

# Review of Employer-managed Workplace Injury Claims

4 June 2010

## Final Report

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This final report has been updated on 4 June 2010 to reflect the need to eliminate a number of duplicate claims.

# Part One: Introduction

## Purpose

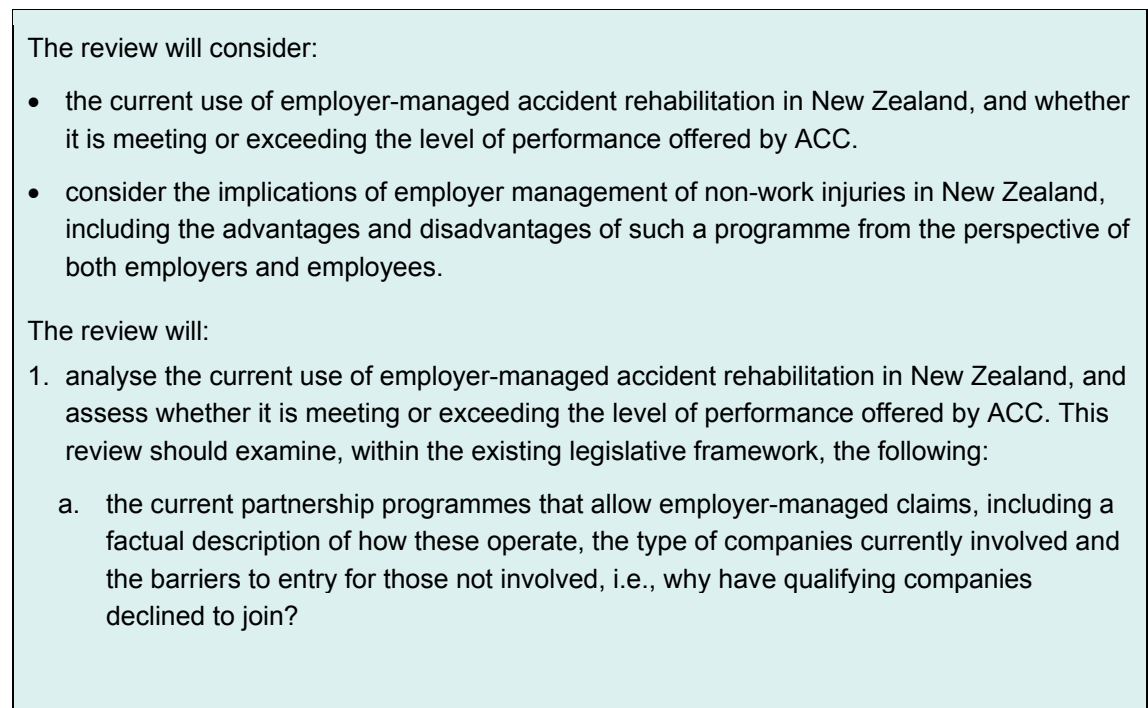
The Minister for ACC has directed a Stocktake of ACC Accounts. The overall purpose of the Stocktake is to provide an assessment of the performance of each of the ACC accounts, an analysis of how the scheme could be improved to deliver value for money to levy payers and taxpayers, and identification of potential financial savings.

Part of the work of the Stocktake is to assess:

- current employer programmes, and incentives to encourage more businesses to focus on health and safety in return for levy discounts;
- how injuries sustained outside the workplace by workers can be efficiently managed and paid for by employers to promote rehabilitation; and
- who is best placed to provide effective rehabilitation services.

This review is intended to assist the Stocktake Group in making its recommendations to the Minister for ACC in respect of these objectives. The key questions it addresses are extracted from the terms of reference in the following figure.

**Figure 1: Key questions in terms of reference**



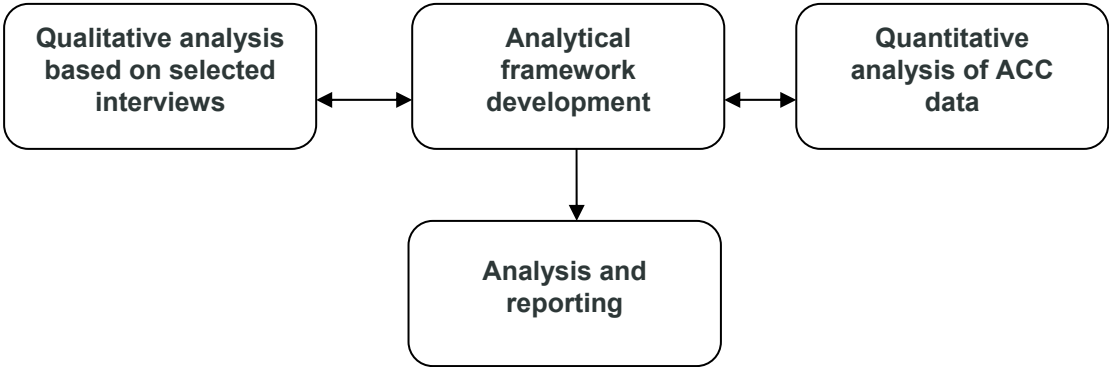
- b. differences in rehabilitation experiences (both between employers and between employers and ACC)
  - c. reasons for any differences in rehabilitation experiences
  - d. employer incentives – both those that enhance the claims experience and those that detract from it.
2. analyse, to the extent it exists, the consequences of different rehabilitation experience expectations between employers and employees, in particular the employer injury management programme.
  3. gather information and consider the implications of employer-managed non-work injuries (of their employees) in New Zealand, including the advantages and disadvantages of such a programme from the perspective of both employers and employees.

In discussions with the Steering Group we were also asked to consider the recommendations that might apply in the event that contestability was introduced to ACC.

## Approach

Our approach to the work comprised four elements.

**Figure 2: Approach to the work**



### 1. Analytical framework development

We developed an analytical framework to inform our data gathering and research. We developed an understanding of the ACC schemes and the broader injury management context in New Zealand. We identified incentives for employer participation in injury prevention and management, and identified a number of indicators that could be used to compare costs and benefits of employers’ direct management of injuries.

## 2. Quantitative analysis

We carried out quantitative data analysis based on ACC claims, payments and exposure data to compare work-related claims experience for accredited employers under the Partnership Programme with standard employers for whom ACC manages the claims. Details of the analysis are provided in Appendix 3.

Note: The data we requested was provided late in the course of our review and subject to a number of unanticipated constraints. This has limited the scope of our analysis as described below under ‘Limitations’ and in Appendix 2.

## 3. Qualitative data analysis

We carried out a series of interviews with:

- key stakeholders – CTU, Business New Zealand, and the New Zealand Association of Accredited Employers (NZAAE) – to understand their views on the ACCPP
- employers who are in the ACCPP – to understand their perspective on the benefits and costs of the ACCPP
- large employers not in the ACCPP – to understand why they chose not to join
- Third Party Administrators (TPAs) – TPAs currently manage over 80% of ACCPP employers
- ACC staff – to understand how they think about performance and their perspective on the ACCPP
- approved ACCPP auditors – to understand their perspective on the compliance requirements for admission to the ACCPP.

## 4. Analysis and reporting

We drew on both quantitative and qualitative data, as well as first principles analysis to develop the conclusions and recommendations presented in this report. We gave a presentation of our preliminary findings to the Stocktake Group on 24 March.

## Limitations

We had intended to conduct interviews after the data analysis to allow us to better understand the results but time constraints prevented this. We were able to have some useful discussions with ACC on the results and we acknowledge their assistance in enabling us to complete this work.

The data itself was also constrained. Because of privacy concerns of ACC, it did not supply information identifying each employer to a levy risk group or industry classifications. This has limited our ability to control for firm size and industry in our analysis.

A further discussion of the data, and related limitations, is included in Appendix 2.

## Accident Compensation Amendment Act 2010

The Accident Compensation Amendment Act 2010 was passed during the course of this review. It has a bearing on a number of matters covered by this report. We have indicated these where appropriate. A number of the changes are permissive and it will take time before their practical implications are known.

## Structure of Report

The remainder of this report is structured as follows:

- **Part Two: The Economics of Workplace Injuries** looks at the overall cost of workplace injuries in New Zealand, and the incentives on employers, employees and government to reduce them.
- **Part Three: The ACC Accounts and Programmes** gives an overview of ACC in general, and the Work Account and the partnership programme in particular. It also considers why some employers join and some do not.
- **Part Four: Objectives and Analytical Framework** sets out the objectives of the employer managed schemes, considers how the scheme design supports those objectives, and sets out what we expected to find.
- **Part Five: Performance of the Partnership Programme** gives our findings on the performance of the partnership programme based on our qualitative and quantitative work.
- **Part Six: Membership of the Partnership Programme** addresses the question as to why some employers join the programme and some do not.
- **Part Seven: Employer Involvement in Non-work Claims** considers the advantages and disadvantages of employer management of such claims.
- **Part Eight: Conclusions and Recommendations** gives our overall conclusions and recommendations.



## Part Two: The Economics of Workplace Injuries

This section provides background on the economic costs of workplace injuries in New Zealand. Its aim is to provide a perspective on the importance of workplace injury management and the need to provide the right incentives to reduce injuries through suitable cost allocation. It also considers the extent to which those incentives exist naturally.

### The Economic Significance of Workplace Injuries

The most comprehensive recent study of the costs of workplace injuries in New Zealand is 'The Economic Costs of Occupational Disease and Injury in New Zealand' published by the National Occupational Health and Safety Advisory Committee (NOHSAC) in 2006. A summary of the cost estimates of the two categories *financial costs* and *suffering and premature death* is shown in Table 1.

**Table 1: Estimated costs of occupational disease and injury in New Zealand 2004/5**

	Cost \$ million	% of category	Description
<b>Category: financial costs</b>			
Production disturbance	573	12%	value of production lost and staff turnover costs brought forward
Human capital	3,050	62%	lost productive capacity of workers from incident until retirement
Health and rehabilitation	694	14%	workers health and return to work expenses
Administration	55	1%	administration of the compensation system and travel costs for workers
Transfer	238	5%	deadweight cost of administering the welfare system and other government transfers
Other	293	6%	costs of carers, equipment and home modification in cases of disability.
<b>Category total</b>	<b>4,903</b>	<b>100%</b>	
<b>Category: suffering and premature death</b>	<b>15,981</b>	<b>100%</b>	Disability adjusted life years based on a value of statistical life year of \$184,000.
<b>OVERALL TOTAL</b>	<b>20,884</b>		

The estimation of costs is not always straightforward and, in respect of suffering and premature death, can be controversial. Cost estimation methodologies are beyond the scope of this report, but it is acknowledged that some of the costs presented are subject to high margins of uncertainty. Nevertheless the NOHSAC study highlights the economic significance of these costs.

ACC Work Account levies adjusted for the surplus and including allowance for employers in the Partnership Programme in 2008/09 were \$1 billion. This can be taken as an approximation to the direct cost of rehabilitation of workplace injuries in that period. Even ignoring the indirect costs of workplace injuries, and their social harm, the direct costs are significant.

We have not reconciled this to the total cost estimates of NOHSAC, but reasons for the difference include:

- ACC cover is not intended to compensate for suffering and premature death beyond limited direct costs
- production disturbance is borne directly by the employer
- NOHSAC estimate that over half the human capital costs (principally lost earnings) are borne by the employee and not compensated
- in practice some costs are borne by the public health system – particularly in relation to some gradual process injuries and industrial disease – and these can be large
- difference in years studied.

The NOHSAC study implies that any reduction in the cost of injuries handled through ACC schemes, will signal a many times greater reduction in overall economic and social costs. Such additional costs are borne by employers, employees and the state (through the public health and benefit systems). As a result, all parties face natural incentives to reduce injury costs.

For employers, this incentive comes through primarily lost production, overtime, recruitment and training, and medical costs to the extent they are responsible through ACC levies. However, these incentives only work up to a point. The cost of reducing injury incidence to very low levels can be greater than meeting the costs of injuries. Also increased production costs can be hard to quantify which may blunt the extent to which employers take them into account in formulating injury prevention strategies.

## Part Three: The ACC Accounts and Programmes

This section provides a description of the ACCPP and of the Work Account more generally. We also provide an overview of the Residual Claims Account. Although not central to this review, the Residual Claims Account is important for a full understanding of the incentives on employers. Finally, we provide some basic contextual data about participation in the standard and accredited employers' programmes, the number of claims, and consider why some employers join and some do not.

### Accident Compensation in New Zealand

The accident compensation arrangements in New Zealand are provided under the Accident Compensation Act 2001 ('the Act', formerly the Injury Prevention, Rehabilitation and Compensation Act 2001 – its title was changed by Parliament in March 2010). The key principles date back to the 1967 Royal Commission on Compensation for Personal Injury and subsequent Accident Compensation Act 1972.

A key feature is that the common law right to sue for damages in the event of personal injury is replaced by a statutory entitlement for compensation and rehabilitation from the Accident Compensation Corporation. Entitlements are funded by levies on employers, employees and motorists, and a Crown appropriation to pay the costs of non-earner injuries.

The rationale for this arrangement is that it focuses efforts on rehabilitation and compensation, rather than on the allocation of blame. It ensures certainty and timeliness of access for injured persons to medical treatment, social and vocational rehabilitation, and provides income support and some compensation for pain and suffering without having to prove fault.

In so doing, it seeks to minimise the social and some economic costs of injury. A trade-off is that there are relatively weak financial incentives for levy payers to mitigate the risks that might lead to injury and achieve smooth return to work.

The levies and entitlements are allocated to 6 separate accounts. Two are the subject of this review:

- The Work Account which is funded by levies on employers according to liable earnings and funds injuries to employees, the self employed, and private domestic workers – in those capacities.
- The Earners Account which is funded by levies on employees, and funds injuries to employees that result other than from work, motor vehicle accidents, or medical treatment.

## Overview of Work Account and ACCPP

In the **standard scheme** employers pay a levy to ACC, in return for which ACC manages, and meets the cost of all injury claims. The levy varies according to an industry grouping known as industry risk group (IRG).

In the **Workplace Safety Management Programme (WSMP)** employers are given a discount on the levy rates in return for demonstrating compliance with injury prevention standards. Discounts of 10%, 15%, and 20% are available depending on the audit standard met. ACC again manages and meets the cost of all injury claims. The presumption is those employers with better injury prevention standards will have lower rates of injury incidence and therefore there will be lower value of claims from these employers.

The Act provides for employers to self-manage claims in certain circumstances. This is known as the **ACC Partnership Programme (ACPP)**. Employers entering the programme are subjected to an accreditation process and are referred to as accredited employers (AEs). There are two options under the ACCPP, the Partnership Discount Plan, and Full Self Cover.

Under **Partnership Discount Plans (PDP1 and PDP2)**, employers manage and meet the costs of claims in the cover year and the following development year (PDP1) or two years (PDP2). Employers meet the costs of the claim in this period before handing back both claims management and financial responsibility at the end of the management period. ACC takes responsibility for managing especially severe claims. Employers receive a discount on the standard levy broadly equivalent to the costs they are expected to meet – calculated on the experience with the standard schemes. This means that employers will gain if they achieve lower claims rates, taking into account severity, than the average for their industry grouping. ACC meets the cost of any lump sum benefits.

In addition PDP employers can optionally purchase stop loss cover from ACC. Stop loss cover places a cap on the total cost of claims they are required to meet. Employers can choose a cap within the range 160% to 250% of the expected claims costs of the management period.

In the **Full Self Cover (FSC)** plan employers effectively assume full financial responsibility for claims for the life of the claim, but management of the claim passes to ACC at the end of the agreed claims period (either 24, 36, or 48 months after the end of the claims year). The transfer of ongoing claims to ACC is at an actuarially determined price. The levy is reduced to an amount calculated to cover administration and some unallocated costs picked up by ACC. This implies greater discount than the discount given in the Partnership Discount Plan.

Stop loss cover is mandatory under the FSC, although employers can choose a cap in the range 160% to 250% of the expected total claims costs. In addition, employers can optionally purchase High Cost Claim Cover (HCCC) to cap the cost of any individual event<sup>1</sup>.

The framework for the ACCPP is established through regulation – the Framework for the accredited employers Programme (SR2000/111).

Key features of these schemes are summarised in Table 2.

**Table 2: Comparison of Work Account schemes**

	Standard	Workplace safety management programme	Partnership Discount Plan	Full Self Cover
Overview	All costs of claims borne by ACC. Employers pay levy based on levy risk group.	Variant of standard, but employers earn discount on standard levy for safety management standards	Employers assume responsibility for claims management and costs in management period  PDP employers also receive WSMP discount.	Employers assumes responsibility for lifetime costs of claims.
Initial claims management	ACC	ACC	Employer (or TPA on behalf)	Employer (or TPA on behalf)
Claims management period (CMP)	None	None	12 or 24 months	24, 36 or 48 months
Transfer of claims at end of period	n/a	n/a	Open claims transferred to ACC at no cost at end of CMP	Open claims transferred to ACC at estimated cost at end of CMP
Levies	Standard risk adjusted levies	10 – 20% off standard levies	Additional discount based on expected costs borne by employer during management period	Administration and public health components only

<sup>1</sup> HCCC is available with a choice of \$250,000, \$500,000, \$750,000, \$1,000,000, \$1,500,000, \$2,000,000 or \$2,500,000.

	Standard	Workplace safety management programme	Partnership Discount Plan	Full Self Cover
			(based on scheme experience)	
ACC audits of employers	None	Safety management practices	Safety management practices Claims management practices	Safety management practices Claims management practices
Stop loss cover	n/a	n/a	Optional	Compulsory
High cost claims cover	n/a	n/a	Not available	Optional

The relative levy rates of the schemes are illustrated in Figure 3.

**Figure 3: Cost of schemes to employers**



Moving from left to right across Figure 3, employers have increasing responsibility for the management of injury claims, in return for which the levy rates (as a percentage of liable earnings) paid to ACC decrease.

In increasing the responsibility of employers, the ACCPP provides financial incentives for those employers to play more active roles in injury prevention and the rehabilitation of injured employees. This is discussed further in Part 4.

## Other schemes

In addition to the schemes outlined above there are:

- Workplace Safety Discounts (WSDs) of 10% available to small employers in selected higher risk industries such as fishing and forestry. Employers must attend a safety management course and complete a self assessment.
- Workplace Safety Evaluations of employers with a poor injury record compared with their industry. The aim is to work with the employer to identify opportunities to improve safety management. ACC will commission an audit. If the employer fails the audit there is a statutory requirement to adjust the levy upwards. The adjustment is currently a 50% increase in the relevant component in the year in which the audit took place.

## Residual Claims

Prior to 1 July 1999, ACC was funded on a pay as you go basis, although in the lead up period the levy rate included an allowance to contribute to offsetting the existing deficits. Following the passing of the Accident Insurance Act 1998<sup>2</sup>, this was changed to fully funded. As a result, employers pay – in addition to the Work Account levy described above – a residual account levy which is a transitional arrangement to cover run-off costs in relation to events prior to 1 July 1999. The combined Work Account and residual account levies together are referred to as the composite levy.

The residual account levy is currently around 40% of the standard levy.

Employers pay the residual account levy regardless of whether they are in the ACCPP or not. It should not therefore have any bearing on a decision to be in the ACCPP. It is though a source of frustration to employers, as the rate paid has increased since 2001 and the payment period has been extended to 2019. While the employers are aware of the basis on how the levy is determined they find it difficult to comprehend the current level.

The allocation of significant hearing loss claims to the Residual Claims Account has heightened their concerns.

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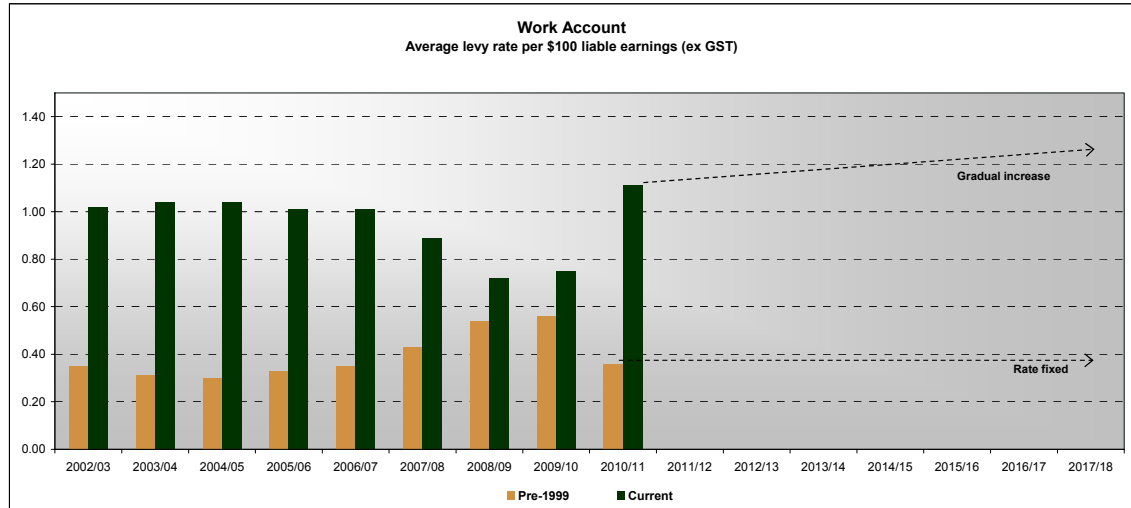
<sup>2</sup> Now the Accident Compensation Act 2001. The current title has applied since March 2010



## Trends in levy rates

Recent trends and forecast levy rates are shown in Figure 4.

**Figure 4: Trends in levy rates**



The dip in Work Account (current) levy rates between 2006/07 and 2010/11 was due to the account being in actuarial surplus (ie asset values in excess of liabilities). Actuarial balance was restored in 2009/10 seeing the standard levy return to more 'normal' levels. Projections are for a gradual increase in levies reflecting increases in average claims costs.

The peak in residual account (pre 1999) levies in 2009/10 was intended to achieve full funding by 2014. Now that the date has been extended to 2019, and the basis on which they have been determined has been fixed the residual account levies are expected to remain relatively flat.

## Claims in practice

Table 3 shows the size distribution of all of all Work Account claims from July 2000 to December 2009, covering both standard and accredited employers.

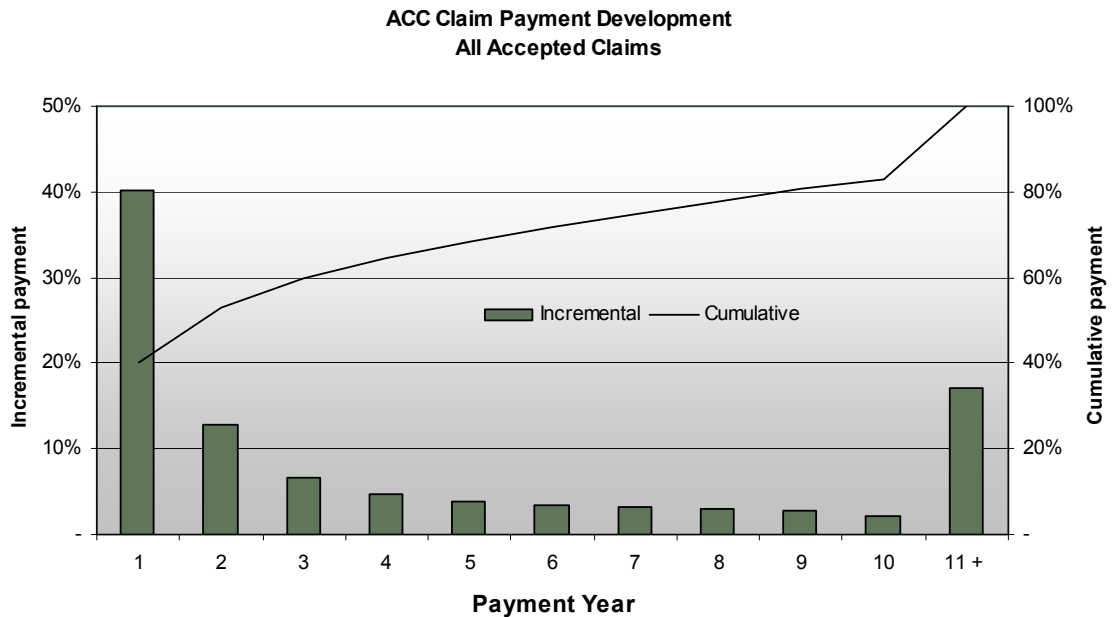
**Table 3: Work Account claims by size**

Claim size / paid to date (\$)	Number of claims		Paid to date	
	Count	%	\$000s	%
< 500	1,948,353	85.2	163,091	6.4
500 - 1k	108,309	4.7	75,040	2.9
1k - 2k	69,212	3.0	97,524	3.8
2k - 5k	64,464	2.8	207,138	8.1
5k - 10k	48,574	2.1	344,626	13.5
10k - 20k	23,476	1.0	329,255	12.9
20k - 50k	15,205	0.7	464,834	18.3
50k - 100k	5,029	0.2	346,965	13.6
100k - 200k	2,201	0.1	300,912	11.8
200k - 500k	730	0.0	196,041	7.7
> 500k	32	0.0	18,866	0.7
<b>Total</b>	<b>2,285,585</b>	<b>100.0</b>	<b>2,544,293</b>	<b>100.0</b>

Table 3 shows that there are a very large number of small claims, which accumulatively account for only a small portion of total costs. Approximately 1% of all claims – those costing \$20,000 or more, account for more than half (52%) of total claims paid. This suggests that in seeking to reduce the total cost of claims, administrative effort should be focused on medium and larger claims, or those that have the potential to become medium or larger.

Figure 5 shows how claims develop over time.

Figure 5: Claims development



Claims are 60% paid after three years. There is then a long tail of claims that decline very slowly – typically of people who have become detached from the workforce. A critical factor in managing the costs of claims is therefore to reduce the risk of workforce detachment.

At 30 June 2009, total liabilities on the Work Account were valued at \$2.2 billion.

### Membership of the Partnership Programme in practice

ACC membership numbers and movements are shown in Table 4.

Table 4: ACCPP movement

	Year Ended							
	2003	2004	2005	2006	2007	2008	2009	2010
<b>Number at start of year</b>	<b>179</b>	<b>174</b>	<b>180</b>	<b>173</b>	<b>178</b>	<b>167</b>	<b>155</b>	<b>147</b>
New	8	9	4	6	6	5	3	0
Non-renewal	4	2	5		9	12	11	10
Termination	8	1			6			1
Combined	1		6	1	2	5		
<b>Total at end of year</b>	<b>174</b>	<b>180</b>	<b>173</b>	<b>178</b>	<b>167</b>	<b>155</b>	<b>147</b>	<b>136</b>

*Non-renewal* An Accredited Employer has chosen not to renew the contract  
*Termination* Either ACC or an Accredited Employer has chosen to terminate the contract (usually during the year)  
*Combined* An Accredited Employer contract has been combined with either an existing contract or a new contract

42 employers have not renewed in the last four years. This is a higher rate of churn than in the previous four years, and there is a good correlation in the timing of this change and the drop in

levy rates shown in Figure 4 on page 13. This drop effectively reduced incentive to participate in the ACCPP.

Table 5 shows the division of standard and accredited employers by bands of standard levies.

**Table 5: Distribution of Employers by Standard Levy Band**

Standard levy \$000's	Standard Employers	Accredited Employers						
		PDP			FSC			AE Total
		SM	TPA	Total	SM	TPA	Total	
0 - < 50	227,477	0	0	0	0	0	0	0
50 - < 100	611	0	3	3	0	3	3	6
100 - < 250	313	1	9	10	1	12	13	23
250 - < 500	81	4	12	16	1	20	21	37
500 - < 750	8	0	4	4	4	12	16	20
750 - < 1000	5	0	3	3	2	8	10	13
1000 +	2	1	2	3	12	22	34	37
<b>Total</b>	<b>228,497</b>	<b>6</b>	<b>33</b>	<b>39</b>	<b>20</b>	<b>77</b>	<b>97</b>	<b>136</b>

based on 2009/10 levy rates

Below a standard levy of \$100,000 very few employers are accredited. However, above a standard levy of \$500,000, employers are predominantly members of the ACCPP.

Table 6 below expands the table above and shows the split of the standard and accredited employers by liable earnings.

**Table 6: Distribution of employers by liable earnings**

Liable earnings	Number of employers			Liable earnings (\$m)			Levies (\$m)		
	Standard employers	Accredited employers	AE proportion	Standard employers	Accredited employers	AE proportion	Standard employers	Accredited employers	AE proportion
< \$250k	191,330			12,282			105		
\$250k - < \$500k	18,932			6,609			54		
\$500k - < \$1m	9,695			6,690			55		
\$1m - < \$2.5m	5,502			8,356			67		
\$2.5m - < \$5m	1,649			5,705			43		
\$5m - < \$10m	761	2	0.3%	5,193	16	0.3%	39	0	0.7%
\$10m - < \$50m	577	49	7.8%	11,358	1,514	11.8%	66	24	26.9%
\$50m - < \$100m	37	30	44.8%	2,366	2,085	46.9%	8	20	72.3%
>= \$100m	14	55	79.7%	6,012	15,193	71.6%	12	108	90.4%
<b>Total</b>	<b>228,497</b>	<b>136</b>	<b>0.1%</b>	<b>64,569</b>	<b>18,808</b>	<b>22.6%</b>	<b>449</b>	<b>153</b>	<b>25.4%</b>

## Feedback from accredited employers

The accredited employers we spoke to saw significant benefits from their participation and there were a number of consistent themes.

The direct costs savings (levy costs avoided less cost of injury claims) alone are seen as sufficient to justify participation. For some, the dip in levy rates in 2008/09 and 2009/2010 did

lead to some questioning about whether continued participation was worthwhile. However, there are wider benefits that are seen as justifying participation:

- Management of claims by the employer (whether or not contracted to a TPA) provides better feedback on the causes of injuries. This can allow for very cost effective intervention. For example, one employer identified that the majority of injuries occurred in relation to training. A change in the sequencing of the training programme allowed a significant reduction in the injury rate at no extra expense. Employers consistently considered that feedback from ACC, were they to manage claims would not be as helpful.
- A significant motivator for accredited employers' participation is the opportunity for improved rehabilitation resulting from closer employer involvement in reintegration into the work place, and from better claims management. A number of employers see this as being recognised as a benefit by employees.

Cost effective injury prevention, and rapid rehabilitation lead to employer savings through reduction in production disruption, and costs of overtime or of recruiting and training new staff. Employers saw these benefits as being sufficient even if the direct savings are marginal. However, some did also note that these are hard to quantify which means that they might not be given their full economic weight in decision making.

It should be noted that in comparing their performance with ACC, employers tended to compare their management of work injuries with ACC's management of non-work injuries. Such comparisons should be treated with some caution because there may be particular reasons why non-work injuries are harder to manage. However, our discussion with ACC indicated that their injury management model is based more on the nature of the injury (and some parameters relating to the injured party) rather than whether the claim was work or non-work related, so it is not clear that there should be a significant difference in practice.

All employers saw the ACCPP as an important element of a culture of safety that came from their CEO or board.

## Why some employers are in the scheme and some are not

A range of factors influence a decision as to whether to be in the scheme or not. The employers we spoke to consider the direct and indirect financial benefits discussed above. However, they also consider the decision as part of the fit with their safety culture.

In principle, direct savings will be realised if the 'actual' level of risk is lower than that for the employer's levy risk group. This will arise in situations where:

- The employer has confidence in its safety management systems
- The employer believes it can manage injury claims better than ACC

- The employer believes the nature of its business is inherently safer than the average of its levy risk group. This can happen where, for example, there is a distinctive mix of trading and industrial operations.

In practice, feedback from employers supported the first two of these points, and the third did not arise in our discussions.

### Size of firm and participation

Table 5 indicates that larger firms are more likely to join than smaller ones. This is consistent with our expectations. There are fixed costs of being in a scheme, including setting up and administering injury management systems (or contracting a TPA to do so), and ensuring compliance with safety audit standards. For smaller firms, the likely greater volatility of claims will make self insurance less attractive. Larger firms are more likely to be able to exploit opportunities for work-place based rehabilitation with more opportunities for part time working or light duties.

To a degree, larger firms have a greater ability to establish safety management systems, and provide assurance as to their quality. As a result, they may be safer places to work than the average of their levy risk group. However, the relative safety of larger firms may also be affected by a correlation (positive or negative) between size and riskiness of activities undertaken.

The scope of this review did not allow us to talk to enough employers of a medium size to determine their own reasons as to why some are in the ACCPP and others not. We would, however, expect a number of business factors to be important determinants of participation:

- self insurance is inherently less risky for firms where payroll costs are a relatively small portion of total costs
- firms in riskier industries have potentially more to gain
- in some cases, firms in riskier industries may be in relatively heterogeneous levy risk groups and may therefore be more likely to feel overcharged
- relatively small subsidiaries of international firms may be subject to a group policy of self-insurance
- firms with skilled or specialised staff have a higher incentive to avoid injury and to support rehabilitation (because of higher costs of training new staff to replace injured workers)
- firms in the scheme see their membership as reinforcing and supporting an established commitment to safety
- some firms may not join as management of claims not seen as 'core business'.

ACC's information material for employers considering the ACCPP states that it is 'usually more suited to large employers who are paying annual ACC levies of \$250,000 or more'. Given the

overheads entailed in joining the scheme, we would have expected a threshold of at least this amount. The finding that there are 29 member firms with standard levies below this amount is against this expectation.

This indicates that the ACCPP may be of greater potential interest to medium sized employers than originally thought. This is a matter that would be worth exploring in any further work as there may be opportunities to improve the attractiveness of the programme to such employers. We discuss possible such opportunities in Part Eight: Conclusions.

## Part Four: Analytical Framework

This section sets out an analytical framework by which the performance of the partnership programme can be assessed. We consider the programme objectives and the incentives it raises in principle. We then formulate a set of hypotheses relating to the expected outcomes of the programme. These hypotheses are then tested in Part 5.

### Objectives

A key aim of the Work Account of ACC is to minimise the comprehensively defined aggregate costs on society of injury prevention and management – including injury prevention costs, injury rehabilitation, the costs of lost production and social costs.

This will most likely happen when costs are allocated to those best able to control them, subject to appropriate protections to ensure fair and equitable treatment of claimants.

The specific objectives of the partnership programme as set out in section 182 of the Act are to:

- promote injury prevention and rehabilitation
- reduce work-related personal injury claim costs and premiums
- provide benchmarks against which the extent and management of work-related personal injuries can be measured.

The first two of these are also objectives of the standard scheme. The objectives are not elaborated in the underlying regulation. We have therefore assessed the schemes on the following dimensions:

- **prevention** – having effective health and safety programmes that prevent injuries occurring in the first place and reduce their severity when they do occur
- **rehabilitation** – moving injured employees back into skilled work as quickly as possible (consistent with the need to avoid injury)
- **compensation** – ensuring that compensation is paid according to statutory entitlements, including in good time.

In practice we have focused our assessment on the first two dimensions, but taking into account the fact that faster rehabilitation directly affects compensation costs.

The rest of this part explores how and why the schemes might differ on these dimensions, based on a consideration of the underlying principles before positing hypotheses we seek to test with the data analysis.



## Incentives under the standard scheme

There are a number of incentives, outside the ACC schemes, for employers and employees to avoid injury and manage rehabilitation efficiently and effectively. Some of these we have already noted. For employers they include: the costs of disruption to production from the injury event itself and absent employees; the need to compete in the labour market for employees wanting a safe environment; the cost of training new employees; and the requirements and sanctions of health and safety legislation.

For employees, there may be workplace accountabilities for safety. In addition there are social and career imperatives to get back to work, the potential loss of future pay growth if absent from work for long periods, pain and suffering, and impact on family. The scheme adds to these incentives by setting compensation at 80% of earnings so there is an incentive to return to work. In principle, it also passes the costs of rehabilitation to employers through the Work Account levy including the risk group adjustment.

However, of themselves, risk group adjustments do not provide strong incentives for prevention. This is because the preventative actions of an individual firm will not necessarily reduce the claims costs for the group. Only if all firms act in concert to reduce claims will premiums fall. The potential for firms to ‘free ride’ on the efforts of others means that, in practice, safe firms subsidise unsafe ones. WSMP provides incentives for prevention but these are similarly blunt, and pricing may not reflect actual experience.

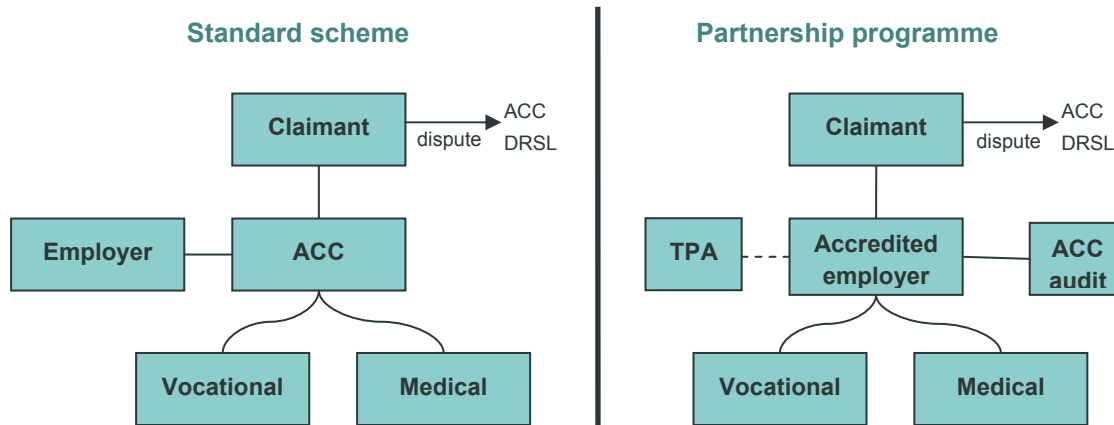
Further, employers have few tools to manage the direct cost of rehabilitation as it is managed by ACC with costs passed to the employer indirectly through the levy. Once an injury has occurred firms face weak incentives to involve themselves in the claims management process, except where the indirect costs on their business is significant.

## Incentives of the partnership programme

In contrast to standard employers, accredited employers have significantly sharper incentives. They are directly exposed to the costs of injury, which are a function of claims incidence, claims mix, and the costs of different types of injury. Exposure to these costs incentivises injury prevention and directly rewards investment in safety. When accidents do occur, accredited employers have strong incentives to manage rehabilitation effectively and efficiently to ensure cost effective return to work.

ACCPP not only changes the financial incentives on the employer, but it places them at the centre of the rehabilitation process, as shown in Figure 6. This gives them tools to manage costs including more direct control over return to work strategies including workplace based rehabilitation. And they have better information on injuries that can feed into injury prevention strategies.

**Figure 6: Standard and accredited employers' roles compared**



Studies<sup>3</sup> show that employers have an important role in rehabilitation and workplace-based rehabilitation can enhance outcomes – ie the speed of return to work (or in more serious cases the prospect of eventual return to work). It is important to get injured workers back into the workplace quickly to avoid a risk of their becoming detached from the workforce. Medium and larger employers are able to offer opportunities for part time working or light duties where this is helpful and does not prejudice the sustainability of any treatment.

Putting employers at the centre of rehabilitation management should improve the incorporation of work-place based rehabilitation into overall rehabilitation. We would therefore expect that the ACCPP should provide faster rehabilitation for moderately serious injuries (ie those involving lost time), and lower rates of eventual detachment from the workforce.

The ACCPP also opens injury claims management to contestability through the use of Third Party Administrators (TPAs). Such competition has the potential to improve claims management efficiency and effectiveness.

These incentives potentially reinforce a strong safety management culture. Workplace safety depends on an entrenched safety culture. This in turn depends critically on:

- a demonstrated commitment from Board, CEO and CFO
- incorporating safety into accountabilities.

<sup>3</sup> See for example, Workers' Compensation in Australia, Report no 36, Industry Commission, Canberra February 1995. The Commission found that 'rehabilitation is most effective, and costs are significantly reduced, where employers take responsibility for maintaining both contact with and support for employees suffering work-related injury or illness.

A decision to enter or stay in the ACCPP is made at a senior level and supports senior management's engagement with safety. The fact that costs of injury are directly allocated to the firm can reinforce the importance of internal accountabilities. Since no member of staff wants to be responsible for a firm's loss of accreditation, there are strong internal incentives on those with health and safety responsibilities to ensure continued compliance with accreditation requirements.

The ACCPP could potentially create an incentive for employers to decline work claims to which employees are entitled and/or to reclassify them as non-work claims. The checks and balances on AE's under the partnership programme are therefore important. These 'checks and balances' include workplace safety and claims management audit processes, and the dispute resolution processes.

## Expected outcomes of standard and accredited employer's scheme

Building on the preceding discussions based on the relative incentives under the standard scheme and ACCPP respectively, we have summarised the expected incentives for standard and accredited employers in Table 2. The analysis uses the dimensions set out on page 20. For simplicity we have based the accredited employers on the FSC. We would expect the PDP to be very similar, with the incentives a little weaker than FSC due to the shorter claims management period and lower financial exposure.

**Table 7: Incentives for employers – comparison of schemes**

	Standard employers	Accredited employers (FSC)	Comment
<b>Injury prevention</b>	<p>Cost of injuries is passed back to employers through levy rates. These respond only slowly, if at all, to the 'actual level of risk' for an employer due to:</p> <ul style="list-style-type: none"> <li>• risk pooling</li> <li>• smoothing of movements in levy rates</li> <li>• other factors driving levy rates</li> </ul> <p>Feedback on injuries indirectly channelled through ACC.</p>	<p>Employers bear full cost of injury (FSC).</p> <p>Costs may not be clear until claim is passed back to ACC at end of management period (although estimates can be made available)</p> <p>Costs may fluctuate annually due to varying claims experience, though this is partially abated by HCCC.</p> <p>Feedback on injuries either directly from employer, or through TPA.</p>	<p>Financial incentives for injury prevention are sharper for FSC employers.</p> <p>There may be differences between the two schemes in the quality of information available on injuries. This may enable more effective design and implementation of safety management practices.</p> <p>In both cases, the costs of disrupted production may further increase (and possibly dominate) the incentives to improve safety.</p>

	<b>Standard employers</b>	<b>Accredited employers (FSC)</b>	<b>Comment</b>
<b>Rehabilitation</b>	<p>ACC able to access a wide range of service providers to assist in rehabilitation. This is likely to affect only the most complex cases.</p> <p>Arms length between employer and ACC may hinder coordination regarding reintegration back into the work force. eg light duties.</p> <p>Rehabilitation provided according to ACC policies</p>	<p>Accredited employers and TPAs may have lower levels of access to highly specialised services as a result of their less frequent use of such services than ACC due to their relative size.</p> <p>Employers may be able to work more closely with employees to ensure fuller and faster re-integration back into the work force.</p> <p>Employers have an incentive to make the right level of investment in treatment.</p> <p>Varying standards of rehabilitation may be provided according to employers' policies (though many adopt ACC's)</p>	<p>In both cases, employers have an incentive to support rehabilitation to avoid production disruption and the costs of recruiting and training new staff.</p> <p>The variability of administrative standards may be different in the two cases, and across TPAs.</p>
<b>Compensation</b>	<p>Compensation paid according to statutory entitlement subject to administrative constraints.</p>	<p>Employers may be tempted to delay compensation or argue a lower category of disablement.</p> <p>Some employers offer a higher level of compensation for lost earnings (100% of weekly wages).</p>	<p>In both cases minimum levels of compensation are set by law.</p> <p>Any differences may be affected by the operation of appeals/dispute resolution mechanisms.</p>
<b>Efficient administration</b>	<p>Administration provided by a state monopoly. Limited incentives to improve efficiency or add additional value</p>	<p>Administration provided by private sector employers and TPAs. Competition likely to create incentives for efficiency.</p>	<p>Administration costs are relatively small in relation to cost of claims.</p>

There are significant differences in the incentives between the two schemes. Getting the right mix of incentives is difficult for a number of reasons:

- The insurance arrangements in place to address the volatility of claims blunt incentives in practice.
- Employers, employees, and government have overlapping but different interests.
- ACC has conflicting roles. It is an injury insurance scheme. It is also an injury prevention and management scheme. The former role points to risk pooling. The latter role points to allocating costs to those who can best manage them.

## Hypotheses

Using comparison of the schemes set out in Table 7, we have developed hypotheses regarding the performance of the partnership programme relative to standard employers and identified a set of measures. This should be regarded as an ‘ideal’ set of measures, as they are subject to a number of data constraints, which we elaborate below.

**Table 8: Hypotheses**

Hypothesis	Measure
1. Accredited employers show lower medical and rehabilitation costs (incl. weekly compensation)	Average claim size Average claim size by duration Average cost of specific claim type
2. Accredited employers have greater variation in injury costs	Comparison of variability of costs for specific injuries
3. Accredited employers have lower rates of injury incidence, especially lost-time injuries	Rates of claims incidence per employee
4. Accredited employers show greater improvement in rates of injury incidence over time	Comparison of change in the incidence of claims per employee for individual firms
5. Accredited employers show faster return to work	Comparison of return to work rates for comparable claims
6. Accredited employers have shorter time between injury and date of first treatment	Lead times
7. Accredited employers show at least as good sustainability outcomes (ie, rates of re-injury that are no higher)	Comparison of reopen claims rates
8. Accredited employers have a higher propensity to test scheme boundaries and qualifying events	Numbers of claims declined Numbers of claims appealed
9. Higher WSMP status employers have lower claims rates	Claim rate by WSMP discount

## Part Five: Performance of the partnership programme

This section sets out the key findings from the analysis completed, including a number of tables. Further details on the work completed and a full set of results are included in Appendices 2 and 3. We discuss comments made to us by various parties where relevant to the interpretation of the findings.

There are innumerable factors which impact on for example the expected size of an average claim and to isolate these we adopted a multivariate analysis framework. A principal factor to control is the employer size and full details of this are included in Appendix 3.

The findings are presented organised according to the key hypotheses set out in Table 8 on page 25. We discuss their implications on the overall performance of the ACCPP in Part 7.

## Hypothesis 1: Do accredited employers show lower medical and rehabilitation costs?

### Measures

- Average claim size
- Average claim size by duration
- Average claim size for specific claim type.

### Finding: Average claim size

**Table 9: Average claim size by claim type and cover year**

Claim Type	Cover Year						Total
	2000/01	2002/03	2004/05	2006/07	2008/09	2009/10	
	\$	\$	\$	\$	\$	\$	\$
<b>Medical only</b>							
SE	119	118	141	174	206	172	151
AE	145	150	187	251	300	232	203
UE	122	133	157	188	231	208	168
<b>Total</b>	<b>124</b>	<b>127</b>	<b>153</b>	<b>189</b>	<b>226</b>	<b>189</b>	<b>164</b>
<b>Weekly compensation</b>							
SE	9,750	10,258	10,692	11,779	9,817	5,413	10,175
AE	7,729	7,394	7,081	7,313	6,622	3,447	7,155
UE	8,357	7,711	7,934	8,881	8,738	4,623	8,063
<b>Total</b>	<b>9,022</b>	<b>9,228</b>	<b>9,430</b>	<b>10,343</b>	<b>8,982</b>	<b>4,923</b>	<b>9,163</b>
<b>Other entitlement</b>							
SE	1,948	2,171	1,847	1,982	1,299	934	2,020
AE	1,704	1,783	1,994	2,714	2,369	1,244	2,139
UE	4,929	4,746	4,644	4,331	3,910	3,125	4,411
<b>Total</b>	<b>3,448</b>	<b>3,296</b>	<b>3,317</b>	<b>3,271</b>	<b>2,812</b>	<b>1,907</b>	<b>3,225</b>
<b>All claim types</b>							
SE	1,401	1,550	1,774	2,103	1,662	791	1,654
AE	1,210	1,369	1,428	1,588	1,561	789	1,422
UE	1,029	1,059	1,091	1,204	1,310	749	1,101
<b>Total</b>	<b>1,234</b>	<b>1,380</b>	<b>1,493</b>	<b>1,712</b>	<b>1,530</b>	<b>778</b>	<b>1,435</b>

Table 9 shows the average claim size for a standard employer is \$1,654 compared to \$1,422 for an accredited employer.

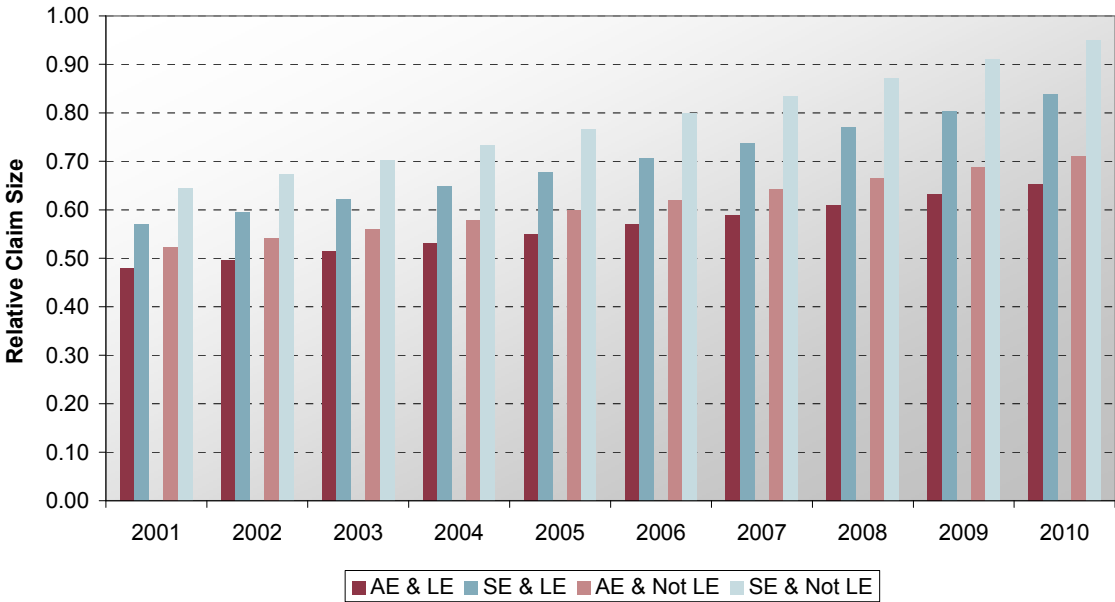
For more recent cover years in the variance of the results for accredited and standard employers narrows. The reason for this is that the average claim size for accredited employers is smaller at longer durations as illustrated later in Table 10.

It is interesting to that the average claim sizes for medical only claims are higher across all cover years for accredited employers.

The above results are supported by the multivariate analysis which looked at weekly compensation claims. The factors affecting claim size were injury type (e.g. amputation, soft tissue), cover year, whether a large employer, Standard Levy Band (SLB), claim duration and WSMP discount. Note “Large” refers to an employer who is in the top 10% of liable earnings with multiple classification units. The standard levy bands are the groupings adopted to categorise the employers by risk level. There are 19 bands, each with a similar level of liable earnings and similar levy rates: the higher the SLB, the higher the risk level.

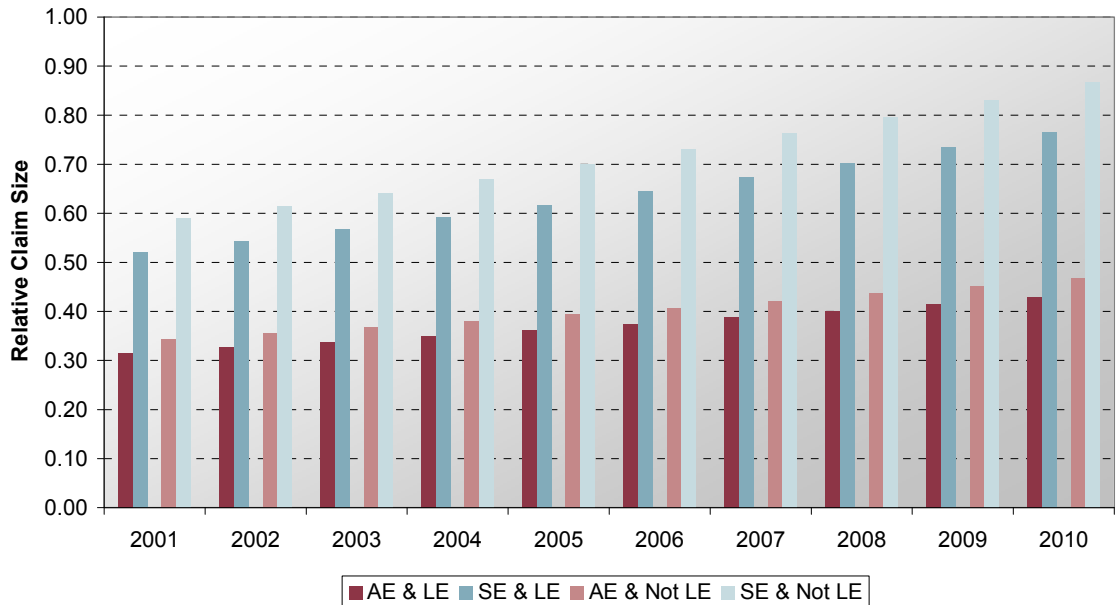
Below we illustrate the relative median claim size of medium duration claims for different employer types in SLB 12, showing the effect of varying the WSMP discount.

**Figure 7: Modelled results: Comparison of median claim size by WSMP discount rates**  
 10% WSMP discount





**20% WSMP discount**



The charts show that over time the difference in the average claim cost between standard and accredited employers increases and the higher the WSMP discount the bigger the difference. The corresponding results for short and long duration claims are included in Appendix 3 and show smaller and bigger differences respectively between accredited and standard employers.

**Comments from interviews**

The results presented here are consistent with the interview comments. The observed higher average size for Medical only claims is consistent with accredited employers' claimants not having to pay the surcharge on certain treatment costs e.g. for GP visits.

## Finding: Claim size by duration

**Table 10: Average cost of claims by claim type and duration**

Claim Type	Average paid to date (\$) by duration (months)						
	0 - 3	3 - 6	6 - 9	9 - 12	12 - 24	24 - 36	36 - 48
<b>Medical only</b>							
SE	82	167	415	518	616	763	877
AE	93	186	370	541	659	681	541
UE	85	182	419	518	624	813	783
<b>Total</b>	<b>84</b>	<b>175</b>	<b>407</b>	<b>523</b>	<b>628</b>	<b>759</b>	<b>739</b>
<b>Weekly compensation</b>							
SE	1,328	2,873	6,672	10,120	17,332	30,524	41,604
AE	929	2,128	4,419	6,441	10,877	20,607	25,421
UE	1,110	2,445	5,669	8,924	14,853	25,434	34,582
<b>Total</b>	<b>1,209</b>	<b>2,660</b>	<b>6,009</b>	<b>9,069</b>	<b>15,412</b>	<b>27,642</b>	<b>37,287</b>
<b>Other entitlement</b>							
SE	423	644	1,190	1,912	2,680	5,634	9,139
AE	431	734	1,339	2,131	3,666	4,343	6,598
UE	486	915	2,670	3,689	4,715	6,329	7,528
<b>Total</b>	<b>449</b>	<b>762</b>	<b>1,832</b>	<b>2,704</b>	<b>3,878</b>	<b>5,808</b>	<b>7,681</b>
<b>All claim types</b>							
SE	159	633	2,564	4,195	8,242	17,199	24,638
AE	163	519	1,472	2,485	4,681	8,479	9,084
UE	131	419	1,586	2,653	4,994	9,096	10,654
<b>Total</b>	<b>150</b>	<b>545</b>	<b>2,021</b>	<b>3,341</b>	<b>6,451</b>	<b>12,753</b>	<b>16,057</b>

The table above shows the average claim size at duration 36 - 48 months are \$24,638 for standard employers and \$9,084 for accredited employers. This result raises questions as to why the difference is so great.

For medical only and other entitlement claims the average claim size at durations up to 24 months is higher for accredited employers than for standard employers with only one exception.

Looking at the mix of expenditure by payment type shows that standard employers spend a considerably higher total amount on social rehabilitation than accredited employers. In contrast accredited employers spend a very small sum on vocational rehabilitation compared to standard employers. This is probably to be expected as the vocational rehabilitation by the accredited employers will be time spent at the workplace.

### Comments from interviews

There was nothing in the interviews that led us to anticipate the extent of the difference in respect of weekly compensation average claim size. We did expect to see lower expenditure on vocational and social rehabilitation for accredited employers.

### Finding: Average claim size for specific injury type

We compared the average claim size of two specific injuries which were soft tissue injuries for the lower and upper back. This was to enable a comparison of the performance of standard and accredited employers while limiting the other factors influencing the cost. The figures are shown in the table below.

**Table 11: Average claim size for specific injury type by cover year**

Injury Type	Cover Year						Total \$
	2000/01 \$	2002/03 \$	2004/05 \$	2006/07 \$	2008/09 \$	2009/10 \$	
<b>Soft tissue injury - lower back</b>							
SE	2,099	2,017	2,094	2,785	1,917	869	2,107
AE	1,265	1,462	1,425	1,666	1,467	641	1,480
UE	1,192	803	853	1,105	1,202	641	958
Total	1,658	1,604	1,600	2,071	1,641	785	1,657
<b>Soft tissue injury - upper back</b>							
SE	867	1,247	982	1,068	819	405	926
AE	670	875	925	709	717	467	807
UE	304	806	307	356	567	329	422
Total	632	1,081	752	773	730	387	745

In both cases the costs of standard employers exceeded those for the accredited employer.

It should be stressed we have only considered two injury types and different results may apply for other injury types.

### Comments from interviews

In one instance comment was made that ACC was very good at managing down the cost of an individual hospital procedure but showed a lack of awareness of the importance of the need for a claimant to return early to work and to full working capacity.

There were a number of comments on the variability of ACC case management. At the same time, some accredited employers noted that, in their particular case, performance varied by the actual case manager involved – regardless of whether was self-managed or through a TPA.

## Hypothesis 2: Do accredited employers have greater variation in injury costs?

### Measure

- The variability of costs for a specific injuries

### Finding

**Table 12: Variability of the specific injury costs by cover year**

Variability measure is the standard deviation as a multiple of the average claims cost

Injury Type	Cover Year						Total
	2000/01	2002/03	2004/05	2006/07	2008/09	2009/10	
	\$	\$	\$	\$	\$	\$	\$
<b>Soft tissue injury - lower back</b>							
SE	6	8	7	5	4	4	6
AE	8	8	8	5	4	3	7
UE	9	8	9	7	5	4	8
Total	7	8	8	6	4	4	7
<b>Soft tissue injury - upper back</b>							
SE	12	9	8	8	6	5	9
AE	8	8	9	5	4	3	7
UE	12	14	10	7	6	5	11
Total	13	10	9	8	6	5	10

The table above shows the variability (measured by the standard deviation of the claims costs paid to date expressed as a multiple of the average claims cost) of costs by employer for two specific injuries. The results are similar for standard and accredited employers. Standard employers show slightly lower cost variability for lower back injuries while accredited employers show slightly lower cost variability for upper back injuries.

### Comments from interviews

There were a lot of comments on the variability of ACC case management. This was primarily in the context of non work claims. At the same time some accredited employers noted that their performance varied by the individual case manager involved and this applied equally to those who self manage. The fact that the variability is the similar for both ACC and accredited employers is consistent with these comments.

### Hypothesis 3: Do accredited employers have lower rates of claims, especially lost-time injuries?

#### Measure

- Rates of claims per \$1 million liable earnings. (Liable earnings is the best available proxy for the number of employees).

#### Finding

The analysis found that the overall claim rates for standard and accredited employers for the period July 2000 to December 2009 were 1.93 and 1.82 per \$1 million liable earnings respectively. This was before any allowance for the different risk profiles of the industries that the employers are engaged in.

If the standard employers were engaged in the same industries as the accredited employers, we would expect the claim rate for standard employers to increase to 2.07 per \$1 million liable earnings. That is, after allowing for the fact that standard and accredited employers are engaged in different industries, the standard employers' claim rate is 14% higher than the accredited employers' claim rate.

A good measure of lost-time injuries is the claims rates for weekly compensation claims. Our analysis showed these rates to be 0.28 per \$1 million liable earnings for standard employers and 0.29 per \$1 million liable earnings for accredited employers i.e. similar rates. If we adjust the analysis allowing for accredited employers having a greater exposure to the more risky industries the standard employer rate increases from 0.28 to 0.30.

In making the above comments it should be noted that:

- The claims rates do vary by standard levy – the higher the standard levy rate the higher the expected risk level of the employer and the higher the expected number of claims.
- Similarly the greater the size of the employer as measured by the liable earnings, the lower the claims rate.
- The greatest incentives to reduce claims will be on those large employers in the high risk occupations.

Table 13 below illustrates these points.

**Table 13: Claims rates by liable earnings and standard levy band**

Number of claims per \$1m liable earnings

SLB	Liable earnings (\$m)				Total
	< \$1m	\$1m - \$10m	\$10m - \$100m	> \$100m	
<b>1 - 6</b>					
SE	0.54	0.41	0.39	0.11	0.35
AE	0.15	0.13	0.43	0.44	0.42
<b>7 - 12</b>					
SE	1.66	1.50	1.44	0.50	1.53
AE	5.04	0.68	1.07	1.59	1.38
<b>13 - 19</b>					
SE	3.96	3.94	3.28	1.05	3.88
AE	7.46	2.74	2.83	3.88	3.28
<b>All SLB</b>					
SE	2.40	2.20	1.36	0.15	1.93
AE	5.38	1.81	1.73	1.83	1.82
<b>Total</b>	<b>2.41</b>	<b>2.17</b>	<b>1.50</b>	<b>1.17</b>	<b>1.91</b>

The table confirms that the higher the SLB the higher the claims rate and that accredited employers have better (lower) overall claims rates for SLBs 7 – 19 than standard employers but worse (higher) claims rates for SLBs 1 – 6. In addition, the table illustrates the decreasing claims rates with increasing liable earnings.

The table shows that the results are not consistent for every combination of SLB and liable earnings combination. The multivariate analysis explores this further and identified the following drivers for claim rates:

- Employer type i.e. accredited or standard employer
- Cover year
- SLB
- Discount Group
- Total liable earnings

The results show that overall accredited employers have lower claim rates than standard employers; however as we see later this finding is subject to change over time.

### Comments from interviews

We might have expected greater differences in the claim rates for accredited employers and standard employers. However in a number of instances employers said that their attention to injury prevention was independent of their ACC levy option decision. Comment was made that the large penalties under the Health and Safety Act were a driving factor. At the same time we received positive comments around ACC's injury prevention efforts and the expertise of the people involved in this area.

## Hypothesis 4: Do accredited employers show greater improvements in rates of claims over time?

### Measure

- The rate of change of the claims rate over the period.

### Finding

There is no evidence to support the hypothesis that accredited employers show greater improvements in rates of claims over time. The standard employers have reduced their claims rate significantly over the period since July 2000, as have the accredited employers. This is shown in the table below.

**Table 14: Claims rate by claims type and cover year**

Number of claims per \$1m liable earnings

Claim Type	2001	2003	Cover Year 2005	2007	2009	2010	Total
<b>Medical only</b>							
AE	1.99	1.84	1.69	1.50	1.24	0.65	1.44
SE	2.66	2.27	1.78	1.46	1.27	0.98	1.60
<b>Total</b>	<b>2.47</b>	<b>2.17</b>	<b>1.76</b>	<b>1.47</b>	<b>1.26</b>	<b>0.91</b>	<b>1.56</b>
<b>Weekly Compensation</b>							
AE	0.31	0.35	0.35	0.32	0.29	0.13	0.29
SE	0.40	0.37	0.33	0.29	0.23	0.13	0.28
<b>Total</b>	<b>0.38</b>	<b>0.36</b>	<b>0.33</b>	<b>0.30</b>	<b>0.24</b>	<b>0.13</b>	<b>0.28</b>
<b>Other Entitlement</b>							
AE	0.11	0.13	0.11	0.09	0.08	0.04	0.09
SE	0.09	0.08	0.06	0.06	0.05	0.03	0.06
<b>Total</b>	<b>0.09</b>	<b>0.09</b>	<b>0.07</b>	<b>0.07</b>	<b>0.05</b>	<b>0.03</b>	<b>0.06</b>
<b>All Claims</b>							
AE	2.41	2.32	2.15	1.91	1.60	0.81	1.82
SE	3.15	2.72	2.17	1.81	1.54	1.14	1.93
<b>Total</b>	<b>2.94</b>	<b>2.62</b>	<b>2.16</b>	<b>1.83</b>	<b>1.55</b>	<b>1.07</b>	<b>1.91</b>

The table shows that the rate of improvement varies by claim type with the best improvement rate seen for the Medical only claims. The rate for the accredited employers, weekly compensation claims has improved only slightly over the period.

**Table 15: Claims rate by SLB and cover year**

Number of claims per \$1m liable earnings

SLB	Cover Year						Total
	2000/01	2002/03	2004/05	2006/07	2008/09	2009/10	
<b>1 - 6</b>							
SE	0.46	0.46	0.38	0.29	0.35	0.23	0.35
AE	0.88	0.57	0.39	0.29	0.34	0.23	0.42
<b>7 -12</b>							
SE	1.93	2.17	1.72	1.48	1.09	0.99	1.53
AE	1.48	1.83	1.51	1.38	1.23	0.69	1.38
<b>13 - 19</b>							
SE	4.73	5.49	4.37	3.65	3.03	2.23	3.88
AE	2.50	4.03	4.18	3.94	2.95	1.46	3.28
<b>Total</b>	<b>2.20</b>	<b>2.62</b>	<b>2.16</b>	<b>1.83</b>	<b>1.55</b>	<b>1.07</b>	<b>1.91</b>

The table above illustrates the relative claim rates by cover year for the standard and accredited employers by SLB. The significant improvement in the standard employers' claims rates is supported by the multivariate analysis. Although both categories of employers have improved their overall claims rate, standard employers have had marked improvements in the rate of weekly compensation claims, while accredited employers have been virtually static, as illustrated in the following chart.

**Figure 8: Modelled results: weekly compensation claim rates**

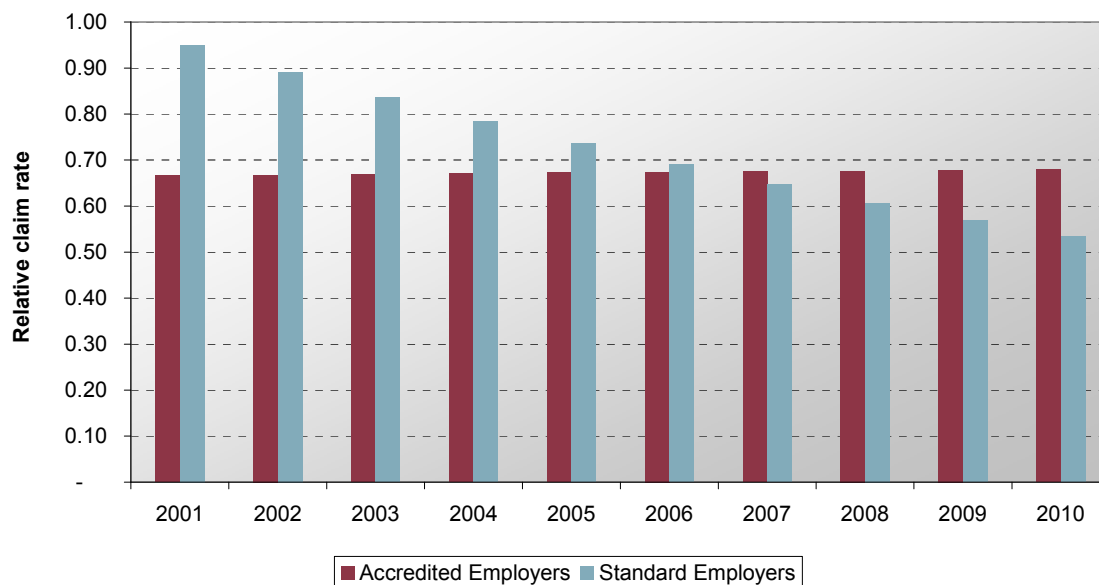




Figure 8 illustrates the change in claim rates for weekly compensation claims over the period from July 2000 to December 2009 for employers in SLB 10 with WSMP discount of 15%.

From the 2006/07 cover year the claims rates for standard employers are lower than those for the accredited employers. However any advantage here to the standard employers is offset by the lower average claims size of the accredited employers as shown earlier.

#### **Comments from interviews**

There is little evidence of a strong trend in the improvement of accredited employers' claim rates. This is inconsistent with the comments made at the interviews which talked of significant improvements. However there is strong evidence that the claims rate for Medical only claims has reduced for all employers over the period.

## Hypothesis 5: Do accredited employers show faster return to work?

### Measures

- Average claim duration
- Percentage of claims ceased by duration 3, 6, 12, 24, 48 months.

### Finding

We are most interested in the results in respect of weekly compensation claims as these are the claims where an employee is off work for more than 5 days. For Medical only claims the maximum period a worker would be off work is 5 days and in this instance the weekly compensation (if any) is paid by the employer.

**Table 16: Average duration by claim type and cover year**

Duration in months

Claim Type	Cover Year						Total
	2000/01	2002/03	2004/05	2006/07	2008/09	2009/10	
<b>Medical only</b>							
SE	4.3	3.9	3.6	3.6	3.2	2.3	3.6
AE	5.3	5.4	5.8	5.0	3.9	2.6	5.1
UE	4.5	4.3	4.0	3.9	3.4	2.5	3.9
<b>Total</b>	<b>4.5</b>	<b>4.2</b>	<b>4.1</b>	<b>3.9</b>	<b>3.4</b>	<b>2.4</b>	<b>3.9</b>
<b>Weekly compensation</b>							
SE	16.4	13.5	11.5	10.0	7.0	3.6	10.9
AE	14.4	12.8	12.1	10.3	7.2	3.7	11.1
UE	15.7	12.7	11.2	9.6	7.1	3.7	10.3
<b>Total</b>	<b>15.8</b>	<b>13.2</b>	<b>11.6</b>	<b>10.0</b>	<b>7.0</b>	<b>3.6</b>	<b>10.8</b>
<b>Other entitlement</b>							
SE	15.4	13.2	10.6	8.5	5.0	2.7	10.0
AE	15.6	14.6	14.7	11.2	6.9	3.5	12.7
UE	47.0	40.9	35.1	20.1	8.6	4.0	28.8
<b>Total</b>	<b>31.8</b>	<b>26.4</b>	<b>23.9</b>	<b>14.7</b>	<b>7.1</b>	<b>3.4</b>	<b>19.8</b>
<b>All claim types</b>							
SE	6.1	5.5	5.0	4.8	3.8	2.5	4.9
AE	6.9	7.1	7.3	6.2	4.7	2.8	6.5
UE	7.9	7.6	6.8	5.5	4.1	2.7	6.1
<b>Total</b>	<b>6.9</b>	<b>6.3</b>	<b>6.0</b>	<b>5.2</b>	<b>4.0</b>	<b>2.6</b>	<b>5.5</b>

The table above shows that for weekly compensation claims accredited employers have shorter average claim durations than standard employers for early cover years with the reverse being true for cover years since 2006/07.

This pattern is confirmed in the multivariate analysis for weekly compensation claims. The chart below shows the relative average duration independent of claim size for different employer types.

**Figure 9: Modelled results: Comparison of median claim duration**

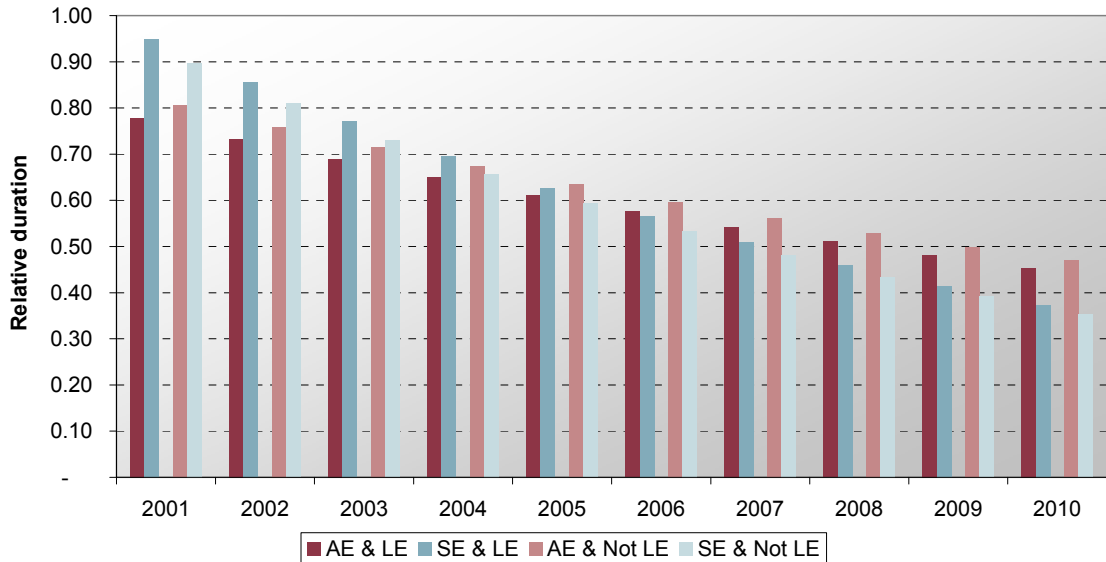


Figure 9 also illustrates the more rapid reduction in duration by cover year for standard employers.

Return to work outcomes can also be measured by finalisation rates as illustrated below in Table 17.

**Table 17: Finalised rates by claim type**

Claim Type	Duration (months)						
	0 - 3	3 - 6	6 - 9	9 - 12	12 - 24	24 - 36	36 - 48
<b>Medical only</b>							
SE	62.7%	89.9%	94.1%	96.2%	98.8%	99.4%	99.7%
AE	51.7%	80.0%	88.0%	91.9%	97.0%	98.3%	99.2%
UE	59.3%	87.8%	93.1%	95.5%	98.6%	99.3%	99.6%
Total	60.0%	87.8%	92.9%	95.4%	98.5%	99.2%	99.6%
<b>Weekly compensation</b>							
SE	21.8%	54.1%	67.5%	75.3%	88.9%	93.7%	96.3%
AE	20.5%	48.0%	62.8%	72.6%	89.4%	94.3%	96.8%
UE	22.9%	54.1%	68.0%	76.0%	90.3%	94.8%	96.9%
Total	21.8%	53.0%	66.8%	75.0%	89.3%	94.1%	96.5%
<b>Other entitlement</b>							
SE	36.3%	64.7%	74.5%	80.1%	89.5%	93.2%	95.4%
AE	20.9%	47.3%	60.2%	69.1%	85.9%	92.1%	95.2%
UE	20.0%	36.6%	44.3%	49.1%	59.7%	66.4%	73.5%
Total	25.6%	47.9%	57.1%	62.9%	74.1%	79.7%	84.5%
<b>All claim types</b>							
SE	56.0%	84.0%	89.7%	92.7%	97.1%	98.4%	99.1%
AE	45.1%	73.1%	82.5%	87.6%	95.2%	97.3%	98.6%
UE	53.7%	81.6%	87.8%	90.8%	95.3%	96.7%	97.7%
<b>Total</b>	<b>53.7%</b>	<b>81.6%</b>	<b>88.0%</b>	<b>91.4%</b>	<b>96.2%</b>	<b>97.7%</b>	<b>98.5%</b>

The table above shows the percentage of claims finalised (defined as no longer receiving ACC benefits) by duration.

For weekly compensation claims of duration up to 12 months, the table shows that standard employers have better rates of finalisation but for durations greater than 24 months, accredited employers have the better outcomes. For claims of duration between 12 and 24 months the rates for accredited and standard employers are all but the same.

### Comments from interviews

The results in Table 17 showing the finalised rates for accredited employers to be lower than standard employers at the short durations was inconsistent with the comments made in interviews with accredited employers. The results for longer duration claims were more in keeping with the hypothesis that accredited employers show a faster return to work, but the differences were slight.

## Hypothesis 6: Do accredited employers have shorter time between injury and date of first treatment?

There was no data field with information to either confirm or deny this hypothesis. There is strong qualitative evidence when comparing the claims management models of ACC and the accredited employers that the latter engage with the claimant earlier on average than ACC. It is a requirement of the audit standard that they do so, particularly at tertiary and secondary levels.

### Comments from interviews

The accredited employers are committed to early intervention seeing this as a major point of difference from ACC. The claims process followed by accredited employers is very different to ACC which has 2 million claims to process each year. The accredited employers are looking for responsive individual management of their claims.

We were cited instances of how the accredited employers were able to intervene early and make treatment decisions early. The main comment on ACC was the scale of the organisation and the difficulties that follow from this. We were not provided with detailed analysis of claims management service standards achieved by ACC but we understand there is variability on a branch-by-branch basis<sup>4</sup>. We also understand that ACC has recently introduced service delivery changes, and is exploring further changes, to improve claims management consistency and overall level of performance.

## Hypothesis 7: Do accredited employers show at least as good sustainability outcomes?

### Measure

- Reopen claim rates (as measured by weekly compensation claims which reopen after two quarters of no payments).

### Finding

The reopen rates for accredited employers are slightly higher than those for standard employers. The results are shown in the table below.

<sup>4</sup> We also note that Finity reported that: A claims management framework of consistency across the organisation and portfolio is lacking. (Best Practice Claims Review, ACC, March 2010)

**Table 18: Reopen rates by cover year**

	Cover Year						Total
	2000/01	2002/03	2004/05	2006/07	2008/09	2009/10	
SE	6.7%	6.3%	5.7%	5.4%	3.0%	1.4%	5.0%
AE	6.2%	6.1%	7.3%	7.0%	4.4%	1.6%	6.1%
<b>Total</b>	<b>6.6%</b>	<b>6.2%</b>	<b>6.0%</b>	<b>5.7%</b>	<b>3.2%</b>	<b>1.5%</b>	<b>5.2%</b>

In comparing the results for accredited and standard employers consideration should be given to whether ACC and the accredited employers apply the same approach to classifying a claim as reopened rather than as a new claim.

### Comments from interviews

Comments were made that there are clear incentives for accredited employers to properly rehabilitate claimants. Given the difference in how claims can be classified the higher reopen rates for accredited employers is not considered significant. Other comments were made that accredited employers would cut costs and so the expectation was that the reopen rates would be higher.

## Hypothesis 8: Do accredited employers have a higher propensity to test programme boundaries?

### Measure

- Rates for claims accepted per total claims made.

### Finding

**Table 19: Acceptance rates by claim type**

Claim Type	Claim acceptance rate			Total
	SE	AE	UE	
Medical only	94%	57%	84%	82%
Weekly compensation	100%	96%	99%	99%
Other entitlement	86%	75%	92%	87%
<b>Total</b>	<b>94%</b>	<b>61%</b>	<b>85%</b>	<b>84%</b>

Accredited employers have lower acceptance rates for all 3 claim types. For weekly compensation claims, the rates may reflect the fact that some claims may be made which are

not in accordance with the entitlement rules. In contrast, standard employers have a 100% acceptance rate for weekly compensation claims.

We suspect that the acceptance rates for Medical only claims depend very much on how the claims are recorded by both ACC and accredited employers. To illustrate the ‘problem’, ACC receives somewhere between 30,000 and 50,000 claims every year from providers in respect of accredited employers which have to be allocated back to the employers. There was a very specific problem with the data in regard to declined claims up to March 2007. The reasons for the problem are unknown.

### Comments from interviews

The higher decline rates (taken to be the difference between 100% and the acceptance rates) are consistent with discussions with some parties. The practically nil decline rate for weekly compensation claims is consistent with the widely expressed view that the culture of ACC has changed over time to one of not questioning enough the entitlement to a benefit.

## Hypothesis 9: Do higher WSMP status employers have lower claims rates?

### Measure

- Claim rates by WSMP discount

### Finding

**Table 20: Claim rates by WSMP discount**

WSMP discount	Claim rate per \$1 million LE		
	SE	AE	Total
0%	1.88	0.00	1.88
10%	2.53	1.51	1.70
15%	2.15	2.59	2.33
20%	1.98	2.41	2.14
<b>Total</b>	<b>1.93</b>	<b>1.82</b>	<b>1.91</b>

The table shows that while the claim rate results do vary, there is no clear correlation of claims rates with WSMP discount.

The multivariate analysis supports this result. In fact, the analysis in Appendix 3 shows that holding all else equal, the claim rates increase with WSMP discount for accredited employers but decrease with WSMP discount for standard employers.

#### **Comments from interviews**

Some employers were very committed to achieving a high WSMP discount. The impact though of this is felt more in terms of injury rehabilitation than injury prevention.



## Part Six: Employer involvement in non-work claims

The second part of the terms of reference asked us to consider the advantages and disadvantages of employer management of non-work claims.

There is already a framework for employer involvement in both work and non-work claims. All employers are required under section 71 of the Act to take all practicable steps to assist their injured employees with vocational rehabilitation under their individual rehabilitation plan. Accredited employers are required to have a rehabilitation policy.

In July 2009, ACC launched the stay at work initiative 'Stay at Work' which aims to support the injured employee to receive work-placed based rehabilitation. ACC is also piloting an approach 'Better@Work' which is a partnership with PHOs and GPs.

We have also included in this section a discussion on issues in regard to disputes between claimants and employers and ACC and considered comments made comparing employer managed claims with ACC managed claims.

### **There are good reasons to consider employer management of non-work claims...**

Our analysis of the ACCPP, and discussions with employers indicate a number of reasons to consider going beyond merely just involving employers in the management of non-work claims.

Employers bear significant indirect costs associated with non-work injuries: production disruption, overtime costs of other workers, and the training and induction of replacement staff.

At the same time, the accredited employers we spoke to expressed a high degree of frustration with ACC's management of non-work claims. They perceive ACC's processing of non-work claims as much slower than AEs' processing of work-claims, although as noted there may be inherent reasons for this. They feel that opportunities for active workplace-based rehabilitation are missed, to the detriment of eventual outcomes.

Some employers feel their management of non-work injuries would be welcomed by their employees. Depending on the financial arrangements, it may also reduce disputes about whether an injury is work or non-work.

### **...but its merit depends on scheme design...**

The advantages and disadvantages of employer management by accredited employers will depend on scheme design. We have therefore identified three broad options for the employer management of non-work claims:

- **Option 1: Administration, compensation and rehabilitation costs recharged to ACC**

In this arrangement, employers would manage non-work injuries under a contract with ACC which would reimburse them for costs – although a variant might include a flat fee for administration.

This option gives little or no additional incentive, other than natural incentives on employers to manage rehabilitation costs efficiently. As a result, we have not considered it further.

- **Option 2: Allocate financial costs of administration, compensation and rehabilitation to employers without recompense**

This would place a very strong incentive on employers to manage rehabilitation costs. However, it does not allocate costs to those best able to manage them, and would be considered inequitable by employers.

It would also create a strong disincentive to join the partnership programme, and we have not considered it further.

- **Option 3: Allocate costs of administration, compensation and rehabilitation to accredited employers in return for a payment of the earners levy**

This would broadly transfer the responsibilities, costs and income from ACC to the employer. The employer would then act as an insurer to its employees for non-work injuries. This could be made equitable and is the option we consider further. The payment to the employer would exclude any element of the Earners Account levy in regard to the pre-1999 injuries.

Option 3 has the potential to realise some of the noted opportunities of employer management of non-work claims. It creates an incentive to manage the costs of rehabilitation. It should facilitate work-place based rehabilitation, though the benefits of this will be greatest for injuries involving some lost time with good prospects for rehabilitation.

However, there are some problems with option 3:

- The incentive alignment between employers, employees and Crown are not the same as for work claims. Employers have little or no control over non-work injury rates. The benefits of the ACCPP in creating an incentive to reduce injury incidence are not realised.
- There is a risk that there will be incentives for discriminatory recruitment practices – for example avoiding groups likely to participate regularly in sport. Care would be needed in design to avoid this.

- Some employers would probably resist on grounds of this not being core business, because of the underlying financial exposure and because they have limited control over the rate of injury incidence. Accordingly participation by an accredited employer would need to be made optional.
- There are privacy concerns which would need to be addressed in involving employers in employees' non-work affairs including having access to medical records.

We did receive a signal that employers would be willing to consider such an arrangement further, but this was without an opportunity for them to consider the implications.

In general, accredited employers' reaction to the idea of managing non-work claims was mixed. They are keen to be more involved in reintegration into the workplace, but stressed the need to structure appropriately the financial arrangements.

### ...and there may be other alternatives

There are alternatives to transferring responsibility for the management of non-work claims to accredited employers that realise some of the opportunities:

- **Introduce contestability for claims management services**

Contestability for claims management services within ACC would create an incentive to improve claims management overall. Further benefits would be realised if it could be arranged that the same TPA manages non-work claims on behalf of ACC for employees of a firm, as it manages work claims for their employer. The TPA would be under obligations not to disclose any medical information to the employer. For those employers who self manage their work claims the non work would need to be managed by a TPA.

- **Involve employers more closely in ACC-managed rehabilitation plans**

There are opportunities for more direct involvement of employers in ACC-managed rehabilitation plans where appropriate. This would realise much of the potential benefit of employer management without the problematic financial arrangements full management would entail. The Stay at Work and Better@Work initiatives are potentially steps in the right direction.

- **Improve flows of information**

A frequent complaint from the employers we spoke to was the lack of information coming from ACC, who have noted that it is not always possible to obtain information in a timely manner from health service providers for non-work claims. A particular issue is delays in notification of the claim. Improved information flows between health service providers, ACC, and employers would improve efficiency, allow each to play a stronger role in rehabilitation, and support employers' injury prevention activities.

### **Contestable underwriting in the Earners Account would need to be coupled to employers payment of the levy**

We have considered the implications of contestable underwriting in the Earners Account on the employers' management of non-work claims. We only envisage the introduction of contestable underwriting in the Earners Account taking place in conjunction with its introduction to the Work Account.

Currently, the non-work levy is collected by IRD at a standard rate on ACC's behalf.

In some respects it would be desirable to create incentives for earners to reduce the incidence and severity of injuries, by applying excesses, or by charging additional premiums for participation in dangerous sports. However, it is unlikely variations in entitlements or premiums across individuals would be acceptable.

The alternative would be to for employers to pay the levy, which could then be varied on the basis of employer's ability to rehabilitate injured workers, assessed under the contestable underwriting process. This would in some respects be reverting to the pre-1992 position and provide a strong incentive for employers to support rehabilitation.

### **Addressing employees concerns from extending the employer's involvement**

In our discussions with some parties, concern was expressed that the accredited employers were able to exert too much 'leverage' because of the employment relationship in forcing an injured claimant back to work before they were fully recovered and fit for work. The discussion included the employers' ability to 'influence' unfairly the different medical parties to provide opinions favourable to the employer and against the employee.

This is a difficult area to arrive at accepted fair outcomes. Employment issues can easily become tangled up when an employer has taken responsibility for managing their employee's rehabilitation. At the same time there are perceptions that for standard employers (and for non work claims) ACC is often too claimant orientated and does not show enough appreciation of the employer's need for the claimant to return to work early in the process.

Under the current process, a dissatisfied claimant of an accredited employer can complain directly to ACC and the accredited employer is required to respond within a tight timeframe. From discussions with the TPAs the number of such complaints appeared to be very low.

ACC runs an annual survey of claimants including claimants of the ACCPP. The results below are taken from a presentation by ACC dated November 2008. The presentation includes the following statistics:

- Overall satisfaction level of 89% for ACC clients and 81% for ACCPP claimants.
- Accredited employer claimants are more likely to return to their exact same conditions 61% compared to 27% for ACC clients.

The presentation concludes that ‘ACC would appear to have a better performing service delivery model’. However:

- If the prime aim of the rehabilitation process is to return the employee to their job at the time of the accident then under this criterion the ACCPP claimants achieved significantly better outcomes.
- While the rehabilitation process maybe more rigorous and disciplined under the accredited employers programme, this may be part of achieving the best return to work outcomes.

Time did not allow us to review statistics regarding references to Dispute Resolution Services Ltd (DRSL). We would expect the rate of reference from accredited employers to be higher for two reasons. Firstly, accredited employers have a strong incentive to manage the costs of claims. Secondly, dissatisfied ACC managed claimants may be less likely to use DRSL as they see it as part of ACC.

A factor that we think is not always understood well in regard to accredited employers is that many choose to pay weekly compensation benefits at the 100% level rather than the statutory 80% level. A number of accredited employers also told us that they pay the treatment surcharge that claimants of standard employers otherwise pay.

Another area where dissatisfaction exists is in respect of the medical providers used by accredited employers. There was concern that in some cases the employer will always direct their claimants to practitioners who will support them. This problem of professionals having differing opinions is difficult for claimants to properly understand. While how to resolve this is not obvious, effort is needed in this area in order to provide more transparency of the decision making process involving the rehabilitation of a claimant.

# Part Seven: Conclusions

## Context – employer involvement matters

Employer involvement in rehabilitation is essential to efficient rehabilitation. This is recognised as such by all parties and is widely found to hold true in the literature.

Compensation accounts for 55% of all payments in the Work Account since July 2000. Therefore, any strategy to reduce total Work Account costs need to ensure faster (and sustainable) rehabilitation, and to ensure that the employee does not become detached from the work force. Workplace based rehabilitation is an important tool in both cases – as is effective Scheme administration.

Similarly, in terms of total claims costs, a small minority of long duration (tail) claims account for a high proportion of total scheme cost. Ensuring employers bear the costs of these claims provides a powerful incentive for employers to effectively target their injury prevention and rehabilitation efforts.

## Direct employer management has some clear advantages in principle...

The ACCPP goes beyond employer involvement in rehabilitation and puts employers at the centre of injury management. It achieves this by allowing employers to self-insure subject to certain mandatory stop loss options. In principle, the scheme has a number of advantages:

- creates stronger incentives to prevent injuries
- creates strong incentives on employers to manage rehabilitation costs
- removes any barriers from the employer becoming closely involved in rehabilitation
- introduces contestability in claims management (as there is choice as to whether accredited employers self-manage or use a third party administrator), providing incentives for efficient administration and feedback loops.

## ...and accredited employers have better injury management outcomes

Our data analysis shows that accredited employers have better injury management outcomes – in terms of claim sizes – than standard employers.

The basic analysis of the actual results for the period July 2000 to December 2009 showed that the accredited employers had an average claims size of \$1,422 compared to \$1,654 for standard employers managed by ACC. However these results do not control for the different profiles between the employer types including the size of the employer.

To account for this we completed a complex multi-variate analysis, the basis of which is included in Appendix 3. The results show:

- The accredited employers achieve lower average claim size than standard employers
- The difference in outcomes increases over time.

These results are backed up by an examination of the average payments made on the longer duration claim. For claims with durations between 36 and 48 months the total payments are \$9,084 and \$24,638 for accredited and standard employers respectively. The multi-variate analysis for longer duration claims supports this result.

Considering the duration of claims the actual results show that accredited employers have longer durations than standard employers. The results from the multi-variate analysis support this result.

ACC declines very few claims while accredited employers decline a higher percentage although there are some anomalies in the data which require explanation.

### **Accredited employers also have lower claims rates, though this is changing**

Based on the period 2000 to 2009 standard employers have, after adjusting for the different industry (risk) characteristics of the two employer groups, claims incidence rates that are 14% higher than for accredited employers. However, a closer consideration of the data in respect of weekly compensation claims shows that the standard employers have seen a significant drop in their incidence rates over the period while for the accredited employers the claims rates have remained relatively unchanged. It would be interesting to explore why these rates have come down so much and what are the characteristics of the employers with the greatest fall in the incidence rate.

### **The accreditation process is broadly sound**

The accreditation process includes the audit of employers' safety standards and injury management practices, including an annual audit of a small number of selected claims. A number of employers we spoke to were concerned by the audit and compliance requirements.

There was a concern about the extent and frequency to which they were subject to audit, and there was concern that audit standards are more compliance than outcomes based – in the sense that they are overly prescriptive about the nature of systems and processes required to be in place rather than assessing their functionality.

However, some employers noted that there had been recent improvements in the application of audit standards in practice. We would expect employers to seek a reduction in compliance requirements, but the level of concern expressed did not suggest there is a case to reconsider the whole accreditation process.

The audit and compliance regime has a number of different objectives: ensure that employees receive their entitlements, gather information for benchmarking, and thus performance management. There may be opportunities to rebalance the regime to ensure alignment with these objectives whilst minimising undue compliance costs.

Some accredited employers are concerned that there is a conflict of interest between ACC's own interest in claims management and its role in accrediting employers and by implication the services of TPAs. They perceive ACC as a threat to their interest as service providers. In this respect, ACC does have dual roles of regulator and service provider. This raises a conflict of interest which needs to be managed transparently. An argument for the dual roles is cost effectiveness, but in the event that restructuring of ACC were to be considered, an issue to be taken into account would be responsibility for accreditation and for the WSMP audit.

### **There are opportunities to extend the ACCPP programme to medium sized employers**

The ACCPP appears to be of more interest to employers with standard levies below \$250,000 a year than expected by ACC or ourselves. The potential advantages and barriers to employers with standard levies falling in a range around this amount could usefully be explored further, with a view identifying opportunities to extend the numbers of employers joining.

There are some potential opportunities to improve the programme's attractiveness which merit further consideration:

- **Flexibility of scheme design**

The ACCPP already has a number of options regarding exposure to development years and hand back arrangements (PDP1, PDP2, and FSC) and regarding risk reduction (high cost claims cover, and stop loss insurance all available at discrete amounts within limits).

The insurance options should be extended and the handback requirement made optional.

- **Tailor audit and compliance requirements**

Medium sized employers are more likely to find the audit and compliance requirements of accreditation more burdensome. There are opportunities to tailor the requirements to make them more appropriate to smaller businesses.

In addition, to these issues of scheme design, there may be opportunities to increase the promotion of the programme.

### **ACCPP's objective of providing a benchmark appears largely unmet**

As noted above, an objective of the ACCPP in the Act is to 'provide benchmarks against which the extent and management of work-related personal injuries can be measured'. The Act is not specific but there are opportunities to benchmark ACCPP with standard Work Account employers, and individual ACCPP employers against the wider ACCPP. While ACC does some



monitoring of ACCPP metrics, this study review appears to be the first time they have been considered in any detail. No practical use of the ACCPP metrics is made to benchmark ACC's performance with standard employers.

Performance monitoring of ACC by external agencies is beyond the scope of this review, but this experience suggests that there are opportunities to improve performance monitoring and how it is incorporated into governance processes. This includes decisions as to the emphasis on internal or external monitoring. Both models are used for Crown entities. The former more strongly supports performance improvement, the latter accountability. There are also opportunities to improve the quality of performance information provided back to individual ACCPP employers.

### **Competitive underwriting would potentially extend benefits of the partnership programme**

Under the previous privatisation regime all employers had to insure with a registered insurer. Available options ranged from no risk sharing to the employer assuming very high risk levels.

We have assumed that any future competitive environment would include similar arrangements. These would potentially extend the benefits of the ACCPP for two reasons. Firstly, the market would be efficient at identifying options to increase attractiveness of the programme to those not already in it. Secondly, a competitive environment would lead to greater outsourcing of claims management. This would foster growth of large TPAs and encourage their investment in the business. This would create opportunities for greater efficiency and effectiveness of injury management.

We would expect competitive underwriting to lead to a broader range of employer management options.

### **There are opportunities to improve the standard scheme**

There are several indications that there are opportunities for more employer involvement in ACC managed claims and to improve ACC's own performance:

- Providing richer, more timely feedback and statistics to employers to enable them to make more effective investments in injury prevention.
- For the larger standard employers to take a lead role in rehabilitation. For example, one employer with standard levies of around \$1 million complained there were barriers to their taking an active role in the early rehabilitation of their employees.

The same employer complained about the lines of communication with ACC, with contact on claims channelled through the call centre. Alternative approaches, for example appointing account managers, may be more suitable to facilitating engagement on rehabilitation.

It is noted that ACC is currently looking at ways to benchmark its own performance. If incorporated into governance processes this can help drive performance.

One option that has been raised is providing greater powers of coercion, by amending Section 71 of the Act (which requires employers to support rehabilitation) to give it more teeth. Any consideration of this option should take into account whether such powers would be used in practice and fit with incentive based approaches.

The March 2010 amendments to the Act allows for the introduction of experience rating to levies. This potentially provides an incentive for injury prevention, and for involvement by employers in rehabilitation. However, there are grounds for caution. A poor history could be the result of an employer being an outlier in its levy risk group, or the result of a low probability but high cost claim occurring. In these cases, the introduction of an experience rating might be seen as introducing an element of volatility which cuts incentives to manage safety and rehabilitation.

Detailed design will be important and there is a range of international experience, including in South Australia which may help. It will be important to consider where experience rating sits in the overall risk management spectrum and the desirability of levy volatility. Too great a degree of volatility can undermine the insurance nature of the scheme.

### **More employer involvement in non-work injuries would be beneficial...**

The value of employer involvement in rehabilitation extends to non-work injuries – particularly those that involve lost time where there are good prospects of eventual full return to work. These are the ones where workplace based rehabilitation can be most effective.

There is already involvement by many accredited employers in non-work claims and some reports that employees and some unions actively encourage this. However, there are indications that there are opportunities to do more. Accredited employers we spoke to suggested that ACC should do more to bring them into the rehabilitation planning and delivery, particularly earlier in the process.

### **...but probably not through taking on responsibility for management**

Employer management of non-work injuries has some potential benefits from extending advantages of direct employer involvement in rehabilitation. Getting this to work best will require the right financial incentives, but this is not straightforward.

One option regarding financial incentives would be to switch the cost for non work claims back to the pre-1992 position with employers paying the levy and including this in the ACCPP. This will provide incentives to employers to produce good rehabilitation outcomes. However, this may provide a disincentive to join the ACCPP and may increase incentives for employers not to recruit employees with a higher risk profile.

Alternative approaches to consider include:

- introduce contestability for the claims management services for these claims
- appointing the same TPA to service work and non-work claims for an employer
- develop lessons learned from the current initiatives Better@Work and Stay at Work
- directly involve employers in ACC managed rehabilitation plans
- improving flows of information between health service providers, ACC, and employers
- introduce contestability in underwriting.

### **Independent dispute resolution processes are important**

Given there is no right to sue in injury cases, independent, fair and transparent processes to resolve disputes are important. This is true in respect of both ACC and employer managed claims, but with employer managed claims there is the added issue that employees may be cautious about challenging their employer. A degree of dissatisfaction with dispute resolution processes is normal, and we have not seen any arguments that suggest that current processes are inadequate.

There are some concerns that accredited employers will direct claimants to practitioners that support the employer. Variations in medical opinion are inevitable, and we do not see opportunities to reduce their incidence that would justify further examination of this area.

### **There are issues to resolve with the dataset**

ACC receives 2 million claims each year and in respect of each claim there may well be a large number of transactions. Managing this data is not an easy task. The dataset on which our work has relied has highlighted a number of significant problems in how the data is recorded, not the least the need to allocate each claim to an employer for the Work Account. While some slippage on this for small claims is understandable, there are a number of large claims which do not have an allocated employer. In the data provided to us, out of the 1,729,325 accepted claims with a payment made, 414,161 did not have an employer identification number.

Examples of the issues include claims which have initially been allocated to the wrong employer ending up being classified as declined when actually the claim is accepted but with a different claim number and/or different employer. We also identified that hand back claims receive a new number from ACC which makes linking such claims difficult. There are also accepted claims but with no payments recorded. This would suggest that some new classification system of claims maybe required.

## Recommendations

### Opportunities to enhance the ACC Partnership Programme

We recommend that:

- 1 ACC seek to increase participation in the programme by actively promoting the benefits of the programme to those firms who might reasonably be expected to benefit from participation, particularly those with standard levies above \$250,000
- 2 Related to the point above, opportunities to extend insurance cover options should be introduced to provide accredited employers with greater choice around cover
- 3 Allowing flexible claims hand back periods could similarly improve cover choice and may increase the attractiveness of the programme
- 4 A set of performance benchmarks for the accredited employers programme vis-à-vis the Work Account be agreed, and report to employers against these benchmarks be provided annually
- 5 A comprehensive annual programme of outcomes-based evaluation, to better understand the performance of the programme and to help improve programme design over time, should be undertaken and the results published
- 6 Further opportunities should be taken to further simplify and streamline the annual audit processes, while ensuring a sufficiently robust framework for auditing compliance with entitlements and fair treatment of claimants.

In the event that contestability is introduced into the Work Account we would expect further options to be introduced for employers to expand their risk sharing and increase the incentives on employers to better manage both their incidence of claims and the injury rehabilitation.

### Integrating lessons from the Partnership Programme into ACC's approach to managing work and non-work claims

We recommend that:

- 7 Given the benefits of employer involvement in injury management and rehabilitation, ACC should reorient its case management models to place employers at the centre of the workplace-related claims rehabilitation process. In doing so, ACC could usefully consider the employer as the primary client of the ACC in relation to work claims
- 8 Related to the above recommendation, we expect there would be net benefits in providing dedicated case managers for all employers above a certain size threshold

- 9 ACC to usefully provide all employers with information about their claims experience to inform employers' injury prevention efforts, especially in high-risk injuries
- 10 Opportunities be considered to incentivise employers to become more involved in injury management and rehabilitation

### **Improving employers involvement in the management of non-work claims**

We recommend that:

- 11 Given the difficulties in creating the right financial incentives in relation to non-work claims, emphasis be placed on greater involvement of employers rather than giving them responsibility for managing non-work claims
- 12 ACC to bring employers more quickly into the process to allow earlier workplace-based rehabilitation. This would require improving the information flows between health providers, ACC, and employers
- 13 Contestability in claims management services for non-work claims should be introduced to provide incentives for efficient and effective claims administration
- 14 Related to the above recommendation, in respect of accredited employers, there are opportunities for ACC to engage the same TPA to manage the non-work claims as the employer uses for work claims
- 15 In the event that contestability of underwriting is introduced for the Work Account then consideration should be given to extending this to contestability in underwriting to non-work claims. This would create incentives to identify and implement a broad range of improvements.

### **ACC data management and collection**

We recommend that:

- 16 A review of the management of the data held and the collection of data by ACC should be given a high priority to better inform decision making.