials to meet specified ignition requirements
 - all upholstery to meet cigarette resistance requirements in accordance with BS 5852: Part 1 and Schedule 4
 - furniture covers to be match resistant
 - permanent labelling on every new item of furniture (except mattresses and bed-bases)
 - display labelling requirements where display labels are to be fitted to every new furniture at the point of sale, except for specified items.¹⁶
51. The UK has attributed the FFRs, more smoke alarms in homes, reduced cigarette consumption and safer heating devices to a decrease in domestic house fires and deaths.¹⁷ A 2005 report commissioned by the European Flame Retardants Association estimated the FFRs had contributed to half of the reduction of fire deaths in the UK since the introduction of the regulations.¹⁸ A 2009 report from Greenstreet estimated that the FFRs had led to 54 fewer

¹⁵ Page et al. (2023). A new consensus on reconciling fire safety with environmental & health impacts of chemical flame retardants. 173. Environment International. 3.; Imperial College London. (2023). Experts highlight environmental and health risks of current UK fire regulations. [Experts highlight environmental and health risks of current UK fire regulations | Imperial News | Imperial College London](#)

¹⁶Furniture Industry Research Association. Fire safety of furniture and furnishings in the home – A guide to the UK Regulations.

¹⁷ (2023). Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture. Department for Business and Trade (Office for Product Safety & Standards). Page 12. UK Department for Business, Innovation and Skills, "A statistical report to investigate the effectiveness of the Furniture and Furnishings (Fire) (Safety) Regulations 1988," 2009.

deaths, 780 fewer non-fatal casualties, and 1,065 fewer fires on average each year between 2002 and 2007.¹⁹

52. However, the FFRs also led to the widespread use of chemical flame retardants, and there are now significant health and environmental concerns associated with chemical flame retardants.
53. Accordingly, between 2 August and 24 October 2023, the UK Department for Business & Trade (DBT) publicly consulted on a new approach to the fire safety of domestic upholstered furniture. The new approach consulted on a proposal to impose certain duties on manufacturers, importers, selected suppliers, and re-upholsterers so that products²⁰:
 - a. do not contain any unsafe chemical flame retardants
 - b. must not ignite on contact with an ignition source
 - c. are slow-burning or self-extinguishing if ignited
 - d. are tested and assessed consistently
 - e. have a permanent safety label.²¹
54. At the time of this review, results from the consultation have not been published and the UK Government has not come to a policy position on the new approach.²²
55. DBT indicated that over 30% of residential fires involved an open flame to furniture, therefore are now looking to keep the open-flame test rather than the smouldering test.

United States of America

56. The California Technical Bulletin 117-2013 (TB117-2013) is a mandatory standard that establishes flammability requirements for materials used to manufacture upholstered furniture. In 2021, the United States' Consumer Product Safety Commission (CPSC) introduced a new mandatory federal flammability standard (16 CFR part 1640) requiring upholstered furniture to:
 - a. comply with the flammability requirements of TB117:2013 which includes the cover fabric test, barrier materials test, and resilient filing material test, and
 - b. include a permanent certification label with the 'compliance statement' which states that the furniture complies with flammability requirements.²³

¹⁹ Ibid.

²⁰(2023). Smarter Regulation: Consultation on the new approach to the fire safety of domestic upholstered furniture. Department for Business and Trade (Office for Product Safety & Standards).

²¹ Ibid. pp.16, 35.

²² MBIE meeting with the Department of Business and Trade. Wellington.

²³Standard for the Flammability of Upholstered Furniture (US), Part 1640. [eCFR :: 16 CFR Part 1640 -- Standard for the Flammability of Upholstered Furniture](#); United States Product Safety Commission. (2023). New Federal

57. The federal standard covers fabrics, barrier materials, and resilient filling materials used in upholstered furniture, with each being assessed separately. These materials are tested against a ‘smouldering cigarette test’ as an ignition source.
58. In January 2020, California enacted Assembly Bill No. 2998 (**AB 2998**), banning the sale and distribution of new upholstered furniture, replacement components for upholstered furniture, foam in mattresses, and some children’s products for residential use if they contain more than 0.1% of specific flame-retardant chemicals, including antimony trioxide, chlorinated tris, Tetrabromobisphenol A (TBBPA), and TCEP.²⁴
59. In California a flame-retardant chemical is banned if it is:
- a. a halogenated, organophosphorus, organonitrogen, or nanoscale chemical
 - b. listed as a ‘designated chemical’ in the Health and Safety Code § 105440, or
 - c. listed by Washington State as a Chemical of High Concern to Children.²⁵

Safety Standard for Upholstered Furniture Fires Goes into Effect. [New Federal Safety Standard for Upholstered Furniture Fires Goes into Effect | CPSC.gov](#)

²⁴ California State Government. (2023). Flame Retardants. [Flame Retardants - Proposition 65 Warnings Website \(ca.gov\)](#); Assembly Bill. No. 2998, Chapter 924. [Bill Text - AB-2998 Consumer products: flame retardant materials. \(ca.gov\)](#)

²⁵ Bureau of Household Goods and Service, Department of Consumer Affairs. (2019) Assembly Bill 2998 (Bloom) – Consumer Products: Flame Retardant Materials. Page 6.

7 Conclusion and recommendations

60. We have insufficient information about the role of FPUF in recent fire deaths in New Zealand, and we cannot draw definitive conclusions on whether the Policy Statement has led to changes in the risks to consumers posed by FFF. However, the Policy Statement has certain limitations:
- a. The Policy Statement is voluntary. This is a particular limitation where there is limited appetite from industry to make changes to furniture designs. A common reason provided by manufacturers and suppliers that didn't follow the guidance in the Policy Statement related to cost.
 - b. We consider the Policy Statement's recommendations for manufacturers and importers are unclear. While the Policy Statement provides that manufacturers should measure the fire resistance of foam-filled furniture, it does not provide a clear benchmark for what fire resistance should be achieved. Businesses are 'encouraged' to adopt a benchmark based on consulting various international fire safety standards, such as those in the UK, California and Ireland.
61. Furthermore, there has been little publicity or promotion of the Policy Statement. While the Policy Statement indicates that MBIE had an intention to closely monitor its implementation over the two years following publication, this did not happen. This was due to a combination of a reorganisation of MBIE's product safety functions in 2020, and the disruption of the COVID-19 pandemic.

Recommendations

62. The four options available to respond to this report are:
- a. Continue the Policy Statement in its current form with no change
 - b. Amend the Policy Statement to make necessary refinements
 - c. Revoke the Policy Statement altogether
 - d. Replace the Policy Statement (e.g. with regulations under the Fair Trading Act).
63. We have considered the extent to which each option will minimise risk of deaths, injuries and damage to property, and minimise costs to industry, consumers and society as a whole.
64. To drive significant change to fire risks from FPUF would require a much more concerted action than what has occurred to date under the Policy Statement. On the other hand, it is difficult to recommend actions such as amending the Policy Statement or regulating, given the

limited evidence of a problem and the impact the Policy Statement has had on risks and harm posed by FFF.

65. There will be costs associated with continuing and amending the Policy Statement. This may include some costs to the businesses that rely on the guidance in the Policy Statement to make changes to their products and/or processes, and the requirement to review the Policy Statement every five years.²⁶
66. There is insufficient information to say whether continuing the Policy Statement will minimise risks and harm posed by FFF.
67. However, the Policy Statement is currently the only guidance available to New Zealand manufacturers, importers and retailers of FFF related to reducing the risk of harm to consumers from fire when FFF is involved. Although revoking the Policy Statement may not increase risk, risks of FFF-related harm will not be reduced.
68. We therefore recommend the Policy Statement be continued.

²⁶ Section 30B(1)(a), Fair Trading Act 1986.



BRIEFING

Abuse in Care Royal Commission recommendations on the Accident Compensation Scheme

Date:	18 September 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	BRIEFING-REQ-0002936

Action sought		
	Action sought	Deadline
Hon Matt Dooney Minister for ACC	s 9(2)(f)(iv) [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]	24 September 2024

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Bridget Duley	Manager, Accident Compensation Policy	04 897 6364	s 9(2)(a) [REDACTED]	✓
James Anderson	Principal Advisor, Accident Compensation Policy	04 897 6792	–	

The following departments/agencies have been consulted

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments

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BRIEFING

Abuse in Care Royal Commission recommendations on the Accident Compensation Scheme

Date:	18 September 2024	Priority:	Medium
Security classification:	In Confidence	Tracking number:	BRIEFING-REQ-0002936

Purpose

To provide you with advice on Abuse in Care Royal Commission of Inquiry (the Royal Commission) recommendations on the Accident Compensation Scheme.

Executive summary

The Royal Commission has made recommendations to either:

- return the right to sue for personal injury compensation, for survivors of abuse in care, or
- expand Accident Compensation Scheme (AC Scheme) cover and entitlements for abuse in care survivors, to compensate for all direct and indirect losses flowing from abuse and neglect in care.

s 9(2)(f)(iv)

[REDACTED]

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

a **Note** that the Abuse in Care Royal Commission of Inquiry has recommended that the Government either:

- a. re-introduce the right to sue for personal injury compensation, for survivors of abuse in care, or
- b. expand Accident Compensation Scheme cover and entitlements for abuse in care survivors, to compensate for all direct and indirect losses flowing from abuse and neglect in care.

Noted

b s 9(2)(f)(iv)

c s 9(2)(f)(iv)

d **Note** that work is progressing across Government to develop a separate redress scheme, tailored to the needs of abuse in care survivors.

Noted

e s 9(2)(f)(iv)

f s 9(2)(f)(iv)

g s 9(2)(f)(iv)

s 9(2)(a)

Bridget Duley
Manager, Accident Compensation Policy
Labour, Science & Enterprise, MBIE

Hon Matt Doocay
Minister for ACC

18 / 09 / 2024

..... / /

Background

The Royal Commission recommended amending the Accident Compensation Scheme

1. The Abuse in Care Royal Commission of Inquiry (the Royal Commission), has made recommendations concerning the Accident Compensation Scheme (AC Scheme) in its final report *Whanaketia: Through pain and trauma, from darkness to light* (the Final Report) and earlier interim report *He Purapura Ora, he Māra Tipu | From Redress to Puretumu Torowhānui* (the Redress Report, published in December 2021).
2. The AC Scheme-specific proposals within these Royal Commission recommendations are:
 - a. to create an exception to the 'AC Scheme bar' on compensatory damages for personal injury, so that survivors of abuse in care can seek compensation through the courts, or
 - b. if the Government does not introduce this exception, to reform the AC Scheme to provide tailored compensation for survivors of abuse and neglect in care and other appropriate remedies. As part of this reform:
 - i. survivors should be fairly and meaningfully compensated for all direct and indirect losses flowing from the abuse and neglect they experienced in care and that are covered by the new puretumu torowhānui system and scheme, and
 - ii. the application process should be survivor-focused, trauma-informed and delivered in a culturally and linguistically appropriate manner.
3. **Annex One** provides the original text of all the Royal Commission's recommendations that concern the AC Scheme. The Annex also identifies where there are portions of these recommendations that are led within other portfolios. This includes recommendations concerning the way that a separate redress scheme for survivors of abuse in care would interact with, or take account of, survivors' AC Scheme entitlements.

s 9(2)(f)(iv)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b. s 9(2)(f)(iv) [Redacted]

- [Redacted]

- [Redacted]

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s 9(2)(f)(iv)

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Annexes

Annex One: Abuse in Care Royal Commission of Inquiry recommendations related to the Accident Compensation Scheme

s 9(2)(f)(iv)

[Redacted text block]

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Annex One: Abuse in Care Royal Commission of Inquiry recommendations related to the Accident Compensation Scheme

Recommendations	Lead portfolio	Comment
<p>Final Report Recommendation 11 <i>If the government does not progress the Inquiry's recommended civil litigation reforms (Holistic Redress Recommendations 75 and 78 from the Inquiry's interim report, He Purapura Ora, he Māra Tipu: From Redress to Pūretumu Torowhānui):</i></p> <p>a. <i>the government should reform the accident compensation (ACC) scheme to provide tailored compensation for survivors of abuse and neglect in care and other appropriate remedies</i></p> <p>b. <i>survivors should be fairly and meaningfully compensated for all direct and indirect losses flowing from the abuse and neglect they experienced in care and that are covered by the new pūretumu torowhānui system and scheme</i></p> <p>c. <i>the application process should be survivor-focused, trauma-informed and delivered in a culturally and linguistically appropriate manner.</i></p>	ACC	<p>s 9(2)(f)(iv)</p>
<p>Redress Report Recommendation 18 <i>The pūretumu torowhānui [redress] scheme should:</i></p> <p>› <i>be open to all survivors, including those who have been through previous redress processes, those covered by accident compensation, and those in prison or with a criminal record</i></p> <p>Redress Report Recommendation 42 <i>The [redress] scheme's financial payments should not adversely affect survivors' financial position and should not count as income. Other than for ACC purposes, the financial payments should not reduce or limit any entitlements to financial support from the State, including welfare and unemployment benefits, disability benefits and disability support services.</i></p> <p>Redress Report Recommendation 49 <i>Survivors should be able to make a claim to both the pūretumu torowhānui [redress] scheme and ACC. Any payments or services provided or facilitated by one should be taken into account by the other.</i></p> <p>Redress Report Recommendation 61 <i>The pūretumu torowhānui scheme should have the power to:</i></p> <p>...</p> <p>› <i>provide information and recommendations to the Crown on areas of reform relevant to abuse in care, including health, disability services, adoption, Oranga Tamariki, ACC, education and housing.</i></p>	Lead Coordination Minister for the Government's Response to the Abuse in Care Royal Commission	<p>These recommendations concern the design, development, and responsibilities of a separate redress scheme</p>

Recommendations	Lead portfolio	Comment
<p>Redress Report Recommendation 75 The Crown should create in legislation:</p>		
<p>› a right to be free from abuse in care</p>	Justice	<p>s 9(2)(f)(iv) [redacted] [redacted] [redacted]</p>
<p>› a non-delegable duty to ensure all reasonably practicable steps are taken to protect this right, and direct liability for a failure to fulfil the duty</p>		<p>[redacted] [redacted] [redacted]</p>
<p>› an exception to the ACC bar for abuse in care cases so survivors can seek compensation through the courts.</p>	ACC	<p>s 9(2)(f)(iv) [redacted] [redacted]</p>
<p>Redress Report Recommendation 76 The Crown should, if it decides not to enact the changes in recommendation 75, consider:</p> <p>› empowering the puretumu scheme to award compensation</p> <p>› reforming ACC so that it covers the same abuse the new puretumu scheme covers and provides fair compensation and other appropriate remedies for that abuse.</p>		<p>Replaced by Final Report Recommendation 11</p>
<p>Redress Report Recommendation 78 The Crown should amend the Limitation Act 1950 and Limitation Act 2010, with retrospective effect, so:</p> <p>› any survivor who claims to have been abused or neglected in care while under 20 is not subject to the Acts' limitation provisions</p> <p>› any survivor who has settled such a claim that was barred under either Act may relitigate if a court considers it just and reasonable to do so</p> <p>› any survivor who has had a judgment on such a claim can relitigate if they were found to have been barred under either Act's limitation provisions, and the time bar prevented the survivor from getting redress</p> <p>› the court retains a discretion to decide that a case cannot go ahead if it considers a fair trial is not possible.</p>	Justice	<p>This recommendation is included in this table because it is referenced in Final Report Recommendation 11</p> <p>Redress Report Recommendation 78 concerns limitation defences, which are available to defendants to prevent the litigation of claims which, due to the time that has passed since the event in question, may raise natural justice issues for defendants</p> <p>s 9(2)(f)(iv) [redacted] [redacted] [redacted] [redacted]</p>