

Submission to EDUCATION AND WORKFORCE SELECT COMMITTEE on the:

Accident Compensation (Access Reporting and Other Matters) Amendment Bill

Submitted by the New Zealand Council of Trade Unions Te Kauae Kaimahi

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This submission is made on behalf of the 31 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With over 340,000 union members, the CTU is one of the largest democratic organisations in New Zealand.

The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga), the Māori arm of Te Kauae Kaimahi (CTU), which represents approximately 60,000 Māori workers.

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1. Introduction

- 1.1. The CTU supports the kaupapa of this Bill to:
 - Improve the focus on, and the understanding of, how people with personal injuries are accessing the Accident Compensation Scheme (AC Scheme).
 - to increase the transparency of the levels of access to the AC Scheme, including any disparities in access to the AC Scheme by different population groups; and
 - to give better effect to the purpose of weekly compensation.
- 1.2. The changes set out in the draft Bill represent a good start towards enacting these key objectives, but we do believe that the Bill could go further to implement effective improvements:
 - 1.2.1. The Bill could better reflect Māori as treaty partners in ensuring the better access of services and outcomes for Māori.
 - 1.2.2. Use stronger language to ensure that the Corporation enacts changes from the information that is collected
 - 1.2.3. Should require the Accident Compensation Corporation to engage when making the decision on which other population groups are to be monitored and reported on; and
- 1.3. The CTU supports the change to bring forward eligibility for the minimum rate of weekly compensation from the sixth to the second week of incapacity.
- 1.4. The CTU supports the submissions of our affiliated unions, and the submission of the ACC Futures Coalition.

2. Addressing what access means.

- 2.1. The key theme of the Bill is enhancing access to the scheme for Māori and other population groups. Central to the Bill is the concept of 'access' to the scheme. It is critical that the term 'access' is broad enough to encompass more than just entry into the scheme and includes access to entitlements and other relevant support through the scheme. It also needs to include the corresponding analysis of why claims are declined.

3. Recognition of Te Tiriti

- 3.1. The Accident Compensation legislation in its current form does not refer to Te Tiriti. Truly addressing systemic inequalities for Māori in the AC scheme will require an honest promotion of the articles of Te Tiriti o Waitangi. Proper delivery of services and outcomes for Māori will require a system that recognises Te Tiriti, and, Māori as treaty partners in Aotearoa.
- 3.2. The Waitangi Tribunal 'Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry' makes the recommendation that '*Strong accountability mechanisms and robust, public measuring and reporting are key to the Treaty-compliance of the legislation and policy of the primary health care sector*'.¹
- 3.3. The report goes on to highlight several concerns about how the primary health care framework 'fails to recognise and provide for Māori expertise and viewpoints as guaranteed by the Treaty'.
- 3.4. Ensuring better access to the scheme for Māori will require proper recognition of Te Tiriti in our primary health care legislation including the Accident Compensation Act.

4. Annual reporting on how Māori and other population groups are accessing the scheme/ causes of identified drives/ disparities in access

- 4.1. The insertion of '**278B(2) Corporation to report in each financial year on access to accident compensation scheme by Māori and other**

¹ Waitangi Tribunal Report 2019 WAI 2575 *Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry*. At [168]

population groups' needs to include practical machinery that will see actual change that improves the access issues, disparities, and barriers.

- 4.2. As the draft bill currently reads, there is no provision to act upon the findings of the report, with the report being only provided to the relevant Minister and presented to the House of Representatives.
- 4.3. We suggest adding into s 278B a requirement that the prepared report also include any potential steps to address to the access issues, disparities or barriers that are identified. E.g., to include in the report the steps ACC is taking and will take in the following 12 months and beyond to remove those barriers and improve access to the scheme.
- 4.4. Additionally, we suggest that this section could impose a duty on the Minister to provide recommendations on what next steps need to be taken to address the access issues, disparities or barriers that are identified. This would include how the Minister and Corporation will engage with relevant representative structures and groups on building solutions.
- 4.5. In our opinion these additions will help ensure that these reports from the Corporation are not simply shelved without being acted upon. As evidenced by the introduction of this Bill, there is a serious need to improve access to the AC scheme and address inequities in the system. Providing a positive onus for the Corporation to develop actions in response to information gathered will assist with ensuring that these issues are progressed.
- 4.6. Secondly, as the Bill stands, reporting on other population groups under s 278B is on the basis of "as the Corporation considers appropriate".
- 4.7. This leaves the scope of the monitoring, regarding what population groups will be reported on, up to the discretion of the Corporation. We believe it would be appropriate for the Corporation to engage with the wider system on which groups would be appropriate to report on.

- 4.8. We would also like to ensure that the Corporation's reporting is made widely available and invites feedback and engagement from relevant sector groups and bodies.

5. Amending the purpose to insert a function that ACC focuses on monitoring access

- 5.1. The inclusion of the intent of this Bill within the purposes of the legislation signifies the importance of the kaupapa of this change. We suggest that the purpose could go further towards progressing positive change that supports access to the scheme based on the findings of the monitoring.

- 5.1.1. For example "ensuring that the Corporation monitors **and enhances** access to the accident compensation scheme by Māori and other population groups in order to deliver services under this Act in a manner that supports access to the scheme by injured persons in those population groups:

6. Bringing forward minimum rate of weekly compensation eligibility

- 6.1. The CTU supports this change. This will make a significant improvement on those relying on weekly compensation.

7. Other - Access to Māori services

- 7.1. One further concern that has been raised regarding access to the scheme regarded accessing Te Ao Māori health practices. That is, Māori Practitioners like Mirimiri and Rongoa are not believed when applications are made by them to access ACC support to cover the costs.

- 7.1.1. From date of submission, it could take up to 3 weeks and multiple phone calls to the client before the application is accepted then another 3 weeks before payment is received.

- 7.1.2. This response means that Māori clients with legitimate requests pay for treatment themselves or the practitioner is out of pocket waiting to be paid.

8. Delivery in the meantime

- 8.1. Finally, we note that there is a three-month window between the date of assent and the coming into force of these provisions.
 - 8.1.1. This is sufficient time for ACC, on the day this Bill comes into force, to deliver to the Minister a preliminary report on the disparities that have been identified in relation to access to the scheme by Māori and others. And to establish what steps are currently in place or planned for the next financial year to promote equality of access.
 - 8.1.2. It is crucial that work remains on an ongoing basis to mitigate the risk of further delaying action on addressing Māori access to the scheme. There is already plenty of established literature setting out and analysing the challenges Māori face in accessing the scheme, immediate action is not pre-meditated on this Bill passing and can continue in the interim.