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Te Kaporeihana Āwhina Hunga Whara

27 June 2019

David Lawson
fyi-request-10281-b3a8ae99@requests.fyi.org.nz

Tēnā koe David

Your Official Information Act request, reference: GOV-000050
I refer to your email of 10 May 2019, asking for information about the Medical Issues Working Group (MIWG) under the Official Information Act 1982 (the Act).

On 17 May 2019, you clarified your request to be for the following:

1. *"official information associated with both the development of an agreed set of actions by the Medical Issues Working Group*
   (i) the names of the individuals, organisations and entities that were involved in the development of an agreed set of actions by the Medical Issues Working Group.

   (ii) Briefing Papers (BP) to the minister that proceed the BP dated 12 December 2018 Briefing Paper No: BP 18-040 to the Minister and Associate minister of ACC which reference the development of an agreed set of actions by the Medical Issues Working Group.

   (iii) submissions and papers that have been contributed to the development of an agreed set of actions by the Medical Issues Working Group from the individuals, organisations and entities named in response to OIA Request 3 Clarification (a), (i).

2. *official information associated with..........and the Medical Issues Working Group themselves.*

   (i) The Briefing Papers to the Minister of ACC advising him of the formation of the and the Medical Issues Working Group themselves, and the internal documentation between MBIE, and the medical working group...or those associated with the creation and formation of the group.

   (ii) confirmation as to the date when the Medical Issues Working Group was actually formed.

   (iii) copies of the internal ACC and MBIE documentation that details who the group is answerable to, the structure and number of memebers in the group, and whether this group has any obligation's to consult with ACC claimant advocacy groups and or ACC claimant lead feedback groups or organisations.

   (iv) *the minutes and agenda's of all of the Medical Working Group's meetings and communications with ACC and or MBIE."*

As previously advised, the following parts of your request were transferred to the Ministry of Business, Innovation & Employment (MBIE) on 22 May 2019 for response:

1. *… the internal documentation between MBIE, and the medical working group…or those associated with the creation and formation of the group.*

2. *Copies of the internal MBIE documentation that details who the group is answerable to, the structure and number of members in the group, and whether this group has any obligation's to consult with ACC claimant advocacy groups and or ACC claimant lead feedback groups or organisations.*

You can expect a response from MBIE with regards to these questions in due course.

On 17 June 2019, we advised you that no submissions and papers that contributed to the agreed set of actions by the MIWG existed. We also advised you that we were refusing your request for the group communications, as to collate these would require substantial collation and research. These parts were refused under sections 18(e) and 18(f) of the Act.

The MIWG structure, members and documentation
Please find attached the following documentation:

- the Dean review: Medical Issues Working Group terms of reference, released in full
- 19 December 2016 meeting notes and actions, released in full
- 13 March 2017 meeting agenda, released in full
- 13 March 2017 meeting notes and actions, partially released
- 5 July 2017 meeting agenda, released in full
- 7 July 2017 workshop notes, released in full
- 8 November 2017 workshop notes, released in full
- Summary of MIWG's discussion on medical evidence issues, partially released

The documents provide the following information in relation to the MIWG:

- the names of the individual members and organisations involved in the MIWG
- confirmation of the date the MIWG was formed
- the chairperson of the MIWG
- the minutes and agendas of all four of the MIWG's meetings.

The MIWG had no obligation to consult with any ACC claimant advocacy groups or claimant lead feedback groups. However, you will note that several of these groups were involved in the MIWG.

Briefing papers related to the MIWG
Also attached is briefing paper BP18-032, this is the briefing paper that preceded briefing paper BP18-040. This is partially released to you.

Some information in BP18-032 has been withheld, as to release it would prejudice the interests protected in section 9(2)(f)(iv) of the Act, which maintains the constitutional conventions for the time being which protect the confidentiality of advice tendered by officials.

Copies of the other briefing papers related to the MIWG can be found on the MBIE website through www.mbie.govt.nz.

If you have any questions about this letter
If you have any questions, you can email me at GovernmentServices@acc.co.nz.

If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

Nāku iti noa, nā

Emma Coats
Manager Official Information Act Services
Government Engagement & Support

ACC
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The Dean review: Medical Issues Working Group

October 2016

Terms of reference

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1 Preface

1.1 The Medical Issues Working Group **'the group'** has been established in response to the Dean review '**the review'**. The review recommended that ACC convene a working group to examine a 'myriad of problems' with medical evidence. The working group should comprise representatives from ACC, the Ministry of Business, Innovation & Employment, New Zealand Association of Accredited Employers, and Acclaim Otago along with the relevant medical, legal, and advocate groups (including possibly a member of the District Court bench).

2 Purpose

2.1 The purpose of the group is to consider ways to improve the process of requesting and interpreting medical evidence. Any improvements should result in fair, timely, and consistent cover/entitlement decisions.

2.2 If the group makes recommendations that relate to ACC, they will be submitted to the appropriate decision-making body (eg the ACC Executive) for consideration.

2.3 If the group makes recommendations that relate to other organisations, these will be forwarded to the relevant organisation.

2.4 All of the group's recommendations will be reported to the ACC Board.

3 Background

3.1 ACC needs medical information to make decisions on client eligibility for cover or entitlement. The review highlighted a number of issues surrounding the way ACC collects, requests and intreprets medical information, including:

- the imbalance of power and resources available to ACC and the client
- the lack of medical experts in some specialised areas of medicine
- the perceived lack of objectivity involved in ACC's process when seeking information from medical practitioners, including the preferential selection of medical practitioners by ACC, and the questions ACC asks
- decisions issued without all the relevant medical information
- inconsistencies related to decisions and their timeliness
- the variation in the quality of medical practitioners' reports
- lack of equity in the impairment and vocational independence assessment.

4 Role of the Medical Issues Working Group

4.1 To address these issues, the review highlighted several areas that the group should consider. These were:

- Independence – *ACC ensures a medical expert's opinion is objective*
- Rotation – *to prevent experts "falling under the sway" of ACC*
- Dialogue – *to enable medical experts to confer with each other*
- Guidelines for medical reports – *clear guidelines for external medical experts (eg HDC guidelines)*

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- 'Blind' panels – *medical experts would not know if the report was commissioned by ACC or the client*
- Education of experts – *medical schools should offer practical education so that medical experts have some knowledge on accident compensation matters*
- Templates for GPs – *ensuring earlier completion of all relevant information about injury claims*
- Cross-disciplinary committees – *tests for cover and entitlement relate to law and medicine, so an agreed cross-disciplinary code of practice would clarify these eligibility requirements*
- Costs of reports – *greater flexibility for clients receiving reimbursement of medical report costs where they are successful in overturning ACC's decision at review or in the District Court*
- Access to medical experts – *look at what incentives may encourage more medical experts to undertake ACC work.*

4.2 The group is not precluded from looking at other issues surrounding the way ACC collects, requests and interprets medical information. Rather, the points specifically highlighted by the review are the starting point for the group's terms of reference.

5 Chairperson

5.1 ACC's Chief Clinical Advisor is to act as Chairperson. The main role of the Chairperson is to ensure that the recommendations agreed upon by the group are accurately documented and submitted to the appropriate decision-making body or organisation, and that the ACC Board is informed.

5.2 The Chairperson will:

- ensure that the appropriate organisations are represented, with flexibility to include or substitute representatives from various medical organisations depending on the topic(s) under discussion
- check with members that any conflicts of interest are managed at every meeting
- ensure the group's deliberations are balanced
- facilitate robust discussion and ensure all group members have their say
- ensure meetings operate efficiently and effectively.

6 Members

6.1 Members will attend all meetings. If a member is unable to attend for any reason, they must notify the Chairperson.

6.2 Members will:

- represent their group/organisation
- take a sector-wide view when considering any proposals
- ensure the group operates efficiently and effectively
- receive a meeting fee as outlined in Schedule One (Remuneration of Members).

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7 Meetings

7.1 The Medical Issues Working Group will meet up to four times in total.

8 Administration and reporting

8.1 The Chairperson must appoint a secretary, who will:

- coordinate the scheduling of meetings and forming and distributing the agenda
- record and distribute meeting minutes and an actions list to members for comment within ten business days after each meeting
- communicate with members as required.

8.2 ACC has agreed to up to four meetings to address the medical evdience issues raised by the review.

8.3 Once the group has completed its deliberations, any recommendations are to be forwarded to the relevant organisation or decision-making body for consideration, and the ACC Board is to be informed.

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Schedule One: Remuneration of Members

1. Payment to members of the Medical Issues Working Group is in accordance with rates established by the government under the fees framework for members appointed to bodies in which the Crown has an interest, (see: Cabinet Office Circular CO (12) 06). The Medical Issues Working Group is classified as a "Group 4; other Committees and bodies".
2. Members are paid at the approved attendance rate, as set by the Chief Executive.
3. Members who are Medical Practitioners registered with the Medical Council of New Zealand, or Barrister and Solicitors of the High Court of New Zealand and run a sole practice, may at the absolute discretion of the Chief Executive, receive $350.00 (including GST, if any) per meeting attendance. This includes any associated travel time.
4. In addition, each member under clause 3 will receive $350.00 (including GST, if any) for preparation time for each meeting.
5. Other members who attend the Medical Issues Working Group who are not Medical Practitioners, Barristers, or Solicitors will receive $250.00 (including GST, if any) per meeting attendance. For the purposes of clause 3(1) of Schedule One, the decision of the Chief Executive is final and binding.
6. In addition, each member under clause 5 will receive $250 (including GST, if any) for preparation time for each meeting.
7. Meeting fees must be invoiced, in arrears, to ACC by the entity that the member represents.
8. Arrangements as to how the individual member is paid are the sole responsibility between the representative entity and the individual member concerned.
9. Where a member does not represent an entity, it is possible payment be made through the ACC payroll system, with withholding tax deducted at 33%.

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Medical issues Working Group – 19 December 2016

Meeting notes and actions

Meeting attendees are listed at Appendix 1.

Agenda item	**Note**	**Action**
3	Dr Peter Robinson confirmed that the scope of work would include looking at clinical advice across the whole client pathway. "Sole practice" was removed from Schedule One of the Terms of Reference.	 ACC Policy
4	The agenda was confirmed with no changes.	
5	It was noted that a Ministry of Justice representative would be at future meetings. It was agreed that there should be representation of Maori, by inviting a doctor from Te Ora.	 Chair
6	It was agreed that JC Somers would email attendees with details of the Review Costs and Appeals Regulations and seek feedback on these.	JC Somers (MBIE)
7	Verbatim points from the discussion on ***Availability – ensuring sufficient medical experts*** were captured on the whiteboard / flipcharts and are detailed at Appendix 2. Key points from discussion were: - There could be benefits in having an independent body to commission reports - There were issues of both cost and demand - The work needed to be better promoted - The work needed to be made more attractive, e.g. simpler to do - There was potential to widen the pool, e.g. GPs who have vocational registration and/or specialist qualifications - Remuneration needed to be addressed - Guidance and training on the role of experts	

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8	Verbatim points from the discussion on ***Independence – medical experts perceived to be objective*** were captured on the whiteboard / flipcharts and are detailed at Appendix 2. Key points from discussion were: - Independence was already required under Medical Council guidelines - Improved guidance and training was needed on the role of a medical expert in providing 3rd party assessments - There may be value in having an independent body that could commission reports - Perceptions were that there were "camps" of medical experts for ACC and advocates, and reluctance to work for the "other side"	
9	Verbatim points from the discussion on ***Dialogue – to enable medical experts to confer with each other*** were captured on the whiteboard / flipcharts and are detailed at Appendix 2. Key points from discussion were: - There was significant value in having dialogue between medical experts - There were challenges in achieving this because medical experts were busy people - The clients should be involved at the start - There were risks that divergent views, which could be valuable, may be lost	
10	Dr Peter Robinson said the next steps would be to circulate the minutes from the meeting and for attendees to socialise the issues with their organisations, and get feedback. It was requested that ACC would: • provide any data held on cost of medical evidence provided by ACC at reviews • look at the process for commissioning medical advice and identify opportunities for simplification It was agreed that FairWay would provide information on forthcoming changes to review processes to attendees. The next meeting would be scheduled late February/ early March, and would focus on actions that could be taken to address the issues identified by the working group.	Peter Robinson Peter Robinson Derek Pullen Nicola Harrison

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Appendix 1

Peter Robinson	ACC Clinical Services Directorate
Nicola Harrison	ACC Clinical Services Directorate
Julia Lee	Facilitator
Charles Smith	ACC Policy
Michael Austen	ACC Clinical Advisory Panel
Karen Robertson	ACC Policy
Dr Denise Powell	Acclaim Otago
Bruce van Essen	Acclaim Otago
Derek Pullen	FairWay
Warren Forster	Forster & Assoc
Tom Barraclough	Forster & Assoc
Richard Lander	Council of Medical Colleges
Pati Umaga	Disabled Persons Assembly
JC Somers	MBIE
John Miller	NZ Law Society
Ben Thompson	NZ Law Society
Carl Stent	NZ Association of Accredited Employers
Greg Lloyd	NZCTU / Workplace Injury Advocacy Service
Lesley Clarke	NZ Medical Association
Andrea Pettett	NZ Orthopaedic Association
Deanne Wong	Royal NZ College of GPs
Felicity Goodyear-Smith Sam Hack Mary Ahern Sue Arnesen	Royal NZ College of GPs ACC lawyer ACC Legal Council of Medical Colleges

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Appendix 2

Verbatim points from topic discussions

Availability – ensuring sufficient medical experts

- Not attractive work for surgeon – cost, timeliness, other work, tests
- Need to promote importance of work
- Up skill people on independence of reports
- Problems when there are different medical opinions – how do you rate one medical opinion against another?
- College would facilitate training for members, provided by ACC, which could have CPD points
- College would facilitate guidelines for GPs and publicising the role of experts
- Need to understand whether this is a cost problem or a supply problem
- Need to avoid battle of experts
- Claimants need to know medical expertise is available
- "Freeway effect" – greater availability will drive more demand – need to consider future demand not just current demand from Court
- Changes in review and court guidelines will include provision for medical evidence to be funded by ACC which will significantly increase demand for clinical advice
- Equity issues between availability of medical evidence for ACC and for claimant
- Perceived conflicts of interest mean that medical assessors who do work for ACC won't do work for advocates
- Make it more attractive – timeliness
- Enforce or incentivise
- Keep it simpler

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- Make it part of people's practice
- Promotion and communication – e.g. awards for best assessor
- Remunerate at same rate as normal work for assessors
- Consider spending differently, e.g. giving everyone entitlements or getting rid of causation tests and reducing spend on reviews/ court /medical evidence
- Policy issues with the health system / ACC
- Providing one report which everyone uses
- Need for providers to set expectations
- Enable expert advice to be provided more broadly, e.g. by GP with specialist qualifications, physiotherapist with lumbar disc specialisation
- Facilitate process to improve timeliness of advice – manage process to be more efficient, less paper, present assessors with only the information they need to read, get good administrator to prepare documentation
- ACC streamline processes – get rid of 500 pages
- Limited pool of assessors – market conditions need to change
- Tie in with advocacy network
- Claimants may not be able to afford medical reports - time to get medical reports can mean six months without income
- Ensure experts have done training
- Increase the pool by asking vocationally registered GPs with specialist qualifications to undertake assessments
- Busy doctors
- Need practising doctors not those who only do reports
- Claimants who aren't represented don't understand the importance of getting medical evidence, needs to be communicated
- Insert an independent funding body between ACC and medical experts so either side wanting a report could apply to the agency

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- Need to look at quality of medical comment ACC relies on, e.g. pharmacist engaged in dispute with surgeon, CAP decisions signed by physiotherapist and surgeon, what level of senior input has there been?

- Consider creating an intermediary which could create a standard system or control existing system

- ACC also has issues about availability of medical experts

- Use overseas doctors

- Use retired doctors

- CAP looks at 1200 surgery requests a week – not all cases require client to be seen, e.g. issues of causation.

- Finding surgeons is not easy for CAP – assessments can require 200 pages of reading

- Can we break pathway down?

- Doctor should always assess independently on clinical evidence:

- Is this a problem of perception?

- Money is a component of the problem

- Could work be done around requests to make them more targeted?

- Don't over-engineer or become too mechanistic, e.g. templates

- Use independent funding report

- Busy – limited pool of people, GPs not used

- A lot of medico-legal work out there and surgeons aren't trained

- Retired doctors are not as credible

- Not well remunerated for surgeons who run businesses

- Degree of complexity

- Tension between scope of practice and court view of GP vs. surgeons:

- GPs can have specialist qualifications
- ACC medical reports are low priority – cost, convenience

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- Fairway coming guidelines will pre-authorise medical reports
- Duelling specialists
- Hard for reviewers to commission reports
- Source reports from Australia
- Training issue – some reports clearly advocacy. Specialists need to be aware reporting for the Court not ACC
- ACC don't engage the same people all the time
- Claimant on back foot – income cut off and legal aid not available over $26k
- Some specialists won't jeopardise their work with ACC by doing work for the claimant
- Funding for intermediary body would help
- Give same entitlements for health and ACC
- Advantages with ACC – claimant on the back foot
- Nightmare for client
- Independent medical advice would enhance reputation of ACC
- "Card game" where can be five signatures on a CAP decision and GP won't cut it for a reviewer/ Court
- Good to get all stakeholders together
- Medics may not be keen to get people on/ off scheme
- Medical profession not interested in AEP
- Clients need resources and information
- Institutional and structural issues
- Social investment – clients see ACC as "enemy", support each other and frightened. No trust in system – independent body could be good
- Disgruntled clients are given expectations that they have cover and then find they don't have it for a procedure

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Independence – medical experts perceived to be objective

- Fairway:
- only get written evidence
- tone of the document needs to be independent but often this is not the case – training needs to be undertaken
- medical specialists should not quote case law or legislation

- Hard to find someone who is perceived to be independent by one of the "camps"

- Needs to be clear whether the independence is of the person, or the evidence

- Guidance and training courses are needed to ensure good model report writing

- Guidance needs to be independent of ACC

- Requests for report need to clarify why a report is being requested and why questions are being asked

- Need to think about how we address perceptions

- Need process for accrediting experts, what if claimant doesn't want anyone on list?

- CAP expect surgeons to be advocates for their patients and patient's interests

- Court – has been less criticism of individual, more criticism at report (reaching conclusions)

- More information to claimants up front, how process works, doctors need to be independent

- Report from treating expert has more weight, advocacy reports worth less

- Claimants need to have relationship and trust – get consumer perspective on how they see independence

- Perception ACC has all the resources so no level footing

- Medical Council standards cover that doctors must not act as an advocate in third party assessments:

  - concern Acclaim Otago that there are not "teeth" to the standards
  - make it clear to experts that Medical Council standards apply

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- ACC preparing guidelines for providers on 3rd party reports
- Important that person asking for reports ask the right questions
- Important that experts understand their role
- Experts need to show they are acting independently: claimants may perceive that because they are paying the expert is working for them
- Important to ensure experts are objective and person-centric
- People can be blind-sided by reports – experts need to come back to the person\
- Reports could be blind so the expert does not know who it is for
- Guidance and training needed
- Insert Court /reviewer in who you're writing for
- Could be 10 fold increase in requests for medical reports because of changes to review process
- Self-represented person finds it hard to ask the right questions – should we use an external party or train assessors?
- How do we show independence is achieved, e.g. number of assessments, limit number of assessments a year, data?
- Courts are not interested in who the assessor is
- ACC has ways to dominate, e.g. get relationship manager to tell GP off
- Medical Council guidelines haven't worked
- Saying "I am independent" at the start of the report is worthless – person needs to trust the people doing the assessment, building trust is difficult
- UN Convention on Rights for People with Disabilities needs to be part of approach
- Funding and KPIs do make a difference to independence
- Court wants as much information as possible – every bit of evidence is potentially medico-legal
- Did the accident cause the injury is a legal question that requires case law. The line between legal and medical is difficult

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- Tension between medical specialists if there is a demand about the workings

- How can we improve existing perceptions to improve independence? Only a number of formal mechanisms MBIE can provide, e.g. independence of Fairway

- Hard to be independent expert not advocating for the claimant

- Need to have all the evidence, otherwise can't be independent

- Training and accreditation

- Guidance that compliance is needed with Medical Council standards

- Have a body which provides or provides the infrastructure for one expert from nominated fellows of college – overcome capacity issues (ACC model for second opinions)

- Claimant may want two options

- Questions for medical advice from AEP were leading questions: needs to be addressed

- To what extent does treating surgeon advocacy role influence ACC decision?

- Having 1 assessor to review would help

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Dialogue – to enable medical experts to confer with each other

- For ACC CAP elective surgery team:
  - communication with surgeons is largely by email/ letter
  - could discuss decision to decline with the treating surgeon
  - there are opportunities for CAP to confer with the surgeon before and after decision-making
  - talking is easier than paperwork
  - the treating surgeon could be asked to attend the relevant CAP panel by phone

- To get health professionals to confer effectively, they need to be in the same room – it can still be hard to get them to reach the same opinion

- Busyness is an issue for surgeons. It's hard to get time to confer, it could impact on timeliness of the process, most conferring is by mail

- ACC ran a trial of communicating declines in Dunedin which got everyone in the room – it can be done. The UK also puts the experts in the room

- Dialogue can get the adversarial nature out of issues – enables what is in conflict to be identified, and then get it resolved

- "Hot-tubbing" enables experts to get together, work through the areas of conflict, and get to a consensus view or limit the number of issues that remain. Practical difficulties often require a phone conversation.
- May need to be cautious about how it would work, e.g. if there was one expert on one side and five on the other side

- AEP try to schedule meeting of all parties but can be hard to do

- Potential for joint report between medical experts – what's agreed, points of disagreement and the rationale for these

- Clients should be involved in meetings

- Cost for medical experts' time estimated at $100 per hour but could be $500 an hour for surgeon in business

- Risk "hot-tub" might not drive quality

- May not get agreement

- Medical practitioners don't always want to disagree with people – could diminish the pool of providers

- Potential lack of transparency

- Differing views can be helpful to drive medicine and law

- Need dialogue and different views

- Case conferences could be a lot cheaper than reviews ($5k)

- Have dialogue early with client

- More resources upfront to resolve earlier

- Need a layered approach so dialogue should start earlier

- Conferring pre-decision would be beneficial as in employment law

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Medical Issues Working Group
Agenda

Monday 13 March 2017
10am to 2pm
Rangimarie Room 1, Te Papa
55 Cable Street, Wellington

Agenda

10 am	Welcome from Chair (Peter Robinson – ACC's Chief Clinical Advisor) • Round the table introductions
10.05 am	Approval of notes from 19 December 2016 meeting
10.10 am	Independence: Draft guidelines for medical experts performing medical assessments for ACC
10.55 am	Discussion on the availability of medical experts • Update on impact of the changes to FairWay's case management system
12 pm	Lunch
12.30 pm	Medical Assessors project – Gillian Anderson
1 pm	MBIE: Review Costs and Appeals Regulations - JC Somers
1.20 pm	Internal Advice Panels • Update on changes considered to ACC's Clinical Advisory Panel
1.50 pm	Wrap up and closing remarks Provisional date for the next working group meeting is tabled.

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Medical Issues Working Group Attendees

	Organisation	Representatives
Chair	Chief Clinical Advisor ACC	Peter Robinson
Facilitator	Business Skills Training	Julia Lee
Members	Acclaim Otago	Bruce van Essen
	Council of Medical Colleges in NZ	Richard Lander, Sue Inesen
	FairWay Resolution Limited	Bernard Lock
	Forster & Associates	Warren Forster, Tom Barraclough
	NZ Association of Accredited Employers	Karen Birch
	NZ Law Society	John Millar, Ben Thmpson
	NZ Medical Association	Lesley Clarke
	NZ Orthopaedic Association	
	Royal NZ College of General Practitioners	Deanne Wong
	Te Ora	Te Oraiti Reedy, Sarah Sciascia
	Workplace Injury Advocacy Service (NZ Council of Trade Unions)	Greg Lloyd
Attendees	Ministry of Business, Innovation and Employment	JC Somers, Alexandra Jackson
	Ministry of Justice	Michael Matheson
	ACC Policy	Karen Robertson, Nick Rees
	ACC Legal	Mary Ahern, Sam Hack
	ACC Clinical Services Directorate	Michael Austen, Nicola Harrison
	ACC Provider Service Delivery	Gillian Anderson
Apologies	NZ Association of Accredited Employers	Carl Stent
	Acclaim Otago	Denise Powell
	Disabled Persons Assembly	Pati Umaga
	Royal NZ College of General Practitioners	Felicity Goodyear-Smith

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Medical issues Working Group – 13 March 2017

Meeting notes and actions

Meeting attendees are listed at Appendix 1.

Agenda item	**Note**	**Action**
Approval of notes	It was raised that notes from the previous meeting were summaries and not "verbatim". Agreed to remove the word verbatim. The meeting notes from the previous meeting were approved.	
Draft guidelines for medical experts	The draft guidelines for medical experts performing medical assessments for ACC were discussed. Whiteboard notes are attached at Appendix 2 – item 1. It was agreed that: • ACC would consider how to address questions posed by Warren Forster & Associates, which were raised but not discussed in the meeting (see Appendix 2 item 1) • ACC Policy would update the guidelines and circulate a final draft for review.	Peter Robinson/ Karen Robertson Karen Robertson/Nick Rees
Availability of medical experts	Ideas to improve the availability of medical experts were identified and discussed. Whiteboard notes from three break-out groups, and a plenary discussion, are attached at Appendix 2 – item 2. It was discussed that there were two key actions to progress at this stage: • early conversations with parties eg medical professionals before decisions were made broadening the pool of medical experts with other health professionals with relevant expertise.	Peter Robinson Peter Robinson, with input from medical colleges
	OUT OF SCOPE	
Review costs and regulations	JC Somers gave a presentation on Review Costs and Appeals Regulations.	JC to circulate soft copy to working group members.
Internal	Michael Austen gave an overview of changes being made	

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advice panels	to ACC's Clinical Advisory Panel.	

Appendix 1 – List of Meeting Attendees

Attendees	Representing Body
Peter Robinson	ACC – Clinical Services Directorate
Nicola Harrison	ACC – Clinical Services Directorate
Julia Lee	Facilitator – Business Skills Training
Nick Rees	ACC – Policy
Michael Austen	ACC – Clinical Advisory Panel
Gillian Anderson	ACC – Provider Service Delivery
Karen Robertson	ACC – Policy
Sam Hack	ACC – Legal
Mary Ahern	ACC - Legal
Bruce van Essen	Acclaim Otago
Bernard Lock	Fairway
Tom Barraclough	Forster and Associates
Sue Ineson	Council of Medical Colleges
Richard Lander	Royal Australasian College of Surgeons
Alexandra Jackson	MBIE – AC Policy
JC Somers	MBIE – AC Policy
John Miller	New Zealand Law Society
Ben Thompson	New Zealand Law Society
Karen Birch	New Zealand Association of Accredited Employers
Greg Lloyd	NZCTU / Workplace Injury Advocacy Service
Lesley Clarke	New Zealand Medical Association
Michael Mathieson	Ministry of Justice
Deanne Wong	Royal New Zealand College of General Practitioners
Sarah Sciascia	Te Ora
Te Oraiti Reedy	Te Ora
Apologies	**Representing Body**
Graham Dyer	ACC – Provider Service Delivery
Pati Umaga	Disabled Persons' Assembly
Carl Stent	New Zealand Association of Accredited Employers
Andrea Pettett	New Zealand Orthopaedic Association
Felicity Goodyear-Smith	Royal New Zealand College of General Practitioners
Warren Forster	Forster and Associates
Denise Powell	Acclaim Otago

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Medical Issues: Independence: Draft Guidelines:

1) **Draft Guidelines for medical experts performing medical assessments for ACC**:

The following comments were made on the draft guidelines:

- Questions how we get to point of providing medical advice
- Under 'e' privacy, add link to ACC privacy policy
- Good summary
- Role of ACC should go up front
- For ACC to make decision refer to Medical Council professional standards in the fourth paragraph
- Under 'impartiality,' add 'personal interest'
- Under accuracy, change 'evidence' to 'information'
- Add template / guidance at back for easy reference to medical experts
- Should we 'comply with code' not 'observe patient's rights'
- Why don't we use High Court model attached to this?
- Clause 4 – need to give scope to expert to reconsider to take on different views
- Page 2 – don't agree assessor should have to go back to ACC. Privacy Act – Collect info from person involved.
- Medical Council – doctors should physically examine people
- Guidelines cover spectrum of issues including court and non-court
- Where would the expert name be?
- Document sets out a set of principles
- Need to get people into the room – e.g., advocate, GP, client – to share info and make decision (Dunedin Pilot 2014)
- Guidelines do not solve problems of procurement of medical assessments
- Need to understand what happens when the wheels come off
- Need to focus on claimants
- What is the practice among others, e.g., insurers?
- If case management process works well, these factors should be taken care of
- Will depend on the circumstances

The following questions were tabled but not discussed:

- Who decides an assessment is necessary and who else is consulted?
- Who decides on the qualifications / experience requirements of the assessor?
- Who decides entry into the pool of people with required "qualifications/experience"?
- Who decides which individual assessor from the pool will provide the assessment in that particular case?
- Who decides what information will be provided to the person conducting the assessment?
- Who decides what questions will be asked of the assessor?
- Who decides process of assessment: time, duration, whether the assessment will be recorded and who will attend?

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- Who decides whether the individual assessment and individual report is of appropriate quality and requests changes to the report?
- Who monitors the system of assessments and makes changes as required?
- Who pays for the assessment and management of the assessment process and how is this done in a way that avoids the current perception problems redeveloping?

2) Discussion on the availability of medical experts:

i) The meeting divided into three groups. These are the notes from the flipcharts.

Barriers:

- Complex Cases
- Cost
- Availability

Remove practical barriers (bundle, agreed questions)

Survey:

- Do you
- Will you
- Why not

Increase $$

Health advisor pool

- Not just medical
- The 'right' expert and court buy in
- Value proposition
- Professional bodies
- Context of challenges to clients

- Early consultation by ACC with experts / GP / other treating professionals before decision is made

- Training on ACC
  - During post-grad studies / undergraduate
  - Including medico-legal aspects
  - ACC offer medico-legal training
  - Could be used for CPD
  - Certificate in medico-legal
    - Get preference in review / court expectations
    - Include report writing

- Broadening pool to other professionals – ACC start with this
  - Relevant expertise

- GPSI – v. few
- Use GPs instead of other specialists
- ACC and other party agree to a separate specialist when there is a dispute

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- Need to decide the question first
    - Expert that can answer question
- Get agreement with medical experts before ACC makes the decisions – reduce disputes
- ACC and patient's GP talk more
- Expand to other professions:
    - E.g. nurse, physio, osteo, chiro
    - Don't need to match orthopaedic surgeon vs. orthopaedic surgeon
    - ACC could widen pool at outset
- Increase education about ACC in training
    - Raise awareness of opportunities with ACC interest

Solutions for 'right now':

- Telehealth
- Case Conferencing
- ? Graduates
- ? Nurse practitioners
- Agreed clinical pathways for 20 common conditions
    - Shoulders
    - Knees
    - Key factors that need to be taken into account
    - ACC lowers its threshold tests
    - Pre-agreement = less dispute = less reports

How can we increase medical expert advice?

- Is this a core part of their role? Different perception in medical sector
- When we get advice, we take that advice whether or not we agree
- Limited amount of expertise – demand on time (Hospital Model)

Solutions:

- Training programme – through colleges / Medical Council / CPD (within next 3 months) with ACC input
    - Educate future workplace (universities / DHBs)
- Telehealth – within NZ / Overseas?
- Upskill GPs (GPSI)
- Adequately remunerated
- Agree information so all on same page
- Build good relationships – critical
- Using DHB experts to assist – DHB HR Managers

ii) Identified Priorities

The following actions were identified as priorities for now:	***The following actions were identified as priorities to be investigated***:
Case conference before decision is made (clients need to be legally informed)	Medico-legal training
Early conversations	Broadening pool to other professionals – relevant expertise
	Telehealth – use international workforce
	Case conferences

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	Agreed clinical pathways to 20 common conditions
	Survey ask people why not doing value proposition
	Use conciliation process
	Offer more money – cost of reports

iii) Progressing Identified Priorities

Early conversations with parties before decisions are made:

- Pre-decision discussions with medical professionals
- Through Fairway –not be appropriate cause decision not made
- ACC should lead because at this stage an ACC decision
- Work on lodgement may address issues

Broadening pool with other health professionals with relevant expertise:

- Talk to relevant professional associations / regulatory bodies, e.g., physios
- Promote training on reporting
- Ensure there is delegation rather than role substitution
- Position benefits and remuneration (ACC / Council of Medical Colleges)

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Medical Issues Working Group
Agenda

PREVENTION. CARE. RECOVERY.
Te Kaporeihana Āwhina Hunga Whara

Wednesday 5 July 2017
10am to 2pm
Te Papa, 55 Cable Street
Wellington

Time	Topic	Focusing Question
10:00	Welcome and Context	Welcome and Introductions • Chair to welcome Jim Scully and Round table introductions

10:10	Previous meeting	Approval of Minutes and actions report back
		• Guidelines for medical practitioners
		• Mr Forster's list of questions
		• Progress on:
		  o Early conversations with parties e.g. medical professionals before decisions are made
		  o Broadening the pool of medical experts with other health professionals with relevant expertise

10:30	Client & Provider experience in view	Bringing the client and provider experience sharply into view (visually) • The current experience of clients (injured persons) and providers • The future experience of clients (injured persons) and providers if this improved process is ***the best it can be***
11:15	Design challenges	Based on the above discussion • Identify the pivotal design challenges to tackle today (incl. Dean report) o e.g. access to independent evidence, ready supply of providers etc) • Describe these challenges from the different perspectives of those present
12:00	Lunch	
12:30	Design the Experience	In mixed teams, develop concepts and/or tease out previously considered options to address the identified pivotal design challenges Share and converge
1:50	Closing thoughts and next steps	

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Medical Issues Working Group Attendees

	Organisation	Representatives
Chair	ACC Chief Clinical Advisor	Peter Robinson
Facilitator	ThinkPlace Ltd	Jim Scully
Members	Acclaim Otago	Bruce van Essen
	Council of Medical Colleges in NZ	Sue Ineson, Richard Lander
	FairWay Resolution Limited	Bernard Lock
	Forster & Associates	Warren Forster, Tom Barraclough
	NZ Law Society	John Millar, Don Rennie
	NZ Medical Association	Lesley Clarke
	NZ Orthopaedic Association	Andrea Pettett, John McKie, Richard Street
	Royal NZ College of General Practitioners	Deanne Wong
Attendees	Ministry of Business, Innovation and Employment	JC Somers, Alexandra Jackson
	Ministry of Justice	Michael Matheson
	ACC Policy	Karen Robertson, Nick Rees
	ACC Legal	Mary Ahern, Sam Hack
	ACC Clinical Services Directorate	Michael Austen, Nicola Harrison
Apologies	NZ Association of Accredited Employers	Carl Stent, Karen Birch
	Te Ora	Te Oraiti Reedy, Sarah Sciascia
	NZ Law Society	Ben Thompson
	Acclaim Otago	Denise Powell
	Workplace Injury Advocacy Service (NZ Council of Trade Unions)	Greg Lloyd
	Disabled Persons Assembly	Pati Umaga
	Royal NZ College of General Practitioners	Felicity Goodyear-Smith
	ACC Provider Service Delivery	Graham Dyer

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Accident Compensation Corporation

Medical Issues Working Group

7 July 2017

Version Number: 1   Draft and Confidential

Context

This workshop was the third meeting of the working group. It was an opportunity to progress process improvements to enable ACC to make more informed decisions and allow clients to access medical evidence more easily. This will improve the client experience and enable those who go to review to get the medical evidence needed in a fair and timely manner.

Participants

Chair	ACC Chief Clinical Advisor	Peter Robinson
Facilitator	ThinkPlace Ltd	Jim Scully
Members	Acclaim Otago	Bruce van Essen
	Council of Medical Colleges in NZ	Sue Ineson, Richard Lander
	FairWay Resolution Limited	Bernard Lock
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	ACC Legal	Mary Ahern, Sam Hack
	ACC Clinical Services Directorate	Michael Austen, Nicola Harrison

Apologies	NZ Association of Accredited Employers	Carl Stent, Karen Birch
	Acclaim Otago	Denise Powell ***(attended for 2 hours remotely)***
	Te Ora	Te Oraiti Reedy, Sarah Sciascia
	NZ Law Society	Ben Thompson
	Workplace Injury Advocacy Service (NZ Council of Trade Unions)	Greg Lloyd
	Disabled Persons Assembly	Pati Umaga
	Royal NZ College of General Practitioners	Felicity Goodyear-Smith
	ACC Provider Service Delivery	Graham Dyer

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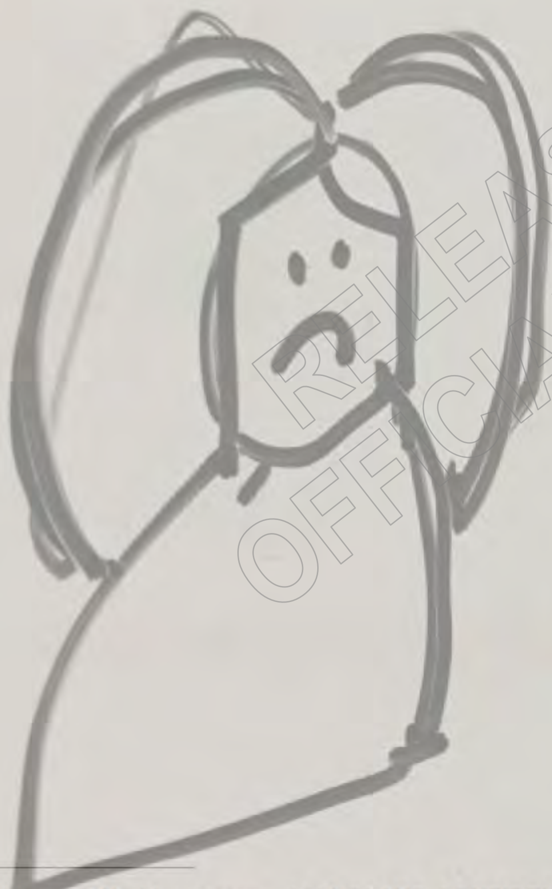

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Understanding the current experience

We brought the client and provider experience into view.

As a group, we discussed and whiteboarded the current experience of clients (injured persons) and providers.

Contrasting experiences

I'm in the public health system (out of luck), I'm poor and alone.

I'm in ACC (sweet!), great and I'm helped.

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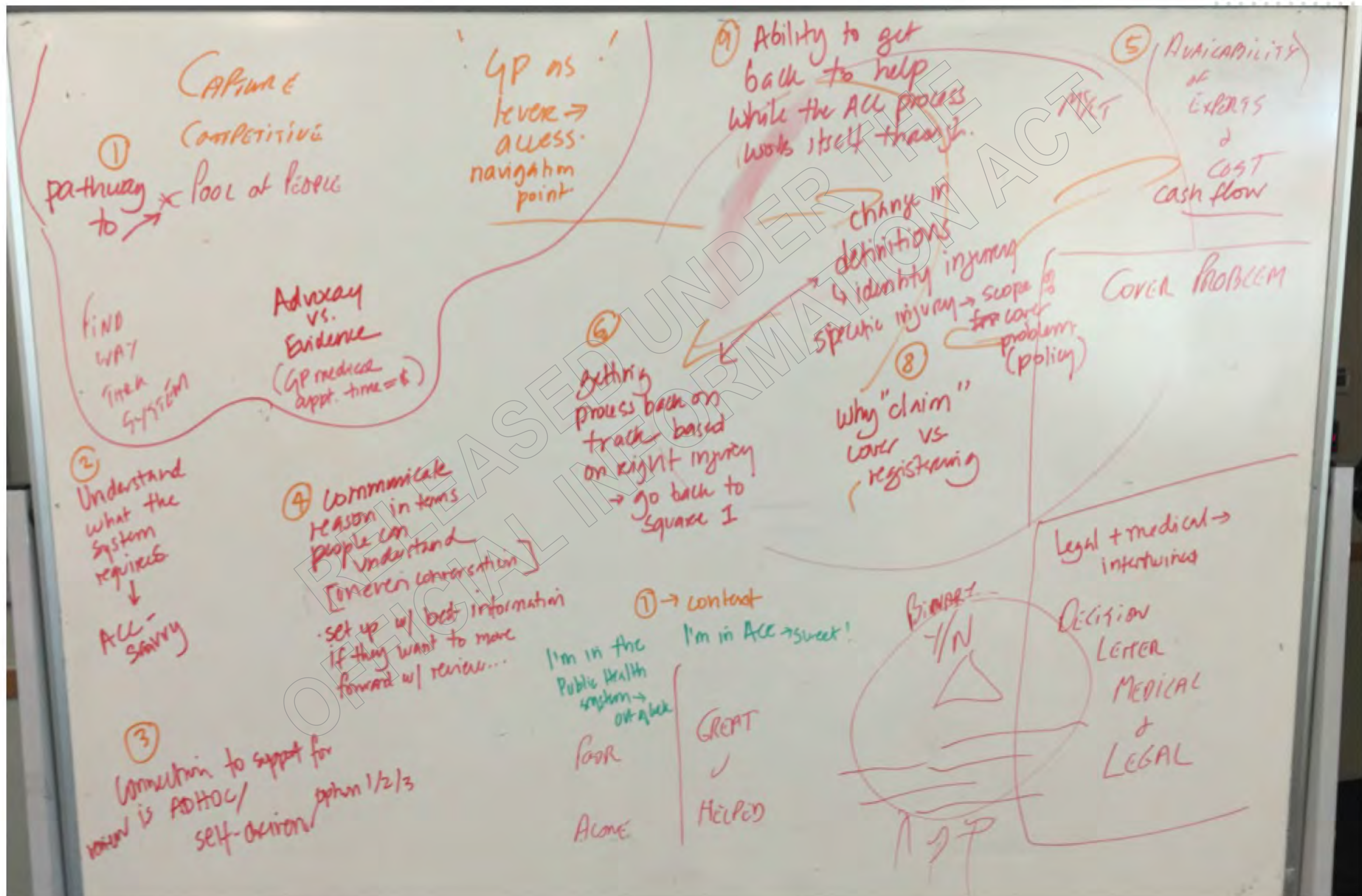
Understanding the current experience

ThinkPlace



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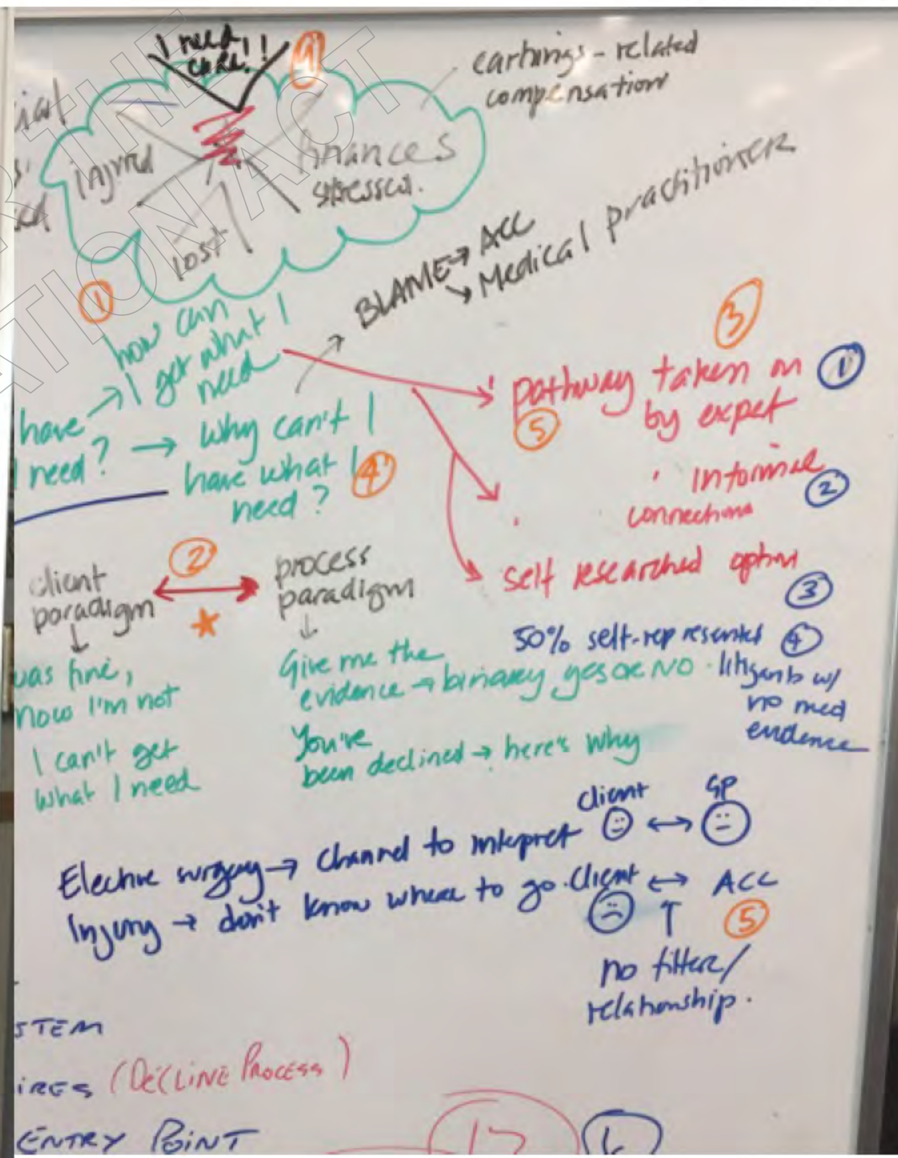
Understanding the current experience

ThinkPlace

injured person
gap in experience from client perspective
self advocate
advocate
review
financial means reduced
anxiety frustration
discuss rejection
accept
where is the information
Refund entitlement
I paid my dues - why am I falling off a cliff.
establish a claim - cover entitlements
claim not accepted as lodged.
what is the right path - what do I do and how do I now?
medical practitioner
Can I have what I need? → why can't I have what I need? ④
how can I get what I need ①
BLAME → ACC → Medical practitioner
pathway taken on by expert ⑤ ③ ①
informal connections ②
self researched option ③
client paradigm ② ↔ process paradigm
I was fine, now I'm not
I can't get what I need
Give me the evidence → binary yes or NO
You've been declined → here's why
50% self-rep resented ④ litigants w/ no med evidence
I didn't get a reason I can understand
Elective surgery → channel to interpret
Injury → don't know where to go.
client ↔ GP
client ↔ ACC ⑤
no filter/ relationship.

1. Finding way through the system
2. Understanding system requires
3. How to choose pathway & entry point
4. Understand reasons for decline
5. Availability of experts
6. Getting process back on track
7. Binary in ACC / or not
8. Scope of cover
9. Care in parallel to claim
10. Complexity of documentation
11. Complexity of medical review & clarity & cost



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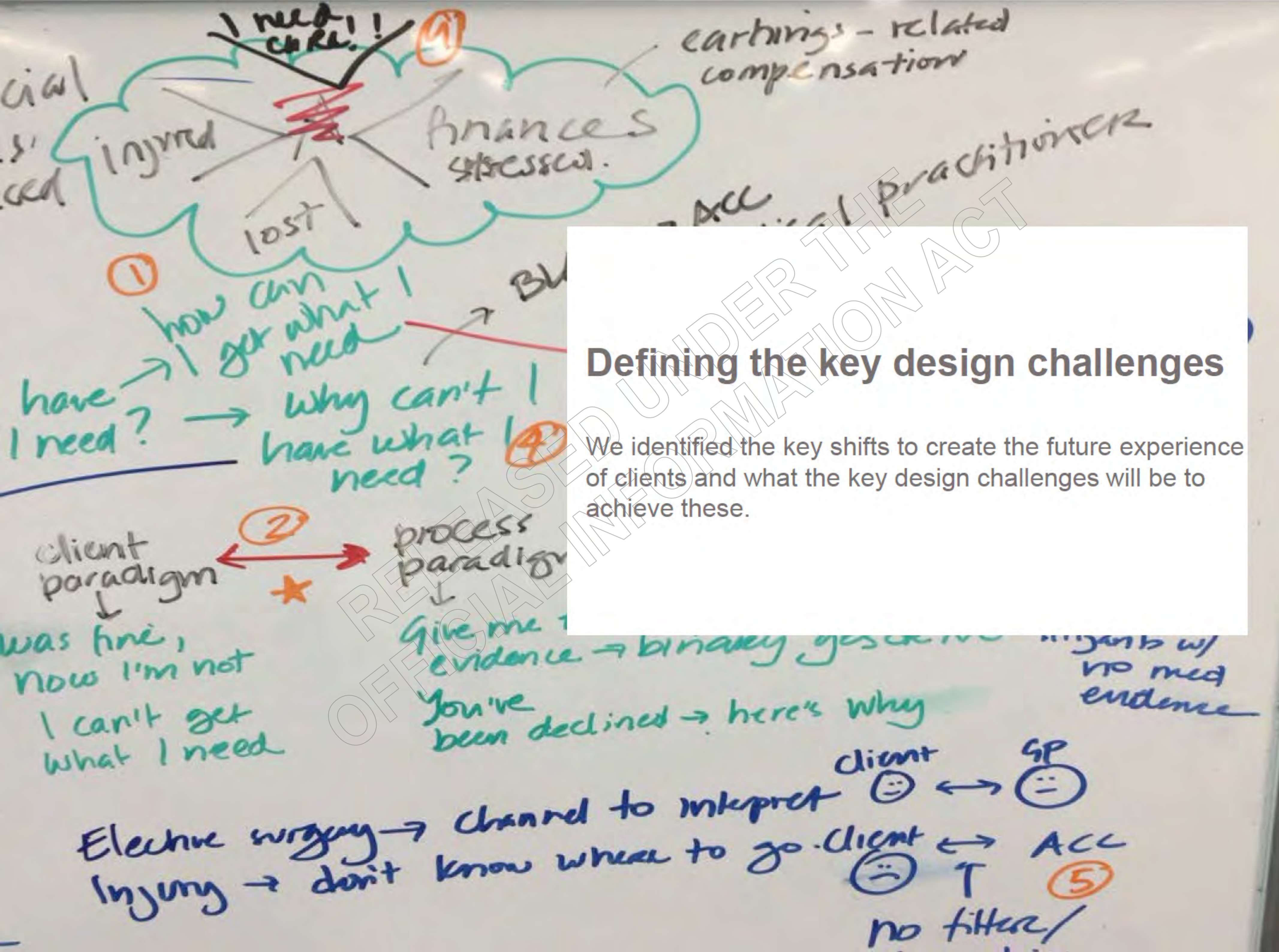

Defining the key design challenges

We identified the key shifts to create the future experience of clients and what the key design challenges will be to achieve these.

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Key Design Challenges to Overcome

1. Finding why through the system

2. Understanding what the system requires (decline process)

3. How to choose the pathway and entry point

4. To understand the reasons for declining

5. Availability of exports

6. Getting the process back on track

7. Binary in ACC/or not

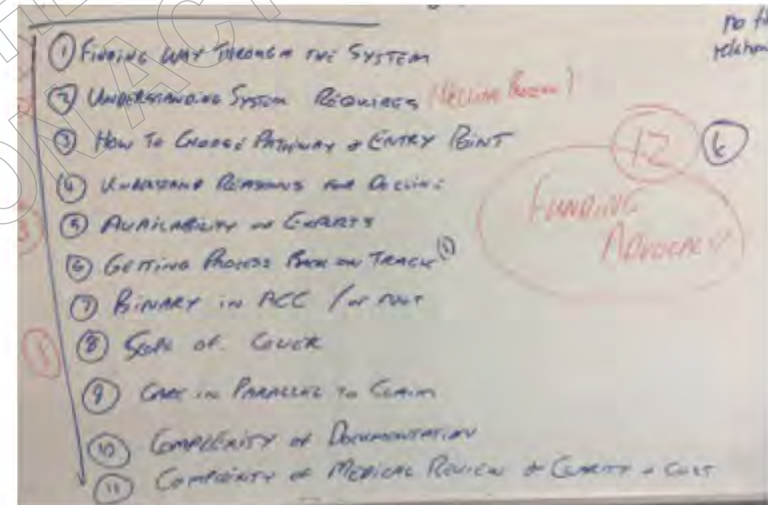
8. Scope of cover

9. Care in parallel to claim

10. Complexity of documentation

11. Complexity of medical review and clarity and cost

12. Funding advocacy



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Key Design Challenges - Defined

ThinkPlace

Design Challenge 1

Ease & ability to change & broaden diagnosis

Brief description of the challenge, specifically the most 'gnarly' components

- Certainty of the process to follow
- No need to restart the process for an investigation which creates certainty and predictability for ACC too.
- Opportunity for misinterpretation of written material
- Total "left-field" amendments
- Adversarial - obfuscation

What would be transformed for someone experiencing the change?

- A seamless experience for the claimant
- Health professionals and ACC would have a trusted partnership and be less adversarial with improved dialogue
- Time + money saved
-

Design Challenge 2

Finding a way through the ACC system

Brief description of the challenge, specifically the most 'gnarly' components

- Delays <--> adverse decisions, complexity <–> knowledge, communication <-> education

What would be transformed for someone experiencing the change?

- Adverse decisions – there would be no surprises

Design Challenge 4

Funding Advocacy

Note: The design challenge worksheet is missing

Design Challenge 3

Mismatch between supply and demand of experts

Brief description of the challenge, specifically the most 'gnarly' components

- The pool is small (availability)
- Volume of reviews
- Complex
- Lack of control and perceived bias (independence)

What would be transformed for someone experiencing the change?

- Clear process available to injured people without consideration of market factors

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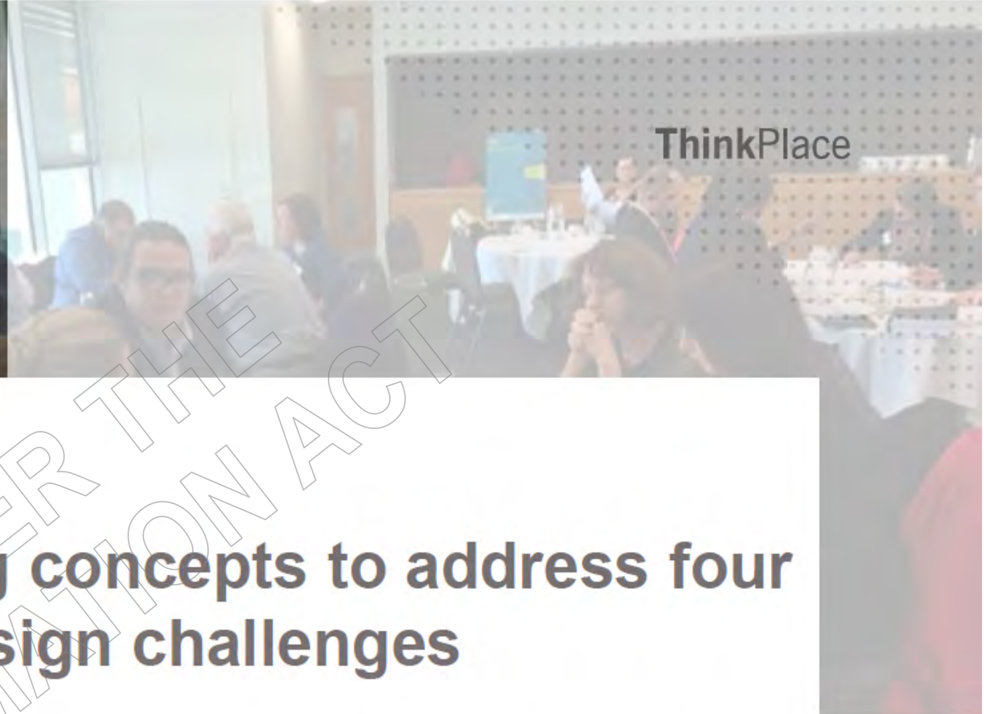

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Exploring concepts to address four of the design challenges

In teams, we identified possible solutions to the design challenges and defined them as best we could in the time available.

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Concepts to address the design challenges

1. Clarity of decision cover

2. Consistency and agreement on process

3. Enable flexible decision making

4. Resolve disagreement on diagnosis

5. Education of Providers

6. Independent guidance for the injured person

7. Widen pool of experts - Value proposition

8. Independent pool to reduce disputes

9. Break down demand

10. Aggregate cases together

11. Change Causation test

12. Funding advocacy for improved access

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Team 1 - Concepts for Design Challenges: Clarity of cover and Understanding what the system requires

CONCEPT 1

Clarity of cover decision

For the Claimant who needs…

To know from the cover letter what injury is covered

How it works…

The cover letter specifies the injury and specifies what 'cover' means and what is not covered. The difference between cover versus entitlements is explained, along with the process to amend cover/a diagnosis

What would be different?

Clients would know that the injury diagnosis is different before they get too far down the track

Next Steps…

Identify the core elements that should be in the cover letter, use a comms person to design it

Explain the difference between cover and entitlements

See what Miriam Dean says about the cover letter

Have the decision letter sent both electronically and hard-copy with dropdown boxes regarding the explanations

CONCEPT 2

Consistency and agreement on process

For the Patient/Advocate/Medical practitioner who needs…

Confidence that the process embarked on is supported and acceptable before you start

How it works…

Have guidelines. Have a non-adversarial dialogue with ACC and parties from the start

Concept Sketch…

Original diagnosis – Doctor+ patient + ACC – Investigation process agreed– new/amended diagnosis. Ensure seamless/continuous cover is in place

What would be different?

"Injury is spent" trigger - after time has elapsed, trigger further contact.

There needs to be some boundaries and rights on further investigation

Next Steps…

Interim decisions or an agreed standard process

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Team 1 - Concepts for Design Challenges: Clarity of cover and Understanding what the system requires

CONCEPT 3

Enable flexible decision making

For the #nothing written# who needs…

Flexible regulating and policies, guidelines, processes

How it works…

ACC can change diagnoses easily and can include further diagnoses after the 'primary' event – with cover continuing the seamless claimant experience

What would be different?

Review process – insert discretion to enable ACC and health providers to have a phone conversation if required and remove barriers

Next Steps…

Detail what is the current ACC process(es) include handoffs, barriers, restarts

Determine if anything is being done currently

Introduction of temporary diagnoses and questioning diagnosis

CONCEPT 4

Resolve disagreement on diagnosis

Use a recorded verbal dialogue

For the Branch medical advisors and medical practitioners who need…

Clarity, ease, flexibility and speed

How it works…

Record verbal dialogue by recording teleconferences, thus creating a record of the discussion and reasoning. (Added evidence)

What would be different?

Medical practitioners, ACC, etc. would have a shared understanding of the injury and cause of injury

Next Steps…

Prototype it?

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Team 2 - Concepts for Design Challenges: Finding the way through the system

CONCEPT 5

Education of Providers

Providers need to know about ACC and where to go

For the Providers - patients/clients who need…

Better knowledge to provide better advice and to know when and how to seek advice. Including on causation and obtaining medical reports

How it works…

A brochure at the initial interaction

Training, initially for students, registrars and 'consultants'.

Support of professional associations as an inbuilt obligation.

Concept Sketch…

Up-to-date Information - Online, web-based brochure using ACC45 (pop up).

Professional bodies engaged with: Universities (Deans of schools), training programs for the faculties, MOPS for "ACC points".
Skillset: Causation, ACC knowledge, creating medical reports .

What would be different?

A better user experience, a user friendly system that is information rich and up to date

CONCEPT 6

Independent guidance for the injured person

An independent office to be able to provide guidance when an injured person or provider is unsure of the next steps

For the Injured person and providers who need…

When an adverse decision is made or when they are not sure of the next step. Guidance at any stage – pre-decision, post-decision.

How it works…

It is free and readily available with timely access to assistance by an independent body. Phone, emails, face-to-face, website etc

It is system oriented to work out the steps that follow.

What would be different?

Key communicators who are familiar with the process will engage

Not advocates, as such but networked – ACC, providers, advocates

Next Steps…

Explore this in the first instance through the work on the navigation service

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Team 3 - Concepts for Design Challenges: Availability of experts

CONCEPT 7

Widen pool of experts - Value proposition

An articulation of the value being created by assessment and a better recognition of this

How it works…

There is a clear and agreed value proposition for work being undertaken and a recognition of that value and role.

Provide more funding

Aggregate system cases together so you can supply 30 assessments together

Increase the poll with related vocational experts

Next Steps…

Bench mark the cost and value

Capture and record the costs of the process

Have a cost review completed by MBIE

CONCEPT 8

Independent pool to reduce disputes

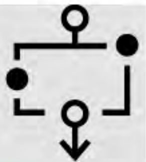
How it works…

Have a choice of independent assessor to give 3rd party agreed assessments in order to reduce disputes

Next Steps…

Consider development of an independent body to manage this process

CONCEPT 9



Break down demand

To break down the tasks and activities to streamline the process for assessment

How it works…

Better matching of skill requirements and tasks to improve efficiency and reduce the impact on experts

Next Steps…

Review the process and task requirements and what is required at each step. Potential link to value proposition

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Team 3 - Concepts for Design Challenges: Availability of experts

CONCEPT 10

Aggregate cases together

Identify system problems and resolve them

How it works…

Get similar cases and obtain opinion from an agreed groups of specialists – could be done by a law firm, ACC or the court

What would be different?

Wouldn't need 50 assessments on the same questions.

Challenge is possible but we need grounds on which to challenge

Next Steps…

Identify possible areas where this could be done

CONCEPT 11

Change Causation test

To reduce the reliance on medical evidence

How it works…

Make the causation test more reflective of what people expect

What would be different?

People would be more accepting of causation determinations if the determination reflects the person's expectation

Next Steps…

Discuss draft sections

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Team 4 - Concepts for Design Challenges: Clarity of cover and Understanding what the system requires

CONCEPT 12

Funding advocacy for improved access

For the Claimants who need…

Assistance to navigate the claims and disputes process

How it works…

Educate the claimant

Information transfer with an info pack (advocates and experts). Have an advocacy service and personal injury commissioner.

Cover the cost of the report - up front and/or 'guaranteed'

What would be different?

Clear reasoning for decline decisions

ACC will look at all covered injuries before declining cover or suspending entitlements

Next Steps…

Create a claimant/provider portal

Engage with the transformation team & client service delivery team. Look at OP policy or a board paper with regards to cost

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Medical Issues

Workshop Tracker – DRAFT and CONFIDENTIAL

8 November 2017

Tracker v1.0

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Context

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Purpose of this workshop:

The workshop was an opportunity to improve the experience of people seeking and assessing medical evidence. It was the fourth and last scheduled workshop for the Medical Issues Working Group.

In this final workshop we took stock of the Dean Review recommendations discussed to date. The Working Group had not managed to discuss all the recommendations so we focused on some of the remaining ones. We covered:

- ACC minimising flow of clients down the pipeline (minimise the 'grey zone')
- Ways in which access to medical evidence could be improved for clients, and who qualifies as an expert
- Improving the value proposition for medical experts to provide advice

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Chair

Dr. Peter Robinson – ACC Chief Clinical Advisor

Members of the Working Group (Present)

Acclaim Otago: Denise Powell, Bruce van Essen
Council of Medical Colleges in NZ: Sue Ineson
Forster and Associates: Warren Forster, Tom Barraclough
NZ Law Society: John Millar, Ben Thompson
NZ Medical Association: Kate Baddock, Lesley Clarke
NZ Orthopaedic Association: Andrea Pettit, John McKie, Richard Street
Royal NZ College of General Practitioners: Deanne Wong, Felicity Goodyear-Smith
Association of Accredited Employers: Karen Birch

Location and date

Te Papa Rangimarie Room,
Cable Street,
Wellington

8 November 2017

ThinkPlace facilitators

Jim Scully – Founding Partner, NZ
Ben McCarthy – Senior Designer
Phillip Rubery – Designer

Other attendees

Ministry of Business, Innovation and Employment: JC Somers
ACC: Karen Robertson, Nick Rees, Mary Ahern, Michael Austen, Sam Hack, Jo Carvey

Update on issues discussed previously

ThinkPlace

A stocktake was provided of the key discussion points raised in the Dean Review for the Medical Issues Working Group to consider.

The Working Group wanted the stocktake to also reflect concepts from the previous workshop. ACC agreed to include these in the stocktake alongside the key discussion points from the Dean Review.

The group discussed this stocktake and wanted to work on :

- **claimant's critical need for access to medical evidence**
- **filtering claims to reduce flow of claimants down the pipeline.**

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Challenges & Opportunities

ThinkPlace

Improving the attractiveness of work for experts

- Sufficient payment for the time required and advice being respected and valued
- Not being seen as a *hired gun*
- Working towards a decision, not a fishing expedition
- Having an ideal pool of experts from those who are actively practising
- Decreasing the time spent reporting time operating (opportunity cost)
- Getting a handle on the volume (how much work is required?) so the medical professionals can plan the impact on their practice
- Having concise, templated responses
- Ensuring the workload is sustainable
- Allowing for appropriate response timelines
- Making colleges, specialty societies, an important and valued part of the system

Viability of expert medical panel

- Capture of high-quality data
- Panel can only be advisory or a decision-making body
- The issue of how and when this would be funded was not agreed - could be when assessment is made
- Report is independent, claimant has right to challenge – proposal to have review under Ministry of Justice
- Administrative support for a separate body

Front-end

- SNOMED – changes coming from ACC
- Diagnostic codes (improve re-coding)
- Improved questions asked up-front (co-design these)
- Reducing the need at the front end

Summary of attractiveness

Experts need to be/feel:

- Independent
- Prestigious
- Well-remunerated
- Speaks to the emotional side – to help claimants

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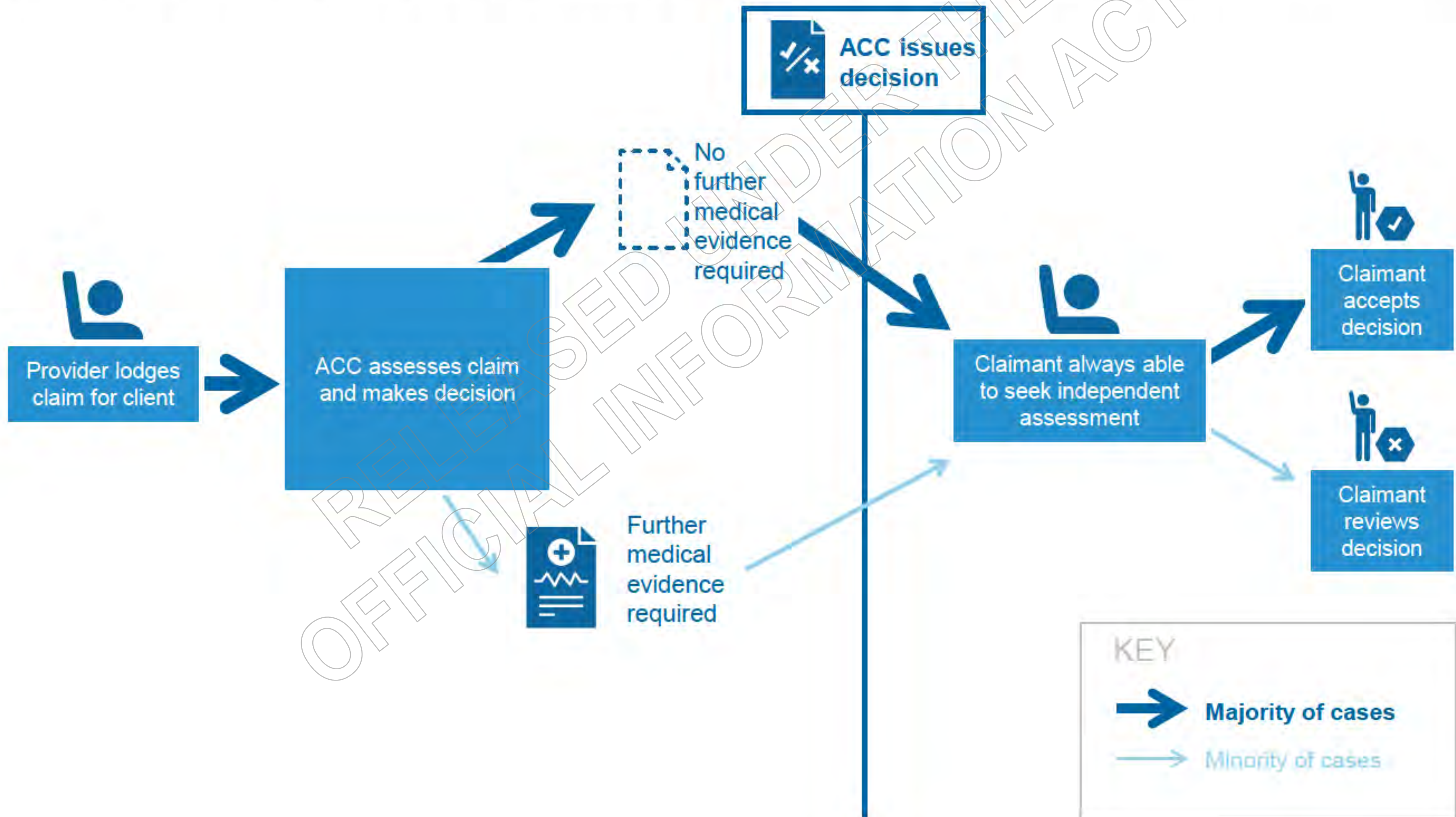
High-level Process

ThinkPlace

In the previous workshop, we discussed ways that ACC could better manage the volume of claims passed on to medical and legal experts. In this workshop we clarified these concepts.



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Addressing Two Core Issues

ThinkPlace

Options addressing core issues

Education of providers

Clarity of cover decision
- Have the diagnosis on the accepted injury cover letter

Enable flexible injury classification
- Depends on accurate coding, Read codes not useful
- Difficult at present to change diagnosis

Consistency and agreement on approach

Resolve disagreement on diagnosis

Independent guidance for the claimant

Widen the pool of experts
- Improve value proposition
- Re-defining who qualifies as an expert (which could narrow the pool)

Independent pool to reduce disputes
- Improve value proposition

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CORE ISSUE 1

Claims in the 'Grey Zone'

ACC minimises flow of claimants who require medical evidence

By improving ACC decision-making and initial medical evidence, ACC could make better quality decisions and reduce the need for additional medical evidence. Many existing issues will be improved by ACC projects that are underway (e.g. improvements to case management), but there are still positive changes that can be made to make supply less of an issue before these projects are delivered.

How might we "get it right first time"?

- GPs pass on clear details
- Accurate coding and re-coding from ACC
- Must reduce number of reviews to minimise the demand on the medical process
- If ACC is considering a decline decision for cover then could go to an independent medical expert panel
  – rotation of panel expected
  – need input from Colleges

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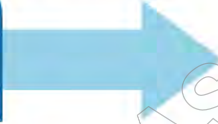
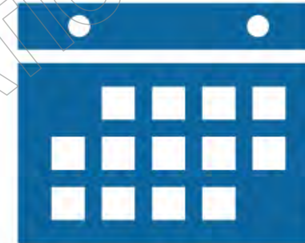
CORE ISSUE 2

Unpacking Who Qualifies as an 'Expert'

ThinkPlace

The Working Group raised concerns about the expertise of retired surgeons. There are multiple views on what constitutes an 'expert', including from the medical colleges, ACC and the courts. Clarifying who qualifies as an expert should reduce the battle of experts.

PROPOSED

3 YEARS?

Where do the experts come from?

How long after ceasing clinical practice before you cease to be an 'expert'?

- We heard that it is often difficult working with retired or semi-retired professionals, whose expertise may in fact be outdated.
- We also heard that simply introducing a flat 3 year validation period would impede progress on cases where the claimant's injury is tied to a legacy practice less familiar to current practitioners.

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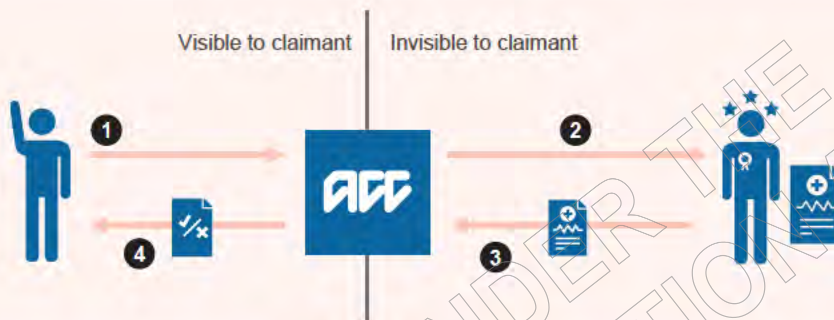
CORE ISSUE 2

Options for improving medical evidence in the decision-making process

ThinkPlace

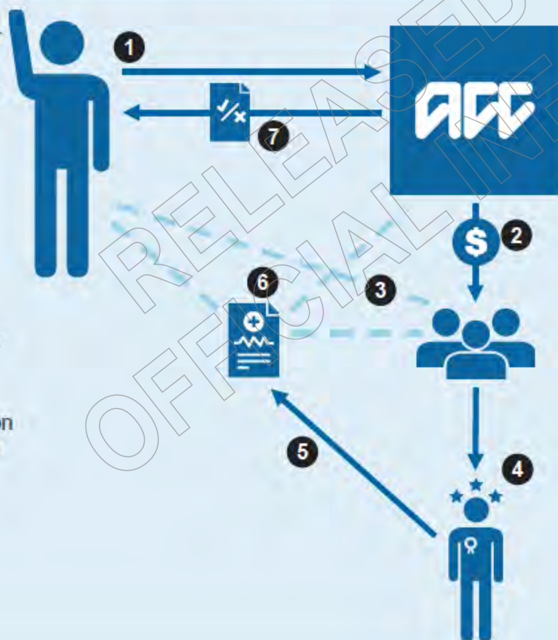
Current model

1. Provider lodges claim for client
2. ACC consults appropriate medical expert, as required
3. Independent expert assesses case and provides medical report
4. ACC assesses case based on medical evidence provided
5. ACC notifies claimant of decision



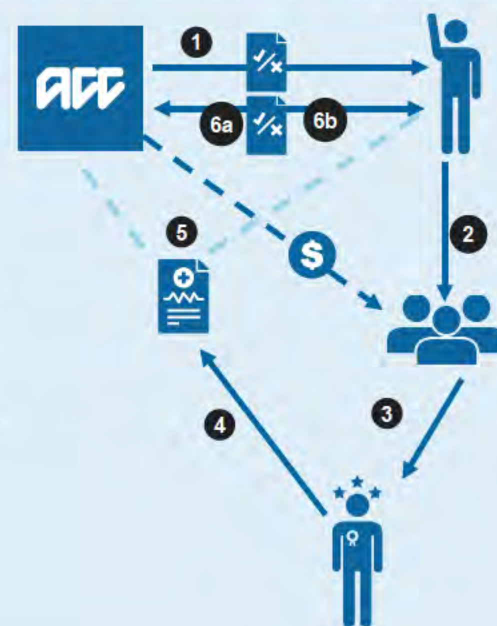
Option 1: Early use of independent medical expert body

1. Provider lodges claim for client
2. ACC requests additional information to support decision making, as required
3. Independent body recruits independent expert, notifies client
4. Independent expert returns medical report
5. Medical report is passed to ACC and also made available to claimant
6. ACC returns final decision based on assessment of medical report



Option 2: Later use of independent medical expert body

1. ACC makes decision
2. Client requests additional medical evidence to support review
3. Independent body recruits independent expert, notifies client
4. Independent expert returns medical report
5. Medical report is passed to client and ACC
6. a. ACC revisits decision based on new medical evidence
   b. Client can opt to lodge a review of ACC's decision



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Barriers & Sticking Points to Resolve for an Independent Medical Expert Body

- Lack of access to assessment / evidence near where they live
  - Location issues (flexible access)
  - An examination
  - Paper assessment
  - Skype etc....
- Lack of admin support & operational support
- Low pay for giving opinion
- Low value of opinion
- Capacity (?) of medical professionals to provide opinion
- Need to:
  - Have process inside ACC work better (conflict of interest)
  - *or* replicate process on the outside
- Some decisions are outside of ACC's control

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Hopes & concerns from the workshop

ThinkPlace

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Hopes

- Questions that are asked be co-designed by ACC, providers and claimants
- Accurate description of why a claim is declined

Concerns

- Objectivity, that the right questions are asked
- Transparency of where experts are sourced

Desired Future Experience

ThinkPlace

The Working Group determined that financial independence is not the issue, but rather that contractual independence and the associated <u>perception</u> of independence is central to satisfying the claimant.

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"I want"

- Relevant expertise
- Simplicity & transparency – a clear understanding of who does what
- ACC's internal processes to be as clear as the independent body

"ACC wants"

- Relevant expertise
- Every reasonable step has been taken <u>before</u> spending taxpayer money
- Minimising cost to scheme

Next steps

ThinkPlace

Agree identified solutions to the challenges and issues associated with medical expert evidence for claimants

ACC to report back on outcome of the Working Group discussions

- ACC Executive
- ACC Board
- Minister for ACC

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ACC
PREVENTION. CARE. RECOVERY.
Te Kaporeihana Āwhina Hunga Whara

Summary of Medical Issues Working Group's discussion on medical evidence issues

The Independent Review by Miriam Dean QC (the Review) recommended that "ACC convenes a working group to address the policy and process-related problems with accessing medical evidence". The Review identified several problems and suggested a range of improvements for the Medical Issues Working Group (MIWG) to consider (pages 47-49 of the Dean Review). The suggestions aim to improve client access to medical experts, reduce conflict over medical information, and clarify the independent role of medical experts.

Table 1 provides a summary of the position the MIWG reached during the meetings on each of the issues and suggestions provided in the Review. Table 2 provides a summary of a wider range of topics discussed by MIWG members.

Table 1: Problems and suggestions identified in the Dean Review for the MIWG to consider

Problem identified	Dean Review suggested improvement	MIWG discussion or action taken by members
Cost reimbursement for medical reports is not sufficient for some clients	**Cost of reports** If a client succeeds at review or appeal the cost of the medical report not covered by the Regulation rate should be paid	*Action* • 9(2)(f)(iv) [redacted] • A 16.6% inflationary increase was included in the rates in the Review Costs and Appeals Regulations on 1 June 2017.
Conflicting medical evidence leads to a battle of experts	**Dialogue** Enable medical experts to confer before ACC makes a final decision	*Discussion* • Conferring between medical experts is considered an ideal. The issue of medical expert availability for conferring, particularly of orthopaedic surgeons, was raised as a barrier to this collaborative approach. • Some Working Group members would like this dialogue to be recorded so it can be examined and all parties can have confidence in the accuracy of the information being taken into account. *Action* • The NZ Orthopaedic Association (NZOA) subspecialty groups and ACC are working on agreed consideration factors for certain injuries. Reaching agreement on these factors is likely to speed up the decision process and minimise the areas for potential disagreement, which could reduce the number of clients seeking reviews.

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Problem identified	Dean Review suggested improvement	MIWG discussion or action taken by members
		There are consideration factor documents currently being developed with several NZOA Societies: Shoulder and Elbow Society, Wrist and Hand Society, and the Hip Society. This work is ongoing and will be revisited and updated whenever appropriate (eg new best practice or medical evidence is available). • ACC is working with NZOA on setting up a process whereby clinical discussions can occur for discussions directed by reviewers and the Court. The process needs to be transparent, consistent, fair and efficient. • ACC is discussing with the NZOA about running a trial where a clinical discussion takes place between a Clinical Advisory Panel (CAP) member and the treating surgeon before a decline decision is issued. ACC has also raised the conferring of experts proposal with the Royal Australasian College of Surgeons' NZ National Board, the Royal Australian and NZ College of Radiologists, and the NZ Private Hospitals Association. • From February 2018, all surgery requests come through the Treatment Assessment Centre. This is the first step in improving consistency around consideration factors and avoiding disagreement.
Education about accident compensation considerations is lacking in medical schools and colleges	**Education of experts** Education for medical specialists who provide opinions on ACC clients	*Discussion* • The Working Group discussed introducing courses on ACC into medical training. ACC has previously approached medical schools about having courses about accident compensation but there is little interest from the medical schools. • Some members of the Working Group disagree with ACC providing education on causation or accident compensation. • Also discussed in table group as Concept 5 at the MIWG meeting on 7 July 2017. *Action* • The following institutions are delivering lectures and tutorials on ACC: University of Otago and Auckland University of Technology Physiotherapy School and Podiatry School, UNITEC Osteopathic College, NZ College of Chiropractic, NZ School of Acupuncture and Traditional Chinese Medicine and NZ College of Chinese Medicine. • ACC is working on a post-graduate module on causation for professional development purposes. ACC will discuss using it as a professional development tool with the relevant medical bodies. This is planned for completion by December 2018. • ACC will develop its internal clinical report writing course into an external module to help medical experts to provide the appropriate information required to support ACC's decision making. This is planned for completion by December 2018.

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Problem identified	Dean Review suggested improvement	MIWG discussion or action taken by members
Clients unable to get timely access to medical experts	**Encourage more experts to undertake accident compensation work** Increase client access to medical experts	*Discussion* • Discussed at 13 March and 8 November 2017 meetings – ideas raised included: o using GPs and GPs with special interest more as experts Better recognition of GPs with qualifications in special interests (eg, musculoskeletal, occupational and sports medicine) as potential expert advisors, including equitable reimbursement for doctors registered in a vocational scope of general practice o gain continuing professional development (CPD) points (for the purposes of recertification with the Medical Council of New Zealand) for undertaking training provided by ACC for medical experts o medical colleges provide clients with the names of experts in their locality. *Action* • The post-graduate module on causation referred to above is likely to encourage interest in ACC work by more medical practitioners.
	Panels/blind panels Increase client access to expert medical option	*Discussion* • Discussed in table group as Concept 8 at the MIWG meeting on 7 July 2017. • Discussed On 8 November 2017, the MIWG proposed a Medical Expert Advisory Panel/Service to increase client access to medical experts. The following was considered: o A separate organisation with administrative support that can access the medical colleges pool of experts - provides independent medical advice for clients and their advocates, and ACC o Needs a large pool of experts to share the workload - experts need to be able to incorporate this work into their practice without too much impact and require remuneration that competes with lost surgical time o Opinions likely to be on the papers, although it may require some clients to be physically examined. There were a variety of views on the following: o It could be funded by ACC or separately from ACC o Clients could choose to use an independent service either following a decline decision or for all their ACC assessments o ACC could use an independent/external service for medical expertise for complex claims (still have a role for CAP) or all ACC medical decisions could go through this

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Problem identified	Dean Review suggested improvement	MIWG discussion or action taken by members
		○ Supply constraints may still persist in some disciplines and a panel may exacerbate rather than resolve the issue ○ It could provide only a medical opinion or have decision-making powers. If it has decision-making powers then ACC would need to abide by the decision. Clients would retain the right to challenge the decision. • The Health and Disability Commissioner's panel of experts for the HDC complaints process could be used as a model for the development of a body of expert advisors. *Action* • 9(2)(f)(iv)
Medical experts do not understand their objective role	**Guidelines for medical reports** Clear guidelines for medical experts about their role and reports	*Discussion* • Discussed on 13 March 2017. Some advocates consider that medical experts are not objective in providing medical advice to ACC. Medical representatives consider that professional ethics already require medical experts to provide objective professional advice. *Action/In place currently* • ACC has developed a statement for medical experts on providing objective medical opinions to ACC. This also covers off part of the role of a medical expert. The statement received final approval from ACC's Clinical Governance Group in February 2018. ACC is in the process of publishing the document and will determine how to communicate the guideline to medical experts. • ACC has clear requirements for medical professionals providing assessments in its contracts. • New Zealand Medical Council has guidelines on "Non-treating doctors performing medical assessment of patients for third parties".
	Rotation Rotation of pool of experts to prevent them "falling under the sway" of ACC	*Discussion* • Discussed on 13 March 2017 - Some advocates consider that medical experts paid by ACC provide medical advice that it is biased toward ACC's benefit. *Action* • To implement this Dean Review suggestion: ○ To increase the pool of experts and allow for a wider range of views, the NZ Shoulder and Elbow Society have supported ACC by agreeing to have one of their

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Problem identified	Dean Review suggested improvement	MIWG discussion or action taken by members
		members provide input into ACC's CAP o ACC's employees on CAP are rotated by looking at, for example, wrists for a period, followed by knees etc. ACC's medical experts are also bound by professional ethics and standards to provide an independent opinion, and they identify with the responsibility of this.
Not all pertinent information gathered by GPs	**Templates for GPs** Template for all pertinent patient information	*Discussion* • This was raised at the 19 December 2016 MIWG as a potential course of action but no agreement was reached on whether work on a template should be progressed, what was needed in the template, or by whom. On this basis, no further action is planned.
Understanding of legal and medical issues required	**Cross-disciplinary committees** To produce legal and medical agreed codes of practice	This has not been discussed by the Working Group. It could potentially be progressed by the New Zealand Medical Council and the New Zealand Law Society. ACC does not consider it has a role in leading this work.

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Table 2: Other ideas discussed over the four meetings

(Concepts listed below were discussed at 7 July meeting)

Problem identified	Suggested improvement by MIWG	Position or action
Front end process requires improvement: • Clients are unaware of the specific injury that is covered • Diagnosis can be difficult to change with ACC	**Better capturing of diagnosis** Allow for suspected injuries **Clarity of cover decision** Specify what injury or injuries are covered in the cover letter (Concept 1) **Easier process for changing a diagnosis** Consistent process required Flexible decision making Work up an agreed standard process so that clients, doctor, and ACC can have a new or amended diagnosis more easily (Concepts 2 and 3)	*Position* • There is a need to improve the process at the start of the claim by allowing better reporting of the injury by the GP. Read codes don't allow for accurate recording eg a GP who suspects a meniscal tear is likely to report this as a knee strain due to coding restraints *Action* • As part of the wider changes to improve client and provider interactions with ACC, there is an initiative underway to streamline cover decisions so that an instant cover decision is available at lodgement for some injuries. This will assist clients and providers to know if the injury is covered, and whether ACC will cover the cost of the visit/treatment. The level of information provided to clients about the cover decision will also be considered when 'client self-service' is developed • ACC is considering updating ACC's cover decision letter. ACC is aware of the issues raised and has it listed on a work programme along with other priorities, with no date allocated to the work as yet • ACC is transitioning to SNOMED (Systematized Nomenclature of Medicine) as a replacement for Read codes. This is the new information standard being used in the New Zealand health and disability sector. It will provide greater levels of accuracy and quality of diagnosis code, which will help with faster processing of claims. The transition is expected to take a couple of years • ACC's digital strategy has a focus on ACC's system working more effectively with Practice Management Systems. When implemented, this will enable better co-ordinated communication and allow an easier process to change the diagnosis. An improvement will be available for software vendors to use by March 2018.
Disagreement over diagnosis	**Record teleconferences to resolve diagnosis disagreement** (Concept 4)	• No action is proposed for this concept.
Providers have a lack of knowledge about ACC	**Education of providers** (Concept 5)	• Covered in table 1

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Problem identified	Suggested improvement by MIWG	Position or action
Some clients need support their experience with ACC	**Independent guidance for the injured person/ Funding advocacy for improved access** Have an independent advocacy service for ACC clients who are need guidance at any stage, including with an adverse decision Need for a personal injury commissioner suggested (Concepts 6 and 12)	*Action and current status* • ACC currently funds the Workplace Injury Advocacy Service to provide free advice to injured people • ACC has also funded the New Zealand Legal Information Institute to provide the New Zealand Accident Compensation Law Handbook – a guide for self-represented litigants. This is available on their website www.nzlii.org • ACC has agreed to fund a nationwide navigation service for ACC clients who would like additional support when dealing with ACC. The navigation service should be up and running by June 2019, and is expected to provide support to over 4,000 clients every year. ACC will be seeking expressions of interest over the next six months from independent organisations that can provide the type of help our clients need.
Clients unable to get timely access to medical experts	**Value proposition to widen pool of experts** Proposed that the value of doing work for ACC clients is articulated (Concept 7)	*Discussion* • The Working Group discussed this on 8 November 2017 and identified that this work needs to be well-remunerated, prestigious, and provide emotional satisfaction ie need to feel like clients are being helped *Action* • 9(2)(f)(iv) [redacted] A 16.6% inflationary increase was provided from 1 June 2017
	Independent pool of medical experts/panel of experts (Concept 8)	• Covered in table 1
	Limit flow down the pipeline Reduce the number of clients that seek an additional medical opinion **Break down demand** The concept is to break down the tasks and activities to streamline the process for assessment – improve efficiency and reduce the impact on experts	*Discussion* • The Working Group suggested that another way to ease the issue of access to medical experts is to minimise the need for clients to seek an additional medical opinion to support their dispute with ACC. *Action* • ACC's programme of transformation is working on reducing and simplifying processes to ease the experience of working with ACC for clients and providers. For example, ACC's Health Sector Strategy includes a focus on making it easy for providers to deal with ACC. The aim is for providers to treat clients based on best practice with less ACC intervention. This may help to reduce demand for additional expert opinion

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Problem identified	Suggested improvement by MIWG	Position or action
	(Concept 9)	• Many of the actions underway seek to reduce disputes such as having agreed consideration factors, providing education on accident compensation to providers, and ACC considering funding a free nationwide advocacy service
	Aggregate cases together The concept is to have similar cases and obtain an opinion from a group of specialist – reducing assessments on the same questions (Concept 10)	*Action* • Similar to this concept, and noted under Dialogue in Table 1, the NZOA subspecialty groups and ACC are working on agreed consideration factors for certain injuries. This will minimise the areas for potential disagreement, which could reduce the number of clients seeking further medical opinions
Public confusion over causation test	**Change causation test** The proposed concept is to change the causation test so that it reflects more of what the public expect (Concept 11)	• This would require due consideration and legislative change. No further action is currently planned by MBIE or ACC

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MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

ACC and MBIE Briefing Paper: Final update on the response to the Independent Review of Acclaim Otago's report

Date	1 November 2018	**Priority**	N/A
Security classification:	Nil	**Briefing paper no:**	BP 18/032

Action Sought

	Action sought	**Deadline**
To: Minister for ACC (Hon Iain Lees-Galloway Minister for ACC) Cc: Associate Minister for ACC (Hon Peeni Henare)	**Note** that the recommendations from Miriam Dean QC's independent review of Acclaim Otago's report on ACC's dispute resolution processes (the Review) are substantially complete and key recommendations have been delivered this year. **Agree** this is the final update on work by agencies to implement the recommendations of the Review. **Note** ACC will update you quarterly on progress establishing a navigation service as it works through the procurement process. **Agree** this report and appendices be posted on MBIE's website.	None

Contact for Telephone discussion (if required)

Name	Position	Telephone	1st contact
Emma Powell	Chief Customer Officer, ACC	Tel: 04 8167673	✓
Hayden Fenwick	Manager, Accident Compensation Policy, MBIE	Tel: 04 896 5479	

MBIE consulted: Joint briefing

Supporting documents: Yes

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ACC Briefing Paper: BP 18/032, Final update on the response to the Independent Review of Acclaim Otago's report

Report to: Minister for ACC

Recommended actions

It is recommended that you:

a) **Note** that ACC has made significant improvements to its dispute resolution processes over the last few years and remains committed to improving the claimant experience and addressing issues that cause claimants to lodge a complaint or review.

Noted

b) **Note** that work flowing from the Review has contributed to this ongoing goal by:

- improving access to justice and dispute resolution
- providing greater support for claimants in the dispute process, and
- increasing transparency for claimants about how the disputes process works should they wish to review or appeal an ACC decision.

Noted

c) **Note** that 19 of the 20 recommendations have been concluded by agencies, and that work on the final recommendation, relating to data collection, has been substantially completed by ACC.

Noted

d) **Note** that three key recommendations concluded this year are now in the process of being implemented or consulted on, they are:

- ACC's decision to fund a navigation service for claimants
- Development of an agreed set of actions by the Medical Issues Working Group and
- 9(2)(f)(iv)

Noted

e) **Note** 9(2)(f)(iv)

Noted

f) **Agree** that this report be the final update on agencies' progress to implement the recommendations of the Miriam Dean QC's review of Acclaim Otago's report on ACC dispute resolution processes.

Agree / Disagree

g) **Note** that ACC is continuing to internally monitor progress towards concluding the remaining recommendation regarding data collection, as well as monitoring the development of the agreed set of actions by the Medical Issues Working Group.

Noted

h) **Note** ACC will provide you with a quarterly update on progress to procure the navigation service, between now and establishment in mid-2019.

Noted

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i) **Note** that alongside this briefing, ACC is providing you with an update on claim review performance, which was requested through quarterly reporting discussions.

Noted

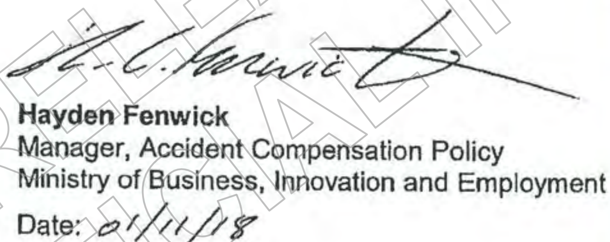
j) **Note** ACC has developed a communications plan for the release of this report and talking points are attached for you or the office to use to respond to likely media and stakeholder interest following the release of this report.

Noted

k) **Agree** that MBIE will post a copy of this report [amended to reflect Rec. (f) decision] and accompanying tables on its website, alongside other publicly available reports and information on the Review.

Agree / Disagree

Emma Powell
Chief Customer Officer
Accident Compensation Corporation
Date: 01/11/2018



Hayden Fenwick
Manager, Accident Compensation Policy
Ministry of Business, Innovation and Employment
Date: 01/11/18

Hon Iain Lees-Galloway
Minister for ACC
Date: 11/12/2018

Thank you for this update. I am pleased to see progress on the recommendations. Well done. However, I am concerned that several pieces of work remain unfinished including the implementation of the navigation service, ongoing work on medical advice and new issues regarding the Review system. I therefore consider that instead of a close-out report, officials should continue to regularly (6-monthly) report on these issues (and any other outstanding Dean report issues). This reporting need not be framed as Dean follow up. I may ask for related issues to be put into the report.

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Purpose

1. This paper provides a final report on the implementation of recommendations from the Independent Review by Miriam Dean QC of Acclaim Otago's report into ACC dispute resolution processes (the Review). It summarises the action taken by agencies involved and, for ACC, discusses how the Review contributes to ACC's wider, ongoing programme of improvement for the dispute resolution process.

Executive summary

2. Improving quality and timeliness of dispute resolution is a strong focus for ACC because it has a significant impact on claimants' outcomes and their service experience. ACC has made considerable improvements to its dispute resolution processes over the last few years. ACC remains committed to improving claimants' access to the disputes process, and their claimant experience, and to addressing the issues that cause claimants to lodge a complaint or review in the first place.

3. Over the past few years and more recently, ACC has introduced:

   a. an alternative dispute resolution process to resolve disputes and prevent escalation of claimant issues that lead to formal review hearings

   b. new ways of working in ACC's dispute management functions to ensure consistent claim decision making and management of reviews, and

   c. a closed loop feedback tool to provide greater insights into the more common types of feedback from satisfied and unsatisfied claimants that can be fed into the continuous improvement of design and delivery of ACC's services. This means the triggers for a poor claimant experience can be identified and addressed before a dispute is made.

4. The work ACC, MBIE, and FairWay Resolution Services have done in response to the Review recommendations has further contributed to improving the disputes resolution system. Since release of the Review, ACC, MBIE and Fairway have progressed a programme of work to support claimants' access to justice and experience with ACC's disputes resolution process.

5. Agencies have concluded 19 of the 20 recommendations from the Review. The final recommendation, relating to data collection, has been substantially completed by ACC, and will continue to be progressed through the improvements to data collection being advanced through ACC's transformation programme. ACC will continue its internal monitoring to ensure this recommendation and other associated activities from the Review are appropriately embedded in business-as-usual operations.

6. Below is a summary of the key deliverables of the Review. We are confident that the work to date has:

   a. improved access to justice and dispute resolution for claimants

   b. provided greater support for claimants in the dispute process, and

   c. increased transparency for claimants about how the disputes process works should they wish to review or appeal an ACC decision.

Improved access to dispute resolution

7. The Review found that inadequate access to legal resources along with ACC's complex legislation can prevent claimants from having a full understanding of the law. In response to these issues,

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FairWay, New Zealand Legal Information Institute, ACC and MBIE have developed a range of tools, guidance and visual materials that help claimants better prepare and present cases for review or appeal. They are available on the relevant organisations' websites.

8. The Review found a lack of representation can be a barrier to claimants seeking to challenge ACC decisions. ACC is funding a free independent navigation service which will be capable of advocating for claimant's interests, assisting them to raise complaints or disputes where appropriate, and supporting them to prepare effectively for a review hearing if required. The design of this service will ensure accessibility to people of diverse cultural backgrounds, particularly Maori, as well as people with different abilities and needs. It will deliver services to approximately 4,000 clients per year (a four-fold increase on the number of clients currently using ACC-funded advocacy services).

Greater support to participate in the process

9. The Review found that claimants have difficulty gaining access to medical evidence, which is crucial in determining most disputes. The funding available for claimants towards their review costs was increased by 16.6% in 2017, while a more comprehensive review was undertaken.

10. 9(2)(f)(iv)

More transparency about how things work

11. ACC and FairWay have made a number of improvements to ensure their decision-making processes are more transparent to claimants. ACC and MBIE have developed visual maps for a range of injury types to assist claimants to understand their entitlements and the process ACC uses to make decisions.

12. FairWay has published case summaries to better inform claimants involved in the review process and completed an instructive video on the review process to explain to claimants how dispute resolution processes work.

13. ACC has reduced the number of decline letter templates from 100 down to 15, simplifying the process for claimants and improving ACC's ability to determine the number of formal decline decisions issued.

Monitoring and communications

14. ACC is committed to continuing to embed the changes made in response to the Review and to seek to continuously improve the disputes process. As an indication of this, ACC is working with the Government Centre for Dispute Resolution to ensure its disputes resolution services are user friendly and accessible, fair and independent, efficient, effective and accountable.

15. To monitor implementation of the Review work, ACC will:

   - internally monitor and report to the Board via existing channels on the remaining recommendation relating to data collection and outstanding actions from the Medical Issues Working Group
   - provide you with update reports on progress to establish the navigation service, as ACC works through the procurement process.

16. As we are proposing that this be the final report to you on the Review work, ACC has developed a communications plan to support the report's release. The plan includes:

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- the intention to release this report and accompanying appendices on the MBIE website
- suggested talking points for you and/or your office to use to respond to enquires if needed.

Dispute resolution is an ongoing focus for ACC

17. Dispute resolution has been a strong area of focus for ACC for many years. The Review noted the positive changes to ACC's management of disputes, particularly in relation to the dedicated units that deal with claims and disputes. Participants interviewed for the Review reported that they had noticed a "huge improvement in the way the elective services and sensitive claims units work with clients." Staff in these units were described as "empathetic, helpful and prepared to resolve matters", and "fantastic to deal with."

18. In 2017/18, ACC received 1.9 million claims, of which 97.5% were approved. Of that number, a small percentage of claimants (7,615 people) sought a review of their ACC decision. The volume of reviews in 2017/18 has decreased from a peak in 2009/10 of 10,192.

19. Reviews on decisions declining ACC funding for elective surgery made up 34% of all reviews in 2016/17, followed by reviews for declined cover decisions (25%). Across the past eight years, the proportion of reviews found in ACC's favour has remained relatively stable between 80-85%. As requested, you will receive soon detail on claim review performance as part of the ACC's Quarterly Performance report.

20. The work ACC, MBIE and FairWay have done (discussed below) in response to the Review has further contributed to improving the disputes system. It is important that this work is seen as part of a wider commitment to continuous improvement of the disputes process, and to understanding and responding to claimants' experiences with ACC.

Changes to ACC operations and processes

21. In response to historic high review numbers, ACC introduced a number of changes to the disputes process to manage increases in volumes, improve claimant experience and promote early resolution of disputes. This removed the need for clients to go through the process of preparing for, and attending a review hearing. Early resolution can also prevent or reduce an adversarial relationship

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that can develop between claimants and ACC. Some of the changes to achieve early resolution include:

- extending the administrative (internal) review timeframe to allow ACC more time to resolve issues before proceeding to external review
- increasing the financial delegation for settling reviews to assist settling disputes of low financial value (i.e. less than $2,000), and
- introducing an alternative dispute resolution (ADR) process to resolve disputes and prevent escalation of claimant issues that lead to formal review hearings. Since ADR was implemented in December 2015 uptake increased from 195 cases in 2015/16 to 3482 in 2017/18, with 33% of cases settled and 15% of cases reaching a partial settlement.

22. In July 2017, ACC introduced a new structure to the dispute management functions. As part of this restructure, new review teams were established. The new structure aims to develop a broad, flexible knowledge base to ensure consistent claim decisions and management of reviews, with the aims of improving:

    - timeliness of resolution with the claimant, providing certainty of outcome more quickly
    - accuracy and consistency of decision making through the new function, ensuring claimants are receiving a consistent experience and treatment when they go through the disputes process, and
    - efficiency of ACC's operations through standardisation.

23. In the new review teams, review specialists are provided with additional scope to evaluate and revisit decisions made by case owners. They work proactively with clients and decision makers to resolve the matter in dispute. A potential outcome is that the review will be resolved pre-hearing through an alternative resolution process.

Tools to incorporate customer feedback

24. ACC is also incorporating feedback from complaints and formal review decisions into the continuous improvement of the design and delivery of ACC's services. This is intended to help eliminate some of the common pain-points that claimants experience.

25. In May 2018, ACC introduced a closed loop feedback tool, known as Heartbeat. The tool gives ACC the ability to collect real time claimant feedback. Starting with ACC's contact centre and next generation case management pilot site, ACC is capturing data and reporting on the most serious complaints, providing greater insights into the more common types of feedback from both satisfied and unsatisfied claimants in near real time, and, more importantly, providing quality feedback on claimant issues before they reach dispute stage so early action can be taken.

26. To help further improve dispute resolution and improve outcomes for ACC claimants by addressing the timeliness of decision making on review cases, ACC is carefully monitoring dispute volumes and then matching internal and external capacity to address any increase.

Increasing supply in review market

27. ACC currently uses an independent, third-party provider (FairWay) to undertake formal reviews where disputes cannot be resolved by claimants and ACC. By the end of 2018, ACC intends to expand the number of external, independent dispute resolution providers to provide claimants with choice over how their dispute is managed. This will increase the ability to improve outcomes for ACC claimants through more timely decision making on review cases. ACC is running a competitive tender process over the remainder of the year to secure additional dispute resolution services.

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Assessing against other government practice

28. ACC has commenced working with the Government Centre for Dispute Resolution (MBIE) to undertake an assessment of its dispute resolution framework and processes against best practice principles, which are based on providing dispute resolution services that are claimant focused and accessible, independent and fair, efficient, effective and accountable. Work to date has involved assessment of how best practice guidance might be tailored to ACC's processes, and understanding current and future practice using process mapping techniques.

Background to Review

29. In July 2015, Acclaim Otago (Inc) completed a report about the barriers that some people face when challenging ACC's decisions. The report, *Understanding the Problem: An analysis of ACC appeals processes to identify barriers to access to justice for inured New Zealanders*, concluded that "the current system does not provide access to justice", and identified the following four issues as the "likely causes of current inefficiencies in the dispute resolution system":

    - **Being heard** – some claimants feel that they are not genuinely heard by ACC, and do not feel they have 'had their day in court'.
    - **Access to the law** – inadequate access to legal resources.
    - **Access to evidence** – limited access to evidence (particularly medical).
    - **Access to representation** – limited access to experienced lawyers.

30. In response, the Government commissioned Miriam Dean QC, to undertake a Review of Acclaim Otago's report, known *as the Review of Accident Compensation Dispute Resolution Processes* (the Review).

31. The objective of the Review was to test the validity of the four issues raised by Acclaim Otago (as noted above) and to make any recommendations for policy, operational or legislative changes to the Accident Compensation Act 2001, and regulations.

32. In May 2016, Miriam Dean QC submitted the report of the Review. It confirmed a number of concerns raised by Acclaim, but also noted a number of areas where it did not find concerns to be valid, particularly in terms of access to the law/concerns directed at the courts. It also noted the improvements ACC had made to the customer experience in its specialist units through the adoption of a customer centric vision and values.

33. Areas of concern found by the Review included:

    Improved data collection – the need for ACC to collect and analyse data better to understand the triggers, outcomes, costs, and trends of disputes as a basis to continue to improve performance.

    Being heard – some claimants do not have confidence that the statutory review process ensures that their side of the story will be heard. This is often related to a perceived lack of independence of FairWay from ACC.

    Access to the law – inadequate access to legal resources (case law, review decisions, and guidance material), along with ACC's complex legislation, can be a barrier to claimants (particularly self-representing claimants) having a full understanding of the law.

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Access to evidence – accessing medical evidence through the disputes process can be difficult, and relevant issues need to be explored by medical representatives and stakeholders to find solutions.

Access to representation – a lack of representation (e.g. a suitable lawyer or advocate) can be a barrier to claimants seeking to challenge ACC decisions.

Delivering the recommendations

34. As noted above, the Review made 20 recommendations for ACC, FairWay, MBIE, and the Ministry of Justice. The majority of the recommendations relate to the operational processes of ACC and FairWay. ACC, MBIE and FairWay are confident that the response to the recommendations has:

    a. improved access to justice dispute resolution services for claimants

    b. provided greater support for claimants in the dispute process, and

    c. increased transparency for claimants about how the disputes process works should they wish to review or appeal an ACC decision.

Improved data collection and publication

35. The Review noted the need for ACC to collect and analyse data better to understand the triggers, outcomes, costs and trends of disputes. To address this, ACC has made several improvements to the information and data collected on cover and entitlement decisions and disputes which will be embedded in current organisational change initiatives, including the rollout of new case management approaches.

36. To deliver on these recommendations, ACC has made several changes to data collected, how it's collected and the ability to report it as needed. These changes will enable greater clarity and transparency for both ACC and claimants on ACC's decision making and the ability to understand ACC's performance over time. Key actions taken are:

    - Simplifying processes and reducing confusion for claimants by reducing the number of ACC decline letter templates from 100 to 15. This project also helps ACC to track the number of formal decline decisions issued, which has been a key concern of ACC's stakeholders.

    - Revising the ACC cover decision letter to make it easier for claimants to understand what costs ACC will help with for their injury.

    - Improving information that ACC collects on disputes data, including how many decisions are resolved in the client's favour when settling disputes at the administrative review stage.

    - Creating processes to specifically identify ACC legal expenditure on defending litigation. Claimants were surveyed to understand why people withdraw from the appeal process. The results of this survey are now being reviewed and we will consider next steps (cross reference to "Being Heard" theme).

    - Recently ACC has initiated a project to more precisely record the number of entitlement decisions and reasons. The implementation of this project will be achieved as part of the upgrades to ACC's core client information and payment systems, and rollout of ACC's new case management model from May 2019. While ACC already collects data on significant decisions, this project will allow ACC to collect data on the detailed decisions that are made.

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Being heard

37. The Review explained that some claimants feel that they are not genuinely heard by ACC, and do not feel they have 'had their day in court'. The Review found that this often related to a perceived lack of independence of FairWay from ACC and, while the Review did not question FairWay's independence, it recognised that some claimants think that FairWay is biased in favour of ACC.

38. The changes made by MBIE, ACC and FairWay will ensure that claimants have access to significant additional resources to participate in the process, and can have further confidence in the independence and robustness of the dispute system. Key actions taken to address these issues are:

   - The Government increased the contribution claimants receive to review costs above the cost of inflation by an initial16.6% in June 2017 while further work was to be carried out. 9(2)(f)(iv) [redacted]

   - ACC created a specialised Resolution Services team which now means that a claimant's administrative review is carried out by a second ACC staff member, not the original decision maker. This provides additional confidence for the claimant through a second assessment of the decision.

   - Following the Review, FairWay's board expressed an interest in shifting to employee ownership. The Treasury supported this proposal and, having informed shareholding Ministers, engaged Deloitte to provide an independent valuation of the company.[1] FairWay was transferred to employee ownership in July 2017.

   - Additional provision of dispute resolution is planned by ACC through a competitive tender process later this year. This will increase the ability to improve outcomes for ACC claimants by providing them with choice of dispute provider and more timely decision making on review cases.

   - ACC has formalised its commitment to behave as a model litigant by adopting and publishing a model litigant policy. ACC requires all its lawyers, including external lawyers, to apply the policy in all civil litigation.

   - To increase transparency on settlement decisions, ACC is now consistently collecting and recording settlement data. ACC wants to be able to demonstrate to the public that we do look at settlement in appropriate cases, consistent with our Model Litigant approach. ACC will also consider the feasibility and usefulness of publication of the settlement data in aggregate form and the frequency and format of such publication.

Access to law

39. The Review found that inadequate access to legal resources (case law, review decisions and guidance material), along with ACC's complex legislation, can be a barrier to claimants (particularly self-represented claimants) having a full understanding of the law and their entitlements and rights.

[1] The Minister for ACC and the Minister of Finance were the shareholding Ministers for FairWay.

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40. Agencies have put considerable effort into providing additional information to claimants to ensure that they understand the disputes process and are enabled to participate effectively in it. Key actions taken are:

- To help claimants to better present their cases at review or in the District Court, ACC funded the New Zealand Legal Information Institute (NZLII) to provide a guide to accident compensation, which is available through the NZLII website. The NZLII has also updated its library of High Court and Court of Appeal accident compensation cases, available on its website. Judgments of the Senior Courts can be searched for by Act and section on the Ministry of Justice website.

- An online submission tool has been created by FairWay to guide people through preparing a submission. The tool helps people to present their position to a reviewer and makes it easier for all parties involved to prepare their case.

- FairWay and ACC have made improvements to their websites to ensure claimants can easily find the information they need about the support available to them to and how to resolve issues about their claim:

  - Graphics and video content have been created on ACC cover processes, review regulations and cost of treatment regulations that easily explain to claimants how the dispute resolution process works, and are available on the ACC and FairWay websites.

  - Publication of case studies and guidelines on the FairWay website give greater clarity about how reviews are managed, conducted and decided.

Access to medical evidence

41. The Review found that claimants have difficulty gaining access to medical evidence, which is crucial in determining most disputes. The factors contributing to this issue are complex and there is no easy resolution. The Review concluded that a wide group of representatives were needed to discuss solutions to the policy and process-related problems with accessing medical evidence.

42. To respond to this recommendation, ACC convened a Medical Issues Working Group in 2017 to identify solutions to the issues raised in the Review. The group comprised representatives from the NZ Medical Association, the Council of Medical Colleges, Te Ora, Royal NZ College of General Practitioners, New Zealand Orthopaedic Association (NZOA), Forster & Associates, and the NZ Law Society. Other representatives were from Acclaim Otago, the Disabled Persons Assembly, NZ Association of Accredited Employers, FairWay, NZ Council of Trade Unions' Workplace Injury Advocacy Service, the Ministry of Justice and MBIE.

43. The Working Group held its final meeting in November 2017 and earlier this year in May 2018, ACC finalised with the Working Group their suggested solutions to the issues raised. ACC and MBIE, along with the Working Group and NZOA are working on several initiatives to resolve these issues. Detail on the discussions of the group, actions and progress is attached in Appendix B.

44. At the core, the issues with medical evidence are likely to be about cost for claimants and supply constraints on medical advice.

    a. The work MBIE and ACC have done to recommend increased review cost rates (on top of the inflationary adjustment already made) for claimants should go a significant way to reducing the access barriers related to cost. 9(2)(f)(iv)

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b. Issues of supply constraints on medical advice are more difficult to solve. Several initiatives have been progressed by ACC and the Working Group, but ongoing effort to improve the efficiency of decision making and use of limited medical resources in the disputes process will be important and will continue beyond the Review work.

45. Actions have been implemented in the seven key areas identified by the Review (discussed below). 9(2)(f)(iv)

46. The Review identified seven areas for consideration, all issues affecting claimants access to medical evidence: the cost of reviews to claimants, conflict of evidence between medical experts, education, timely access to medical experts, objectivity, information gathered by GPs, and understanding of legal and medical issues. The initiatives complete or underway to respond to these areas are:

- ACC has published a statement for medical experts on providing best practice objective medical opinions to ACC. This means claimants can have greater assurance that opinions from medical experts to ACC on their behalf are not biased in favour of ACC.

- Since February 2018, all ACC's elective surgery requests now come through the Treatment Assessment Centre. This is the first step in improving consistency on elective surgery decisions, including around consideration factors for ACC funding of surgery and avoiding disagreement between ACC and medical practitioners.

- ACC runs an internal Clinical Advice Panel (CAP), which provide clinical advice on causation to staff in the Treatment Assessment Centre who use it in the decision-making process to determine surgical entitlements and support. To increase the pool of experts and allow for a wider range of views, and address the perceptions that medical experts paid by ACC provide medical advice that it is biased towards ACC, the NZ Shoulder and Elbow Society have agreed to have one of their members provide input into ACC's Clinical Advice Panel (CAP). ACC's own employees on CAP are rotated and are bound by professional ethics and standards to provide an independent opinion.

- ACC is developing a trial with the NZOA where a clinical discussion takes place between an ACC CAP member and the treating surgeon to clarify medical evidence before a decline decision is issued. This seeks to build consistency of view between ACC experts and their external counterparts, and may reduce the need for clients to seek further medical evidence following a decline decision.

- NZOA subspecialty societies and ACC are working on agreeing injury-related factors for knee and rotator cuff tears that indicate whether it was caused by an accident, as opposed to a degenerative condition. While initiatives have been focused to this point on knee and rotator cuff injuries, this is the kind of ongoing work that ACC will continue to do on an ongoing basis as part of continuous improvement.

- ACC is developing a post-graduate module on injury causation to encourage more medical experts to provide opinions for ACC cases to increase the supply of medical advice available. To progress this, ACC is working with medical bodies outside of the Working Group. This is planned for completion by December 2018.

- To improve decision timeliness for claimants, ACC is developing its internal clinical report writing course into an external module to help medical experts to provide the appropriate information required to support ACC's decision making.

47. A key benefit from the Medical Issues Working Group was bringing together diverse groups, such as clinical and legal representatives, into a shared forum for discuss how to improve claimant access to medical evidence. ACC is giving consideration to how support this dialogue beyond the review

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through its newly established Customer Advisory Panels, where there is opportunity to bring together a broad range of stakeholders. As well as this, ACC's Chief Clinical Adviser is considering what more needs to be done and how to best engage stakeholders in the clinical community on an ongoing basis beyond this review.

48. Two recommendations were made by the Review to empower the District Court to commission medical reports for claimants and direct experts to confer. The Ministry of Justice and MBIE consider that while these recommendations improve the efficiency of the Court process, they are unlikely to improve access to medical evidence for claimants. In addition, they would replicate existing powers of the District Court to appoint experts to assist the Court and direct experts to confer. Such provisions would also create a separate process for ACC claimants compared to other civil litigants, which is unjustified. These recommendations are therefore not being progressed and are considered complete.

Access to representation

49. The Review found that lack of representation (for example, a suitable lawyer or advocate) can be a barrier to claimants seeking to challenge ACC decisions. This barrier exists because of a considerable imbalance in the resources ACC can access compared with those available to claimants. Claimant demand for expert legal services often exceeds supply, with very few lawyers practising in the area of accident compensation law.

50. In response to this, ACC has made significant changes to its approach and resources for advocacy services, which will significantly improve claimants' access to representation and improve their ability to participate in the disputes process.

51. ACC is funding a free independent service which advocates, supports and prepares claimants to dispute or review an ACC decision. The navigation service will be capable of advocating for claimant's interests, assisting them to raise complaints or disputes where appropriate, and support them to prepare effectively for a review hearing if required. "Navigation" also captures all the functions which the services may provide in the absence of a dispute, such as assisting claimants to access entitlements and engage confidently with ACC in the future.

52. ACC expects the service to be up and running in 2018/19 and see about 4,000 claimants per year, approximately four times the current number of claimants accessing ACC-funded advocacy services, will be served through this initiative with a focus on accessibility to people of diverse cultural backgrounds, particularly Māori claimants, as well as people with different abilities and needs. As part of the new service, ACC is updating its training manual for ACC advocates to support consistent and quality service provision. The service will be aligned with current tender processes for independent dispute resolution services for ACC claimants, planned for the end of 2018.

53. Additionally, ACC has increased funding to its existing advocacy service provider, Workplace Injury Advocacy Service (WIAS), in response to the recent exit of another provider (Linkage Trust). The WIAS service is well-promoted on ACC's website, explaining what WIAS provides and how to make contact.

54. The recommendation for the District Court to have power to appoint counsel to represent claimants in exceptional circumstances was explored but considered by the Ministry of Justice as likely to create an unjustifiably separate process for ACC claimants compared with other parties before the Court and was not therefore progressed.

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Review suggestions

55. In addition to recommendations, the Review made a further sixteen suggestions for ACC to consider. ACC explored all 16 suggestions and progressed all but one. Detail on the suggestions and their implementation is attached in Appendix C.

    a. Nine suggestions have been completed, including establishment of a Resolution Services within ACC (discussed above), removing the original decision maker from the review, and improving the accuracy, consistency and timeliness of ACC's review functions.

    b. Two suggestions remain underway and will be completed in 2018/19, including updating the ACC advocacy training manual, which will be reworked as part of establishing the new navigation service, and the creation of processes to enable medical experts to confer with each other, which ACC is working on with the NZOA.

    c. Four were considered by the Medical Issues Working Group, all of which are being progressed.

56. The suggestion to adopt the 6th edition of the American Medical Association Guidelines (in place of the 4th edition which is currently used) was not progressed, as adopting these new guidelines would result in reductions in claimant entitlements (smaller lump sum payments), primarily affecting mental injury clients.

Ongoing internal monitoring

57. ACC has made significant improvements to its dispute resolution processes over the last few years and remains committed to improving the customer experience and addressing the issues that cause customers to lodge a complaint or review. Further recent improvements and work on the Review recommendations will assist in achieving this goal by improving access to dispute resolution and providing greater support and transparency for when claimants wish to review or appeal an ACC decision.

58. With the conclusion of the final three key recommendations this year (recommendations on increased contribution to review costs, decision on new navigation service, and completion of the Medical Issues Working Group), agencies consider it is time to conclude reporting against the Review recommendations.

59. There are implementation plans in place to ensure work underway will be delivered and ACC has incorporated monitoring and reporting on implementation into business-as-usual reporting processes. In particular, the ACC Board will continue to internally monitor:

    a. the progress of the remaining recommendation relating to data collection which is part of wider transformation projects

    b. the actions still underway by ACC from the Medical Issues Working Group to ensure they are appropriately embedded in operational business-as-usual, and

    c. the procurement processes on the navigation service and the work to increase the number of suppliers of review services.

60. ACC proposes to provide you with a quarterly update on progress to procure the navigation service between now and its establishment in mid-2019. The update will also include other relevant improvements to ACC dispute management, such procurement of additional external dispute resolution providers.

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Communications implications

61. ACC has developed a communications plan to support the release of this report and the response to media enquiries will focus on the progress ACC has made in improving the disputes systems over several years, and contribution that the review work has made to this. 9(2)(f)(iv)

62. We do expect the report to generate some interest from stakeholders, for example, on the Medical Issues Working Group. Some stakeholders may be critical of an apparent lack of a final resolution on the complex issue of medical evidence. Or they may view the release of the final report as an indication that agencies have stopped working on responses to the Review's recommendations or wider dispute management improvements.

63. ACC is committed to continually improving dispute resolution management beyond the completion of the Review work. Work to improve claimant experience is ongoing and is now embedded in ACC's wider transformation programme. As a result of the Review, claimants are benefitting from improved support and greater transparency how the disputes process works should they wish to review or appeal an ACC decision.

64. The report provides a summary that draws together all the dispute resolution changes that have been made over the last several years, including those arising from the Review. Agencies are comfortable with the response to the Review. On that basis, a ACC has prepared a communications plan to respond to any enquiries, which includes:

   - following your approval, the report and accompanying tables will be posted on MBIE's website, alongside other publicly available reports relating to the Review. ACC will provide a link to the report via its website.
   - ACC will be the lead agency for any media enquiries and will seek input from MBIE or FairWay as necessary. Emma Powell (Chief Customer Officer) will be ACC's executive spokesperson, supported by James Funnell, Principal Media Adviser.
   - ACC will take a reactive approach to media and stakeholder interest, responding as it arises.

65. We have also attached some suggested talking points for you or your office to use, should you receive any enquires, and we are available to provide any further support or information you would like.

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Talking points

- Dispute resolution is a strong focus of the transformation being undertaken by ACC to become a more client-centred organisation.
- ACC is committed to further improving customers' experience when disputing a decision, as well as addressing the issues that cause them to lodge a complaint or review of a decision in the first place. This work will continue as part of ACC's on-going business improvement process.
- ACC, MBIE and Fairway Resolution Services have undertaken considerable work to support customers' access to justice. We are confident that the changes made have improved customers' access to justice and provides them with greater support and more transparency when they want to challenge an ACC decision.
- Nineteen of the Review's 20 recommendations have been implemented, and work on the 20th – relating to data collection – has been substantially completed by ACC.
- Issues relating to medical evidence are complex and there are no easy solutions. Actions identified by the Medical Issues Working Group to improve customers' access to medical evidence are either completed or underway.
- 9(2)(f)(iv)
- Publishing a final report provides transparency about the work agencies have done in response to the review. It does not signal an end to work being done to improve the dispute resolution process. This is an on-going commitment for ACC.
- ACC is working with the Government Centre for Dispute Resolution to assess its dispute resolution framework against their recommended best practise principles.

A recap on collective responses to date

Improved data collection and publication

- ACC's suite of decline letters has been cut from 100 to 15, which improves its ability to track the number of formal decline decisions. The cover decision letter has been revised to be easier to understand in terms of what injuries costs will be met by ACC.
- Feedback from complaints and formal review decisions is being incorporated into on-going improvements in ACC's services to help eliminate common client pain points. Client feedback is also being captured in close to real time, with data adding greater insight into more common complaints.
- Improving information that ACC collects on disputes data, including how many decisions are resolved in the client's favour when settling disputes at the administrative review stage.
- ACC is looking to more precisely record the number of entitlement decisions and reasons as part of an upgrade to its core client information.

Being heard

- Customers' review costs increased by 16.6 per cent in 2017.
- ACC has made internal changes to promote the early resolution of disputes, and created a specialised team to ensure greater consistency in how disputes and review applications are managed.
- A tender is running to increase the number of independent dispute resolution providers.
- ACC has adopted and published a model litigant policy
- ACC is now consistently collecting and recording settlement data, and is looking at feasibility of publishing the data in aggregated form.

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Access to law

- Tools, guidance and visual materials are available to give customers a better understanding of accident compensation law, and prepare and present cases for review or appeal at the District Court.
- MBIE and ACC have produced visual maps for a range of injury types to help customers better understand their entitlements, and the process ACC follows in making decisions.
- Fairway has created an on-line tool to guide people through making a submission
- Fairway has published case summaries to better inform claimants involved in the review process, and completed an instructive video on how the review process works.

Access to medical evidence

- ACC is working on a post-graduate module on causation for clinical professional development purposes.
- An external module based on ACC's internal clinical report writing course will help medical experts provide the information required to support ACC's decision-making.
- The NZ Orthopaedic Association (NZOA) subspecialty groups are working with ACC on agreed factors for ACC-funded elective surgery for certain injuries (e.g. knees and rotator cuff injuries). Reaching agreement on these factors is likely to speed up the decision process and minimise the areas for potential disagreement.

Access to representation

- ACC is funding a free independent navigation service to support customers to dispute or review a decision. The service will be capable of advocating for claimant's interests; assisting them to raise complaints or disputes where appropriate, and supporting them to prepare effectively for a review hearing if required.

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Appendix A: Implementation of the Independent Review's Recommendations

Table 1: status of recommendations from the Independent Review

No.	Review recommendations	Status	Update/Outcome	Lead Agency
Theme: wider picture. The Independent Review identified the need for ACC to collect and analyse data better to understand the triggers, outcomes, costs, and trends of disputes as a basis to continue to improve performance.				
1	ACC explores ways to better collect and analyse data about claims and disputes	Underway and will be concluded through ACC's changes to case management approaches	ACC has improved the information collected on cover and entitlement decisions and disputes data, which will help track operational performance over time. Key actions include: • Standardising and reducing the number of decline letters from 100 down to 15. This will simplify processes for claimants and help ACC to track the number of formal decline decisions issued. The letters have been rewritten to improve the tone and clarity for claimants. • Improving the information collection on disputes data, including how many decisions are resolved in the client's favour when settling the dispute at the administrative review stage. • New financial processes were implemented at the end of 2017 to capture ACC's legal expenditure on defending appeals. • Claimants were surveyed to understand why people withdraw from the appeal process. The results of this survey are now being reviewed and ACC is considering next steps. (Cross reference with recommendation 5) • A project has begun to record the precise number of ACC entitlement decisions and reasons. Implementation will be completed as part of ACC's core client information system and client payment system updates and rollout of ACC's case management model in May 2019. While ACC already	ACC

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
			collects data on significant decisions, this project will allow ACC to collect data on the detailed decisions that are made.	
Theme: being heard. Some claimants do not have confidence that the statutory review process ensures that their side of the story will be heard. This is often related to a perceived lack of independence of FairWay from ACC.				
2	FairWay develops and publishes guidelines setting out an improved review process (broadly by tracking and triaging)	Concluded	FairWay introduced a new review process and guidelines in June 2017. This new process aims to avoid a 'one-size-fits-all approach' for claimants, and cases are classified as simple, standard or complex and dealt with accordingly, both in terms of speed and process. The guidelines provide clarity for claimants about how reviews are managed and conducted. The Guidelines were developed in consultation with stakeholders. The Guidelines are a living document, underpinned by the principles of natural justice, which implies that the review must follow a fair procedure. ACC reviews are now assigned and managed along different 'tracks' based on their complexity and the anticipated timeframe, using case conferencing as a central part of the review process. Case conferencing provides opportunities for all parties to get together, determine any issues, and find the right way forward.	FairWay
3	MBIE, ACC and FairWay consider how best to address problems, perceived or otherwise, with FairWay's independence from ACC	Concluded	FairWay's Board expressed an interest in employee ownership to the Treasury, which was supported. Having informed shareholding Ministers, Deloitte was commissioned to undertake an independent valuation of the company. FairWay was transferred to employment ownership in July 2017.	MBIE/FairWay
4	The government increases the rate of contribution to review costs for claimants	9(2)(f)(iv)	9(2)(f)(iv)	MBIE

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
			[redacted] The purpose of the review was to ensure that the Review Cost Regulations support access to justice and make a meaningful contribution to claimants' costs, taking into consideration the varying levels of needs of those claimants who go to review, rather than simply increasing the rates in the Review Costs Regulations. (Cross-reference Medical Issues Working Group suggestion 1)	

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
5	ACC considers ways to improve its settlement processes, including: • exploring settlement of appeals as early as the process allows • better tracking of settlement data • publishing settlement data (alternative to a public settlement policy) and • possible adoption of a public settlement policy and adoption of a formal model litigant policy	Concluded	• ACC has improved processes for early review of appeal files and introduced better processes to consistently capture settlement reasons. • As above (recommendation 1), settlement and appeal data is being collected and once a representative data set is available, ACC will also consider the feasibility and usefulness of publication of the settlement data in aggregate form and the frequency and format of such publication. This will promote transparency around ACC's approach to settlement. • In December 2016, ACC formalised its pre-existing practice and commitment to behave as a model litigant by publishing a policy. It is similar to equivalent policies adopted by agencies such as the Crown Law Office and the Commerce Commission. ACC requires all its lawyers, including external lawyers, to apply the policy in all civil litigation. • Instead of adopting a public settlement policy, ACC fully supported increasing the transparency (e.g. retrospectively publish settlement data) of ACC's approach to settlement. ACC considers a public settlement policy could create a litigation risk as settlement decisions could be reviewed, and undermine the purpose of settling (i.e. reaching a final decision). To achieve transparency around settlement, ACC has put in place processes to consistently record settlement reasons. We want to be able to demonstrate to the public that we do look at settlement in appropriate cases, consistent with our Model Litigant approach. We will also consider the feasibility and usefulness of publication of the settlement data in aggregate form and the frequency and format of such publication.	ACC

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
Theme: access to law. Inadequate access to legal resources, along with ACC's complex legislation, can be a barrier to claimants having a full understanding of the law.				
6	The New Zealand Legal Information Institute is funded to provide a primer enabling users of its website to search accident compensation case law and cases more easily	Concluded	ACC commissioned the New Zealand Legal Information Institute (NZLII) to provide a primer to accident compensation law. This is now available on the NZLII website. This will help claimants to better present their case at review or in the District Court when appealing a review decision (cross-reference recommendation 12).	ACC
7	The New Zealand Legal Information Institute updates its website, with help from ACC and or the Ministry of Justice, to include all High Court and Court of Appeal accident compensation decisions.	Concluded	NZLII has updated its library of High Court and Court of Appeal accident compensation cases, which is now on their website. Judgements of the Senior Courts can be searched for by Act and section on the Ministry of Justice's website.	ACC
8	ACC and FairWay consider other ways to explain easily to claimants how dispute resolution processes work and, in ACC's case, also how it decides particular claims	Concluded	Refer to recommendations 11 (visual maps) and 10 below (instructive video).	ACC/Fairway

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
9	FairWay - education and information sharing including: • publish anonymised review decisions and case summaries • provide a submission builder to help claimants prepare their review submissions	Concluded	FairWay has: • created case summaries (similar to case studies) to better inform claimants involved in the review process. • created an online submission tool to guide claimants through preparing a submission, prompting users through questions, examples, and explanatory notes. The tool helps people to present their position to a Reviewer and makes it easier for all parties involved to prepare their case. • improved the ACC section of the FairWay website to ensure claimants can easily access necessary information. This will better inform claimants about the support available to them to resolve issues about their claim. • held educational forums and training/discussions with stakeholders to build sector knowledge about the review process.	Fairway
10	ACC and FairWay consider other ways, such as more graphics and video content, to explain to claimants how dispute resolution processes work and claims decisions are made	Concluded	FairWay has created a short animated, instructive video to help explain the ACC review process. The video responds to claimant feedback on the issues and questions they have experienced in the review process. The video is available on Fairway's website. Visual maps which explain ACC's decision making process on cover decisions, how to access funding under the review cost regulations and payment rates available under the cost of treatment regulations are available on ACC's website.	Fairway/ACC
11	MBIE and/or ACC consider creating a visual map to help claimants navigate their way around the various accident compensation Acts and regulations	Concluded	As above (recommendation 10) MBIE and ACC have developed visual maps for a range of injury types to assist claimants to understand the cover and entitlements process that ACC follows. These are available on ACC's website.	MBIE/ACC

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
12	The District Court considers how it can best help claimants representing themselves to easily search for relevant cases	Concluded	The District Court undertook to consider how it can best help claimants representing themselves to easily search for relevant cases. Judgements of the Senior Court are available and can be searched for by Act and section on the Ministry of Justice website. Other projects by ACC and NZLII have been undertaken to improve access to accident compensation case law (see recommendation 6).	District Court
Theme: access to medical evidence. There are a number of issues associated with how claimants access medical evidence through the disputes process, which need to be explored by relevant medical representatives and stakeholders to find solutions.				
13	ACC convenes a working group to address the policy and process related problems with accessing medical evidence	Concluded	ACC convened a Medical Issues Working Group for four meetings. A wide range of stakeholders were bought together to discuss the policy and process related problems with accessing medical evidence, as some of the solutions lay beyond ACC and a range of actions were required. The Medical Issues Working Group completed the final meeting in November 2017. ACC has finalised with the Working Group their identified solutions to the issues identified. Most solutions are complete or will be completed by December 2018. ACC is currently considering how stakeholders may be engaged with relevant work that is ongoing following the completion of the independent review. Refer Appendix C for a summary of the problems and solutions raised by the Independent Review and subsequent progress.	ACC
14	District Court judges could commission an expert medical report for claimants where appropriate	Concluded	Judges already have the power to obtain further evidence to assist the Court under District Court Rules, Subpart 4. Implementing this recommendation will not address the underlying issues around costs and access to medical experts. No further work is planned on this recommendation.	Ministry of Justice

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
15	Empower District Court Judges to direct experts, where appropriate, to confer and identify where they agree and disagree on medical issues	Concluded	The District Court already has the power to direct a conference of experts under the District Court Rules 9.35. The recommendation is considered to create duplication and does not add value where experts disagree. The recommendation is not being progressed and is considered compete.	Fairway/Ministry of Justice/MBIE
Theme: access to representation. A lack of representation can be a barrier to claimants seeking to challenge ACC decisions.				
16	ACC to consider increasing funding to existing free advocacy services	Concluded	ACC has increased funding for the Workplace Injury Advocacy Service (WIAS) to employ an additional staff member (now 2.5 FTE). WIAS had their funding increased to manage a higher workload after Linkage Trust withdrew from providing services.	ACC
17	ACC to consider funding a free nationwide advocacy service modelled broadly on the Health and Disability Commission Advocacy Service	Concluded	ACC is funding a free, independent service to help claimants navigate its processes, or to better understand or dispute a decision. The navigation service will be capable of advocating for claimant's interests, assisting them to raise complaints or disputes where appropriate, and supporting them to prepare effectively for a review hearing if required. "Navigation" also captures all the functions which the service may provide in the absence of a dispute – such as assisting claimants to access entitlements and engage confidently with ACC in the future. The service is expected to go live by mid-2019. The design of this service will ensure accessibility to people of cultural backgrounds, particularly Māori, and people with abilities, and needs. The service is expected to provide support to around 4,400 claimants each year and is likely to be a mixture of phone, web-based, and face-to-face advice and support up to, but not during, a formal review hearing. It will be reviewed after two years of operation to ensure that it is meeting claimants' needs. ACC will monitor and record the types of issues the navigation service responds to	ACC

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No.	Review recommendations	Status	Update/Outcome	Lead Agency
			(including complaints), and will use this information to improve service provision and decision-making.	
18	ACC more widely promotes organisations (existing and new) offering advocacy services on its website and in other guidance material.	Concluded	ACC has promoted the current advocacy service provider (Workplace Injury Advocacy Service) on its website, explaining what WIAS provides and how to make contact. ACC will promote the new navigation service when it is established.	ACC
19	Relevant participants in the accident compensation area explore initiatives to encourage more lawyers into the accident compensation field or work	Concluded	MBIE agrees that there is limited supply of ACC specialists on the legal market. However, MBIE does not consider that encouraging lawyers into the area will address distortions, if any, of the current market. MBIE also lacks the levers or expertise to influence individual decisions in terms of specialisation, including non-monetary considerations. This is more appropriately entrusted to professional organisations and education/training institutions. This recommendation will not be progressed and is considered complete.	MBIE
20	Consideration be given to the District Court having the power to appoint counsel to represent claimants in exceptional cases where justice and efficacy require it.	Concluded	MBIE consulted with the Ministry of Justice on opportunities to improve the effectiveness of existing mechanisms. The proposed power is likely to create a separate process for ACC claimants compared with other parties before the Court. This is problematic given other groups who appear before the courts may also benefit from the appointment of counsel and may have unintended consequences in limiting claimants' right to self-representation. ACC was concerned because difficult ethical considerations apply when a third-party funds counsel to represent a party to litigation. Other than powers specified under the District Court Rules, District Court judges can appoint amicus curiae for a wide range of situations and roles. Claimants are also generally entitled to a support person in any court, although not one who is a barrister or solicitor of the High Court. The appointment of counsel in exceptional circumstances is therefore not being progressed.	MBIE/Ministry of Justice

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Appendix B: Summary of the Medical Issues Working Group Discussion on Medical Evidence Issues

The Independent Review recommended that ACC convene a working group to address the policy and process-related problems with accessing medical evidence. Members were invited from the NZ Medical Association, the Council of Medical Colleges, Te Ora, Royal NZ College of General Practitioners, NZ Orthopaedic Association (NZOA), Forster & Associates, and the NZ Law Society. Other representatives were from Acclaim Otago, the Disabled Persons Assembly, NZ Association of Accredited Employers, FairWay, NZ Council of Trade Unions' (NZCTU) Workplace Injury Advocacy Service, the Ministry of Justice and MBIE.

The Independent Review identified several problems and suggested a range of improvements for the Medical Issues Working Group (the Working Group) to consider. The suggestions aim to improve client access to medical experts, reduce conflict over medical information, and clarify the independent role of medical experts.

The Working Group met four times, with the final meeting in November 2017. ACC has finalised with the Working Group their identified solutions to the issues associated with medical expert evidence for claimants.

Table 2 provides a summary of the position the Working Group reached during the meetings on each of the issues and suggestions provided in the Review. Table 3 provides a summary of a wider range of topics discussed by Working Group members.

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Table 2: problems and suggestions identified in the Independent Review for the Medical Issues Working Group to consider

No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
1	Cost reimbursement for medical reports is not sufficient for some claimants	**Cost of reports** If a client succeeds at review or appeal the cost of the medical report not covered by the Regulation rate should be paid	*Action* • 9(2)(f)(iv) [redacted] • A 16.6% inflationary increase was included in the rates in the Review Costs and Appeals Regulations on 1 June 2017.	[redacted]	MBIE

No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
2	**Conflicting medical evidence leads to a battle of experts**	**Dialogue** Enable medical experts to confer before ACC makes a final decision	*Discussion* • Conferring between medical experts is considered an ideal. The issue of medical expert availability for conferring, particularly of orthopaedic surgeons, was raised as a barrier to this collaborative approach. • Some Working Group members would like this dialogue to be recorded so it can be examined and all parties can have confidence in the accuracy of the information being taken into account.		
			Action • The NZ Orthopaedic Association (NZOA) subspecialty groups and ACC are working on agreed consideration factors for certain injuries. Reaching agreement on these factors is likely to speed up the decision process and minimise the areas for potential disagreement, which could reduce the number of claimants seeking reviews. There are consideration factor documents currently being developed with several NZOA Societies: Shoulder and Elbow Society, Wrist and Hand Society, and the Hip Society. This work is ongoing and will be revisited and updated whenever appropriate (e.g. new best practice or medical evidence is available).	Underway	ACC
			• ACC is working with NZOA on setting up a process whereby clinical discussions can occur for discussions directed by reviewers and the Court. The process needs to be transparent, consistent, fair and efficient. This proposal was discussed at the ACC/NZOA meeting on 6 July 2018 and again on 14 September 2018. ACC and the NZOA are working together to develop a process and criteria to allow these discussions to occur for these selected cases. One Court-directed discussion has already occurred. This process should be ready to be discussed at the ACC/NZOA meeting on 23 November 2018.	Underway	ACC

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No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
			• ACC is discussing with the NZOA about running a trial where a clinical discussion takes place between a Clinical Advisory Panel (CAP) member and the treating surgeon before a decline decision is issued. ACC has also raised the conferring of experts' proposal with the Royal Australasian College of Surgeons' NZ National Board, the Royal Australian and NZ College of Radiologists, and the NZ Private Hospitals Association. Once the court directed process is agreed between ACC and the NZOA, then this will form a template to consider how ACC and the NZOA can implement criteria to allow clinical discussions before a decline decision is issued.	Underway	ACC
			• Since February 2018, all surgery requests have come through the Treatment Assessment Centre. This is the first step in improving consistency around consideration factors and avoiding disagreement.	Concluded	ACC
3	**Education about accident compensation considerations is lacking in medical schools and colleges**	**Education of experts** Education for medical specialists who provide opinions on ACC claimants	*Discussion* • The Working Group discussed introducing courses on ACC into medical training. ACC has previously approached medical schools about having courses about accident compensation but there is little interest from the medical schools. • Some members of the Working Group disagree with ACC providing education on causation or accident compensation.		
			Action: • The following institutions are delivering lectures and tutorials on ACC: University of Otago and Auckland University of Technology Physiotherapy School and Podiatry School, UNITEC Osteopathic College, NZ College of Chiropractic, NZ School of Acupuncture and Traditional Chinese Medicine and NZ College of Chinese Medicine.	Concluded	ACC

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No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
			• ACC is working on a post-graduate module on causation for professional development purposes. ACC will discuss using it as a professional development tool with the relevant medical bodies. This is planned for completion by December 2018.	Concluded	ACC
			• ACC will develop its internal clinical report writing course into an external module to help medical experts to provide the appropriate information required to support ACC's decision making. This is planned for completion by December 2018.	Concluded	ACC
4	**Claimants unable to get timely access to medical experts**	**Encourage more experts to undertake accident compensation work** Increase client access to medical experts	*Discussion* • Discussed at 13 March and 8 November 2017 meetings – ideas raised included: o using GPs, and GPs with special interest, more as experts. Better recognition of GPs with qualifications in special interests (eg, musculoskeletal, occupational and sports medicine) as potential expert advisors, including equitable reimbursement for doctors registered in a vocational scope of general practice o gain continuing professional development (CPD) points (for the purposes of recertification with the Medical Council of New Zealand) for undertaking training provided by ACC for medical experts o medical colleges provide claimants with the names of experts in their locality		
			Action See number 3 above. The post-graduate module on causation is likely to encourage interest in ACC work by more medical practitioners.	Concluded	ACC
		Panels/blind panels Increase client access to expert medical option	*Discussion* • Discussed in table group as Concept 8 at the MIWG meeting on 7 July 2017.		

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No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
			• Discussed On 8 November 2017, the MIWG proposed a Medical Expert Advisory Panel/Service to increase client access to medical experts. The following was considered: o a separate organisation with administrative support that can access the medical colleges pool of experts - provides independent medical advice for claimants and their advocates, and ACC o needs a large pool of experts to share the workload - experts need to be able to incorporate this work into their practice without too much impact and require remuneration that competes with lost surgical time o opinions likely to be based on papers, although it may require some claimants to be physically examined. There were a variety of views on the following: o it could be funded by ACC or separately from ACC o claimants could choose to use an independent service either following a decline decision or for all their ACC assessments o ACC could use an independent/external service for medical expertise for complex claims (still have a role for CAP) or all ACC medical decisions could go through this o supply constraints may still persist in some disciplines and a panel may exacerbate rather than resolve the issue o it could provide only a medical opinion or have decision-making powers. If it has decision-making powers then ACC would need to abide by the decision. Claimants would retain the right to challenge the decision. • The Health and Disability Commissioner's panel of experts for the HDC complaints process could be used as a model for the development of a body of expert advisors.		

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No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
			Action • 9(2)(a)		MBIE
5	**Medical experts do not understand their objective role**	**Guidelines for medical reports** Clear guidelines for medical experts about their role and reports	*Discussion* • Discussed on 13 March 2017. Some advocates consider that medical experts are not objective in providing medical advice to ACC. Medical representatives consider that professional ethics already require medical experts to provide objective professional advice.		
			Action • ACC has developed and published a statement for medical experts on providing objective medical opinions to ACC. The statement received final approval from ACC's Clinical Governance Group in February 2018 and has been published on ACC's website.	Concluded	ACC
			• ACC has clear requirements for medical professionals providing assessments in its contracts.	Concluded	ACC
			• New Zealand Medical Council has guidelines on "Non-treating doctors performing medical assessment of patients for third parties".	Concluded	ACC

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No.	Problem identified	Dean Review suggested improvement	Working Group discussion or action taken by members	Status	Lead Agency
		Rotation Rotation of pool of experts to prevent them "falling under the sway" of ACC	*Discussion* Discussed on 13 March 2017 - Some advocates consider that medical experts paid by ACC provide medical advice that it is biased toward ACC's benefit.		
			Action • To increase the pool of experts and allow for a wider range of views, the NZ Shoulder and Elbow Society have supported ACC by agreeing to have one of their members provide input into ACC's CAP. • ACC's employees on CAP are rotated by looking at, for example, wrists for a period, followed by knees etc. ACC's medical experts are also bound by professional ethics and standards to provide an independent opinion.	Concluded	ACC
6	**Not all pertinent information gathered by GPs**	**Templates for GPs** Template for all pertinent patient information	*Discussion* • This was raised at the 19 December 2016 MIWG as a potential course of action but no agreement was reached on whether work on a template should be progressed, what was needed in the template, or by whom. On this basis, no further action is planned.	No action proposed by the MIWG	
7	**Understanding of legal and medical issues required**	**Cross-disciplinary committees** To produce legal and medical agreed codes of practice	• This has not been discussed by the Working Group. It could potentially be progressed by the New Zealand Medical Council and the New Zealand Law Society. ACC does not consider it has a role in leading this work. The Clinical Services Directorate will consider whether it will raise this with relevant stakeholders to lead.	No action proposed by the MWIG	

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Table 3 other ideas discussed by the Medical Issues Working Group

(Concepts listed below were discussed at 7 July meeting)

<table>
<tr><th>No</th><th>Problem identified</th><th>Suggestion by MIWG</th><th>Position or action</th><th>Status</th><th>Lead Agency</th></tr>
<tr><td rowspan="3">1</td><td rowspan="3">Front end process requires improvement:
Claimants are unaware of the specific injury that is covered
Diagnosis can be difficult to change with ACC</td><td rowspan="3">Better capturing of diagnosis
Allow for suspected injuries
Clarity of cover decision
Specify what injury or injuries are covered in the cover letter
(Concept 1)
Easier process for changing a diagnosis
Consistent process required
Flexible decision making
Work up an agreed standard process so that claimants, doctor, and ACC can have a new or amended diagnosis more easily
(Concepts 2 and 3)</td><td colspan="3">Discussion
There is a need to improve the process at the start of the claim by allowing better reporting of the injury by the GP. Read codes don't allow for accurate recording eg a GP who suspects a meniscal tear is likely to report this as a knee strain due to coding restraints</td></tr>
<tr><td>Actions
As part of the wider changes to improve client and provider interactions with ACC, there is an initiative underway to streamline cover decisions so that an instant cover decision is available at lodgement for some injuries. This will assist claimants and providers to know if the injury is covered, and whether ACC will cover the cost of the visit/treatment. The level of information provided to claimants about the cover decision will also be considered when 'client self-service' is developed following the end of current phase of Client Front End Establishment in September.</td><td>Underway</td><td>ACC</td></tr>
<tr><td>ACC has reviewed the cover decision letter and developed a revised version. The revised letter aims to make it easier for claimants to understand what injury is covered and what kinds of entitlements they may be eligible for.</td><td>Concluded</td><td>ACC</td></tr>
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			• ACC is transitioning to SNOMED (Systematized Nomenclature of Medicine) as a replacement for Read codes. This is the new information standard being used in the New Zealand health and disability sector. It will provide greater levels of accuracy and quality of diagnosis code, which will help with faster processing of claims. The first and second sets of application interfaces were released on 5 December 2017 and April 2018. The next phase of roll outs is not considered a priority this financial year due to higher priority projects in ACC's transformation programme.	Underway	ACC
			• ACC's digital strategy has a focus on ACC's system working more effectively with Practice Management Systems. When implemented, this will enable better co-ordinated communication and allow an easier process to change the diagnosis. An improvement was made available for software vendors to use in March 2018.	Underway	ACC
2	**Disagreement over diagnosis**	**Record teleconferences to resolve diagnosis disagreement** (Concept 4)	• Consensus could not be reached. Such a measure is considered by clinicians as inhibiting clinical conversations, potentially undermining patient care. No action was proposed for this concept.	Concluded	
3	**Providers have a lack of knowledge about ACC**	**Education of providers** (Concept 5)	Covered in table 1, item number 3.		
4	**Some claimants need support in their experience with ACC**	**Independent guidance for the injured person/ Funding advocacy for improved access** Have an independent advocacy service for ACC claimants who need guidance at any stage,	*Action and current status* • ACC currently funds the Workplace Injury Advocacy Service to provide free advice to injured people. • ACC has also funded the New Zealand Legal Information Institute to provide the New Zealand Accident Compensation Law Handbook – a guide for self-	Concluded	ACC

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		including with an adverse decision Need for a personal injury commissioner suggested (Concepts 6 and 12)	represented litigants. This is available on their website www.nzlii.org • ACC has agreed to fund a nationwide navigation service for ACC claimants who would like additional support when dealing with ACC. The navigation service should be up and running by June 2019, and is expected to provide support to over 4,000 claimants every year.		
5	**Claimants unable to get timely access to medical experts**	**Value proposition to widen pool of experts** Proposed that the value of doing work for ACC claimants is articulated (Concept 7)	*Discussion* • The Working Group discussed this on 8 November 2017 and identified that this work needs to be well-remunerated, prestigious, and provide emotional satisfaction i.e. need to feel like claimants are being helped		
		Independent pool of medical experts/panel of experts (Concept 8)	*Action* • Covered in table 3, number 1 • Covered in table 3, number 4	Concluded	ACC/ MBIE
		Limit flow down the pipeline Reduce the number of claimants that seek an additional medical opinion	*Discussion* The Working Group suggested that another way to ease the issue of access to medical experts is to minimise the need for claimants to seek an additional medical opinion to support their dispute with ACC.		
		Break down demand The concept is to break down the tasks and activities to streamline the process for assessment – improve efficiency and reduce the impact on experts (Concept 9)	*Action* • ACC's programme of transformation is working on reducing and simplifying processes to ease the experience of working with ACC for claimants and providers. For example, ACC's Health Sector Strategy includes a focus on making it easy for providers to deal with ACC. The aim is for providers to treat claimants based on best practice with less ACC intervention. This may help to reduce demand for additional expert opinion over time.	Concluded	ACC

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6	Public confusion over causation test	Causation test The proposed concept is to change the causation test so that it reflects more of what the public expect (Concept 11)	*Discussion* • This would require due consideration and major legislative change. No further action is currently planned by MBIE or ACC. Causation is central to the maintenance of the boundaries of the current Scheme. At the core is the boundary between illness and injury. Change to the test represents significant change to the Scheme and consideration of the issue is outside the scope of work of the Working Group.	Concluded	
			• Many of the actions underway seek to reduce disputes such as having agreed consideration factors, providing education on accident compensation to providers, and ACC considering funding a free nationwide advocacy service.	Concluded	ACC
		Aggregate cases together The concept is to have similar cases and obtain an opinion from a group of specialists (Concept 10)	*Action* • As noted under in Table 2, the NZOA subspecialty groups and ACC are working on agreed consideration factors for certain injuries. This will minimise the areas for potential disagreement, which could reduce the number of claimants seeking further medical opinions.	Concluded	ACC

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No.	Review suggestion	Status	Action underway
Theme: being heard			
4	Practical modifications to address independence perception of FairWay Resolution	Concluded	As noted above in Table 1, recommendation 3, FairWay was transferred to employee ownership in July 2017. Fairway branding is distinct from ACC and legislation and contracts are clear about the need for independence.
5	FairWay, rather than ACC, should make the decisions on granting extensions to the three-month period for filing a review application	Concluded	ACC considered implementing a new process that will allow the substantive matter to be heard at the same hearing if the client is successful in arguing the late lodged review. However, such an approach required legislative change. In its place, ACC from July 2017 has taken a more lenient approach to accepting that extenuating circumstances are evident. On average 80% of review applications for extenuating circumstances are withdrawn or settled without the need for a formal hearing.
8	ACC should consider using the elective services model as a template for all reviews	Concluded	A new review team was set up in 2017, based on the elective services model which removed the original decision maker from the administrative review.
9	Record the number of decisions resolved in the client's favour at the administrative review stage	Concluded	ACC began recording number of decisions resolved in the client's favour at the administrative review stage in July 2017.
Theme: access to medical evidence			
12	Update the regulations to allow use of the 6th edition of American Medical Association (AMA) Guidelines	Concluded	ACC will not proceed with this as changing to AMA6 would result in smaller lump sum payments, primarily affecting mental injury claimants.
13	Have processes to enable medical experts to confer with each other	Underway	ACC is working with NZOA on setting up a process whereby clinical discussions can occur for discussions directed by reviewers and the Court. The process needs to be transparent, consistent, fair and efficient. This proposal was discussed at the ACC/NZOA meeting on 6

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No.	Review suggestion	Status	Action underway
			July 2018 and again on 14 September 2018. ACC and the NZOA are working together to develop a process and criteria to allow these discussions to occur for these selected cases. One Court-directed discussion has already occurred. This process should be ready to be discussed at the ACC/NZOA meeting on 23 November 2018. (Cross reference with Working Group issue number 5.) ACC is discussing with the NZOA a trial where clinical discussion takes place between a Clinical Advisory Panel (CAP) member and the treating surgeon before a decline decision is issued. ACC has also raised the conferring of experts' proposal with the Royal Australasian College of Surgeons' NZ National Board, the Royal Australian and NZ College of Radiologists, and the NZ Private Hospitals Association. Once the court directed process is agreed between ACC and the NZOA, then this will form a template to consider how ACC and the NZOA can implement criteria to allow clinical discussions before a decline decision is issued. (Cross reference with Working Group issue number 5.)
14 and 16	Independent medical experts: • Should abide by the code of conduct for independent experts used by courts • Need guidelines about their roles and reports	Concluded	ACC has developed a statement for medical experts on providing objective medical opinions to ACC. This also covers off part of the role of a medical expert. The statement received final approval from ACC's Clinical Governance Group in February 2018 and has been published on its website. ACC has clear requirements for medical professionals providing assessments in its contracts. New Zealand Medical Council has guidelines on "Non-treating doctors performing medical assessment of patients for third parties". (Cross reference with Working Group issue number 5)

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No.	Review suggestion	Status	Action underway
15	Rotate the membership of ACC's pool of experts to avoid them falling under ACC's influence	Concluded	To increase the pool of experts and allow for a wider range of views, the NZ Shoulder and Elbow Society have supported ACC by agreeing to have one of their members provide input into ACC's CAP ACC's employees on CAP are rotated by looking at, for example, wrists for a period, followed by knees etc. ACC's medical experts are also bound by professional ethics and standards to provide an independent opinion. (Cross reference with Working Group issue number 6)

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