

ACC – A BRIEFING

Background¹

New Zealand's Accident Compensation scheme was implemented in 1974 but had its genesis under a National Government and was supported by both major parties.

The 'Woodhouse Report'² which served as the basis for the scheme recommended a publicly owned mechanism to deliver a comprehensive no-fault scheme to victims of person injury by accident. The corollary of the no-fault approach was that the right to sue for damages at common law was to be relinquished.

The goals for the scheme that the report identified were the prevention of accidents, the rehabilitation of the victims and compensation for injury. The Woodhouse principles that underpinned the scheme were

- Community responsibility – everyone is to be looked after in recognition of the benefit to society from the productive work of its citizens
- Comprehensive entitlement
- Complete rehabilitation – “if the well being of the workforce is neglected, the economy must suffer”
- Real compensation; and
- Administrative efficiency

The cost of treatment was to be met and earners were entitled to a lump sum payment for incapacity and 80% of their earnings until they could return to work.

The rationale for opting for a state mechanism with an exclusive mandate to administer a scheme of social insurance, over the use of private insurers included:

- Concern about the private insurers' dual motivations of minimizing liability and maximising profits
- The value of collectivising the responsibility of personal injury by spreading the costs throughout the community
- The heavy administrative costs of the private sector

What National Did Last Time

The Accident, Rehabilitation and Compensation Insurance Act 1992:

- Reduced benefits
- Introduced the work capacity test which could lead to benefits ceasing even if there was no job to go to against which the claimant could be assessed
- Introduced individual as opposed to community responsibility
- Limited the amount and extent of rehabilitation that could be given to an injured person

¹ Much of this background is to be found in Armstrong, Hazel *Blood on the Coal: The origins and future of New Zealand's Accident Compensation Scheme*, Trade Union History Project, Wellington, 2008

² Royal Commission of Inquiry, *Compensation for Personal Injury in New Zealand: Report of the Royal Commission of Inquiry*, Wellington, Government Printer, 1967

The Accident Insurance Act 1998 effectively privatised ACC. It required all employers to purchase accident insurance from insurers other than ACC for both work-related and non-work related injuries (other than motor vehicle injuries).

The Effect of the 1998 Privatisation

An evaluation of the privatisation of ACC conducted by Blue Lotus Research³ on behalf of the Department of Labour's Labour Market Research Group, found that:

- It created additional administrative burdens for all treatment provider types
- Private insurers were reluctant to approve claims and were often late in honouring invoices
- Providers considered that claimants knew very little about their entitlements, including the identity of the workplace insurer
- Providers expressed concern that employers were placing pressure on their employees not to lodge claims for workplace accidents
- Providers were concerned that successful application for coverage depended on approval by their patients' employers. If not forthcoming providers frequently absorbed the costs of treatment
- Physiotherapists reported a drop in business in some areas of as much as 40%

Sir Owen Woodhouse, speaking at a Conference on ACC policy in 1999 said of the changes: "What a pity it would be to realise, too late, that apparently wonderful proposals were methodically taking you directly back into the sort of erratic environment from which, at some earlier stage, you had managed to make a successful escape."⁴

The Labour Party renationalised the Accident Compensation system in 1999 and have worked to reinstate the full range of benefits under the scheme, although the work capacity test (now known as the vocational independence assessment process) was left intact.

The "PriceWaterhouse Report"

In 2007 the ACC board commissioned an independent review to evaluate the economic and social return on investment of the ACC scheme and its sustainability. The scheme was also evaluated against the Woodhouse principles. The review was conducted by PricewaterhouseCoopers Australia and it was published in 2008⁵. Among other things it found that:

- ACC provided considerable economic and social benefits to New Zealand
- Due to its coverage of all injuries and no-fault nature ACC offers broader coverage than every other accident compensation scheme around the world
- Compared with other workers' compensation schemes ACC performs well in terms of return to work (88% of NZ workers return to work within 6 months compared to an average of 85% in Australia)

³ Blue Lotus Research, *Evaluation of the impact of competition on health providers and Review of treatment costs: Research results for Labour Market Policy Group*, 2000

⁴ Woodhouse, Rt Hon. Sir Owen *Keynote address to Rebuilding ACC Beyond 2000: A conference on accident compensation and rehabilitation policy*, 23 July 1999, Michael Fowler Centre, Wellington

⁵ Pricewaterhouse Coopers, *Accident Compensation Corporation in New Zealand: Scheme review*, March 2008

- The ACC employer contribution as a proportion of wages is substantially lower than in comparable Australian workers' compensation schemes (78c for every \$100 compared to an Australian average of (\$2)
- ACC motor vehicle contribution rates are also significantly lower than all Australian states.
- NZ has lower claims management expenses (8%) than all Australian schemes (9%-32%) and lower total administration expenses (24% of total expenditure) than the scheme providing comparable benefits (NSW 28%, Victoria 31%)
- ACC's dispute rate of (0.2%) of "other benefit" claims in the workplace is low compared to Australia, where the average is around 9%
- Internationally schemes which feature high levels of periodic payments and provide a wide spectrum of defined rehabilitation entitlements (like ACC) are all delivered through government monopolies
- "The ACC under its current implementation structure performs as well or better than most other schemes we can observe around the world".
- "Despite competitive market pressures, comparative evidence from other jurisdictions suggest that administrative cost levels under private underwriting would be likely to rise to some extent."
- "...although contracting out of claims management may potentially offer some conceptual advantages, there is no clear evidence that this approach would improve deliver of the ACC employers' account."

The report's writers concluded, in relation to the employers' account, that these observations "lead us to form a moderately strong view that a government monopoly is the best observable mechanism for implementing the ACC employers' account."

If there is no problem to fix, who stands to benefit from privatisation?

Australian insurance companies. Australian investment bank, Merrill Lynch, has issued a report stating that it has a clear understanding that National will privatise ACC if it comes to power after the election, and that that privatising ACC would give Australian insurance companies access to \$2.1 billion in new premium income. This would provide a \$200 million boost to their after-tax earnings.

Sir Owen Woodhouse has described private insurers as the "lubricant of private enterprise" - an essential ingredient of commerce and production. In 1999 he asked "how do they [his insurer critics] really reconcile their efforts to get back to the minutiae of injury compensation, with their role as a central agent of all the free market activity, which is their province? And what enterprise can there be in carving up a gift-wrapped, pre-ordained, statutory cake? One, moreover, not merely labelled "personal injury compensation" but carrying all the social criteria of public responsibilities."⁶

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⁶ Woodhouse, 1999