

1 May 2026

Kenny McCormack

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Our reference: OIA25-26 648

Tēnā koe Kenny,

### **Official Information Act 1982 request**

Thank you for your enquiry of 31 March 2026, asking for the following under the Official Information Act 1982 (the OIA) in relation to on-sold properties:

*"On 20 September 2023, The Press published an article, titled, "Uncertainty remains for on-sold EQC claimants", EQC is quoted as saying "In the remaining cases [outside of the on-sold scheme/support package] where earthquake damage exceeds the statutory cap and there is no access to private insurance cover, we assess on a case-by-case basis to determine if an ex-gratia settlement is required".*

*The Press further adds, "Andrews said after a review of claims not eligible for the Government's one-off on-sold support package, only a few were determined to warrant an ex-gratia settlement".*

*Finally, The Press highlights, "Unlike the on-sold scheme, which was funded by Treasury, EQC funds ex-gratia payments through its natural disaster fund".*

*I request all official information held by EQC/NHC in relation to how it assesses, in required cases, whether an ex-gratia offer is warranted, how these payments are calculated and on what terms (if any) these are put forward."*

### **Context**

#### *Natural Hazard Cover*

The Natural Hazards Commission Toka Tū Ake (NHC) must settle a customer's natural hazard damage claim up to a customer's maximum entitlement (the cap) under either the Earthquake Commission Act 1993 or the Natural Hazards Insurance Act 2023. At the time of the Canterbury Earthquake Sequence (CES), the EQC Act covered residential buildings up to a cap of \$100,000 (plus GST).

### *Ex gratia payments*

An ex gratia payment is not an insurance payment or other statutory entitlement. It is a discretionary payment that is made without legal obligation or acceptance of liability.

### *Government's On-sold support package*

The Government's On-sold support package (On-sold programme) provides ex gratia payments to eligible homeowners in Canterbury to cover the over-cap portion of the cost to repair natural disaster damage arising from the Canterbury Earthquake Sequence. Applications for the On-sold programme closed on 14 October 2020, and we have been working with applicants since then to progress applications and repair earthquake affected homes.

For properties that were not eligible for the On-sold programme, in appropriate cases, NHC can make ex gratia payments to resolve claims.

## **Response**

### *Information regarding whether to make an ex gratia payment.*

We have interpreted this part of your request to be for any information NHC uses to determine whether to make an ex-gratia payment for the over-cap portion of an On-sold property outside of the On-sold programme.

By nature, ex gratia payments made by NHC are discretionary, and are made based on the specific circumstances of the claim. As such, NHC does not have set policies or processes to determine how it assesses whether to make an ex-gratia payment for the over-cap portion of an On-sold property outside of the On-sold programme. Therefore, we are unable to provide information of this nature. This decision is made under section 18(e) of the OIA – that the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found.

Due to the discretionary nature of ex gratia payments, we are withholding details or examples of specific circumstances where an ex gratia payment was considered under section 9(2)(j) of the OIA – enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

### *How payments are calculated and on what terms*

If NHC decide to make an ex gratia payment, the amount offered by NHC will depend on the specific facts of each case. Additionally, any ex gratia payments made are subject to confidential agreements.

As such, details regarding how ex gratia offers are calculated and on what terms the offer is made are withheld under section 9(2)(j) of the OIA – enable a Minister of the Crown or any public service agency or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

As required under section 9(1) of the OIA, we have considered the public interest in the release of the withheld information. We do not consider the public interest considerations favouring release are sufficient to outweigh the need to withhold it.

You have the right to ask the Ombudsman to investigate and review this response. You can contact the Office of the Ombudsman through the website: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

Ngā mihi



Ryan O'Leary

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