

CABINET SOCIAL POLICY COMMITTEE

STOCKTAKE OF ACC ACCOUNTS: proposed terms of reference

Proposal

- 1 This paper seeks approval of the terms of reference for the Stocktake of ACC Accounts (the Stocktake). The proposed terms of reference are attached.
- 2 The paper also seeks your approval of the proposed candidates for positions on the Stocktake steering group.

Executive summary

- 3 This paper proposes terms of reference for the Stocktake of 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.
- 4 The proposed terms of reference are broad, to enable the steering group to commission the work as it sees fit. The Stocktake will include account by account analysis of the ACC Accounts, work on the monitoring of ACC, examination of existing employer programmes, investigation of the management by employers of non-work injuries, assessment of who is best placed to provide effective rehabilitation services, and analysis of the impacts of legislative change. A review of the \$10 billion investment portfolio will be undertaken by the ACC Board and the results will be made available to the Stocktake steering group. Flexibility exists for the steering group to raise with the Minister additional work it considers necessary, for example international benchmarking.
- 5 Investigating competition in the Work Account will not be part of the Stocktake.
- 6 The Stocktake must be seen to provide independent advice so that its findings are widely accepted. I therefore intend to have an independent Chair and two independent advisors on a Stocktake steering group, which will also comprise the Chair of the ACC Board, senior officials from the Treasury and Department of Labour, and a representative of the Department of the Prime Minister and Cabinet.
- 7 I am seeking the Committee's approval of the candidates for the steering group.

Background

- 8 ACC needs to be reviewed. Our election manifesto committed us to undertaking a Stocktake of ACC Accounts to identify how the Scheme can deliver more value for money to levy payers and taxpayers, find areas where cost shifting or cross subsidisation is occurring, and review the governance and management of ACC's \$10 billion investment portfolio. The Prime Minister has indicated that this work should take top priority in the ACC portfolio.
- 9 The Stocktake is just one of the measures being taken to ensure ACC becomes more efficient and affordable. Because I wish to ensure that duplication of effort does not occur, the Stocktake itself does not cover everything. I am also preparing an Amendment Bill to move out the deadline for fully funding the residual liabilities and containing measures to support ACC to control costs. ACC is undertaking

service initiatives including terminating the physiotherapy contract that allowed free physiotherapy, [Withheld under sections 9(2)(b)(ii) and 9(2)(f)(iv) of the Official Information Act 1982], and an internal value-for-money exercise the results of which will be made available to the Stocktake steering group. ACC will also make available to the steering group the results from other initiatives it has underway. [Withheld under section 9(2)(f)(iv) of the Official Information Act 1982].

Purpose of Stocktake

- 10 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. The aim is to deliver practical recommendations for improving performance and to ensure our accident insurance scheme remains affordable.
- 11 It is important that the Stocktake be seen to be independent, so that its findings and advice are widely accepted.
- 12 The Stocktake will provide the base from which decisions can be made on how to turn ACC around so that costs are controlled and the current trend of cost rises eases.

Content of Stocktake

Introducing competition into the Work Account

- 13 Our pre-election commitment to investigating competition was separate to the Stocktake as originally conceived. However, there is a question as to whether opening up the Work Account to competition should now be part of the Stocktake. The scale of problems found in ACC when we came into government meant that I have had to shift my focus to dealing with immediate cost containment issues. The financial situation we inherited, and the fact that the Work Account is the only Account that is solvent at present, lead me to believe that the Stocktake should not include investigating competition. This does not preclude this matter being investigated at a later date.

Elements of stocktake

- 14 The Stocktake steering group will commission the actual work required to meet the purpose set out above. It is envisaged that the pieces of work commissioned will take the form of discrete elements that together feed into a whole picture of the Scheme. Background information will be available from ACC's own reviews to feed into the work.
- 15 I propose the Stocktake includes:

Analysis of each active Account, covering:

- its underlying cost drivers (these are likely to vary for each Account) and strategies to address them
- how many people come into the Account, how long they receive entitlements under the Account; the entitlements they get, how the interpretation of legislation impact when providing those entitlements; how and whether injury prevention works in the Account
- any subsidisation occurring within the Account or across other Accounts
- options for funding policy (eg, change in balance of funding sources, such as funding the Motor Vehicle Account from petrol as opposed to licences etc)

- the nature of major risks (eg, underwriting, investment performance, liability valuation risks) – who bears these risks and options for managing them
- the constraints on achieving value for money and a steady-state financial position (for example administrative factors or legislation)
- the potential for, and cost effectiveness of, introducing experience rating or risk-sharing.

Note that background information will be made available from ACC on financial forecasts for each Account covering 2008/09 and subsequent financial years, and trends in funding (levies and appropriations) if no change is made to policy settings. ACC will also make available its own analysis and Account funding plans, and information on claims duration and case management practice.

16 In addition, work will be undertaken on:

- Monitoring of ACC's performance: including the performance of the monitoring agency and the usefulness of existing performance indicators. The results of the Treasury-led government-wide review of monitoring of Crown agencies will be made available to the Stocktake steering group. The Stocktake will also consider the performance information available, whether the existing performance indicators will provide the information needed for robust monitoring, and proposals for different or better performance indicators as appropriate
- current employer programmes, and the incentives needed 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 by employers to promote rehabilitation
- who is best placed to provide effective rehabilitation services
- key changes in legislation over time and their impact on claimant entitlements.
- a review of ACC's \$10 billion investment portfolio (see below)

17 There will be flexibility for the steering group to raise with the Minister for ACC areas of additional work it considers are necessary, for example international benchmarking.

Investment strategy review

18 The overarching goal for the investment strategy review should be examining its contribution to the goals of scheme sustainability and levy stability.

19 ACC has itself commissioned an external review of the investment function. The Board's report will be made available to the steering group.

20 The steering group will also comment, and as necessary make recommendations, on how the reserves are being managed (in a quality of processes sense) and the appropriateness of the current level and form of scrutiny of this function from the ACC Board;

Consultation

21 The steering group will ensure that there is opportunity for key stakeholders such as Business NZ and the Council of Trade Unions to have input at appropriate junctures of the Stocktake process, such as following receipt of the initial reports from external consultants and before formal advice is provided to the Minister for ACC.

Exclusions

22 The Stocktake will not include:

- a theoretical discussion of insurance markets or compensation mechanisms. The stocktake is designed to inform the government and deliver practical recommendations for improving performance.
- operational matters that are the responsibility of the ACC Board. Note, however, that cost drivers are not wholly an operational matter and analysis of these is included in the Stocktake.

Process

- 23 It is important that the Stocktake provides independent advice. I therefore envisage external consultants will undertake many of the work elements. Some components of the work may be able to occur before others, and I expect that the work programme will be phased. A progress report will indicate the interim findings, with a final report from the steering group following analysis that captures the whole picture.
- 24 State sector procurement rules require that there be an open tender process for appointing external consultants for this type of activity. In effect, this means a six week period from the time the steering group meets and determines the work it will commission, and final appointment of the successful applicant(s). If the steering group is appointed by the end of July then external consultants could commence work in late September.

Estimated timeframes

Stocktake component	Delivery
key changes in legislation over time and their impact on claimant entitlements	<i>[late September]</i>
review of the investment strategy	<i>[October]</i>
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 by employers to promote rehabilitation who is best placed to provide effective rehabilitation services	<i>[December]</i>
individual Account research	<i>[late December/early January 2010]</i>
interim progress report outlining individual results	<i>[February 2010]</i>
final report with recommendations from steering group	<i>[June 2010]</i>

Governance of Stocktake

- 25 It is important that there be official oversight of the Stocktake, alongside independent external advisors. I propose there be an independent Chair for the steering group together with two other independent advisors, and membership comprising senior officials from the Treasury and the Department of Labour, the Chair of ACC, and a representative from the Department of the Prime Minister and Cabinet.

26 This mix will enable appropriate oversight and governance of the Stocktake exercise.

Operation of the steering group

27 The independent Chair will report directly to the Minister for ACC.

28 Beneath the steering group level, officials from the Treasury and the Department of Labour will provide the general support, liaison and coordination, contract management and quality assurance functions, and ensure the contracted service providers have access to the necessary information. ACC will also be involved through the provision of information and data.

Process for commissioning work

29 State sector procurement rules mean that a formal tender process is required for commissioning the pieces of work. This means that there will be at least six weeks from the time decisions on the work itself are taken until formal appointments of the provider(s) occur and work commences.

Chair of the steering group

30 I considered a number of candidates for the positions of Chair of the steering group.

Reasons for appointment

31 The Stocktake needs to be seen to be independent. A strong and clearly independent Chair will provide assurance that a robust analytical process is followed so that the findings withstand scrutiny and can be relied upon.

Skill set sought

32 The Chair of the Stocktake steering group needs to be a person of stature, with experience in chairing panels or committees, who can – if necessary – speak publicly about the work of the Stocktake. S/he must be seen to be independent, and able to handle media issues that may arise. The Chair needs to be able to exercise judgement when reporting the findings of the Stocktake and be sensitive to the public interest and the direction of the government. Knowledge of the ACC Scheme and of the wider health sector would be an advantage.

Preferred candidate for appointment as Chair

33 After considering several candidates I intend to appoint Mr David Caygill as Chair of the Stocktake steering group.

Mr David Caygill

[See accompanying press release for biographical details of the candidates.

Some information has been withheld under section 9(2)(a) of the Official Information Act 1982.]

Candidates for the other independent advisors on the steering group

34 I considered a number of independent persons as candidates for the steering group.

35 I am seeking a skill mix on the steering group sufficiently diverse that different perspectives can be brought to bear on the work being undertaken and its findings.

Preferred candidates for appointment

Dr Neil Quigley

[See accompanying press release for biographical details of the candidates.

Some information has been withheld under section 9(2)(a) of the Official Information Act 1982.]

Mr Gordon Smith

[See accompanying press release for biographical details of the candidates.

Some information has been withheld under section 9(2)(a) of the Official Information Act 1982.]

Remuneration

36 The steering group will be classified within the Cabinet Fees Framework [CO (09) 5] as Level 2 within Group 4 (all Other Committees and Other Bodies). This category covers technical review committees. The description for Group 4 bodies states –

...these bodies... have been established by a Minister under a general statutory power to establish advisory committees or by Cabinet.

37 The remuneration for groups under the classification above is \$270 - \$415 per day for an independent advisor.

38 [Withheld under section 9(2)(a) of the Official Information Act 1982.]

Consultation

39 The Treasury, State Services Commission, and ACC were consulted on a draft of this paper, and the Department of the Prime Minister and Cabinet was informed.

Treasury comment

40 Treasury supports the proposed Stocktake because it implements Government policy and would deliver a detailed problem analysis of the ACC scheme to use in developing and assessing future policy options. However, the scope of the Stocktake is broad and the six month timetable is relatively short for work of this nature. Treasury considers that, in practice, the steering group may struggle to have a completed interim report by December 2009 and the completed final report by March 2010. *[Note – see the table on page 4 for revised timeframes]*

Financial implications

41 Funding of \$0.5 million has been secured in Budget 2009/10 for the Stocktake, and an additional \$175,000 has been transferred from Vote:Labour to Vote:ACC for the Stocktake. Additional funding will be sourced from the Department of Labour and ACC. [Withheld under section 9(2)(h) of the Official Information Act 1982.]

Human rights, gender, and disability implications

42 There are no human rights, gender, or disability implications from the proposed Stocktake.

Legislative implications

43 Once the Stocktake is completed, consideration will be given to what, if any, legislative change is required.

Regulatory and business compliance cost impacts

44 There are no regulatory or business compliance costs arising from the Stocktake exercise.

Publicity

- 45 I intend to announce the appointments to the steering group and make public the terms of reference for the Stocktake once Cabinet has approved them.

Recommendations

I recommend that the Cabinet Social Policy Committee:

- 1 **note** that undertaking a Stocktake of ACC Accounts was a pre-election commitment;
- 2 **agree** that 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;
- 3 **agree** that, given the scale of financial problems inherited in this portfolio, the fact that the Work Account is currently solvent, and the limited funding available for the Stocktake, introducing competition into the Work Account is not a priority at this time and the Stocktake of ACC Accounts will not include such an investigation;
- 4 **approve** the attached terms of reference for the Stocktake of ACC Accounts, which include:
 - A: analysis of each active Account**, covering:
 - its underlying cost drivers (these are likely to vary for each Account) and strategies to address them
 - how many people come into the Account, how long they receive entitlements under the Account; the entitlements they get, how the interpretation of legislation impact when providing those entitlements; how and whether injury prevention works in the Account
 - any subsidisation occurring within the Account or across other Accounts
 - options for funding policy (eg, change in balance of funding sources, such as funding the Motor vehicle Account from petrol as opposed to licences etc)
 - the nature of major risks (eg, underwriting, investment performance, liability valuation risks) – who bears these risks and options for managing them
 - the constraints on achieving value for money and a steady-state financial position (for example administrative factors or legislation)
 - the potential for, and cost effectiveness of, introducing experience rating or risk-sharing

Note that background information will be made available to the steering group from ACC on financial forecasts for each Account covering 2008/09 and subsequent financial years, and trends in funding (levies and appropriations) if no change is made to policy settings. ACC will also make available to the steering group its own analysis and Account funding plans, and information on claims duration and case management practice;

B: monitoring of ACC's performance: including the performance of the monitoring agency and the usefulness of existing performance indicators. The results from the government-wide review of monitoring of Crown agencies, being led by the Treasury, will be made available to the Stocktake steering group. The Stocktake will also consider the performance information available, whether the existing performance indicators will provide the information needed for robust monitoring, and proposals for different or better performance indicators as appropriate;

C: assessment of:

- 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 by employers to promote rehabilitation
- who is best placed to provide effective rehabilitation services;

D: a review of ACC's \$10 billion investment portfolio, to examine its contribution to the goals of scheme sustainability and levy stability. The ACC Board's own review report will be made available to the steering group. The steering group will also comment, and as necessary make recommendations, on how the reserves are being managed (in a quality of processes sense) and the appropriateness of the current level and form of scrutiny of this function from the ACC Board;

E: analysis of key changes in legislation over time and their impact on claimant entitlements;

- 5 **note** that the steering group will have the flexibility to raise with the Minister areas of additional work it considers necessary;
- 6 **note** that the steering group will ensure that there is opportunity for key stakeholders such as Business NZ and the Council of Trade Unions to have input at appropriate junctures of the Stocktake process, such as following receipt of the initial reports from external consultants and before formal advice is provided to the Minister for ACC;
- 7 **note** that State sector procurement rules mean that a formal tender process is required for commissioning the pieces of work, which means that there will be at least six weeks from the time decisions on the work itself are taken until formal appointments of the provider(s) occur and work commences;
- 8 **note** that the project will begin in August 2009, with an interim report outlining progress to be provided to the Minister for ACC in *[February 2010]* and the final report with recommendations for the Scheme as a whole to be delivered by the end of *[June]* 2010;
- 9 **note** that the Stocktake will be governed by a steering group comprising an independent Chair, two independent advisors, the current Chair of the ACC Board, senior officials from the Department of Labour and the Treasury, and a representative from the Department of the Prime Minister and Cabinet;
- 10 **approve** the appointment of David Caygill as Chair of the Stocktake steering group;
- 11 **approve** the appointment of Dr Neil Quigley as an independent advisor on the Stocktake steering group; and
- 12 **approve** the appointment of Mr Gordon Smith as an independent advisor on the Stocktake steering group.

Hon Dr Nick Smith
Minister for ACC

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Appendix: Terms of Reference for the Stocktake of ACC Accounts

Purpose

These terms of reference outline the scope of the Stocktake of ACC Accounts (the Stocktake) project.

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.

Background

The Stocktake is the government's top priority for the ACC portfolio because it will provide the information on which to base future decisions that improve the efficiency and affordability of the ACC Scheme.

Scope

The Stocktake steering group will commission work to achieve a series of succinct reports that inform the government. This work is likely to include:

A: analysis of each active Account, covering:

- its underlying cost drivers (these are likely to vary for each Account) and strategies to address them
- how many people come into the Account, how long they receive entitlements under the Account; the entitlements they get, how the interpretation of legislation impact when providing those entitlements; how and whether injury prevention works in the Account
- any subsidisation occurring within the Account or across other Accounts
- options for funding policy (eg, change in balance of funding sources, such as funding the Motor Vehicle Account from petrol as opposed to licences etc)
- the nature of major risks (eg, underwriting, investment performance, liability valuation risks) – who bears these risks and options for managing them
- the constraints on achieving value for money and a steady-state financial position (for example administrative factors or legislation)
- the potential for, and cost effectiveness of, introducing experience rating or risk-sharing.

Note that background information will be made available to the steering group from ACC on financial forecasts for each Account covering 2008/09 and subsequent financial years, and trends in funding (levies and appropriations) if no change is made to policy settings. ACC will also make available to the steering group its own analysis and Account funding plans, and information on claims duration and case management practice.

B: monitoring of ACC's performance: including the performance of the monitoring agency and the usefulness of existing performance indicators. The results from the government-wide review of monitoring of Crown agencies being led by the Treasury will be made available to the Stocktake steering group once Ministers have considered the proposals. The Stocktake will also consider the performance information available, whether the existing performance indicators will provide the information needed for robust monitoring, and proposals for different or better performance indicators as appropriate.

C: assessment of:

- 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
- who is best placed to provide effective rehabilitation services.

D: a review of ACC's \$10 billion investment portfolio, to examine its contribution to the goals of scheme sustainability and levy stability. The ACC Board's review report will be made available to the steering group. The steering group will also comment, and as necessary make recommendations, on how the reserves are being managed (in a quality of processes sense) and the appropriateness of the current level and form of scrutiny of this function from the ACC Board.

E: analysis of key changes in legislation over time and their impact on claimant entitlements.

The steering group is able to raise with the Minister additional areas of work it considers are necessary.

Process

The project is expected to commence in August 2009 and will be completed by the end of *[June]* 2010.

One or more independent consultant(s) will be appointed by the steering group through a procurement process according to State sector guidelines.

The steering group will ensure that there is opportunity for key stakeholders such as Business NZ and the Council of Trade Unions to have input at appropriate junctures of the Stocktake process, such as following receipt of the initial reports from external consultants and before formal advice is provided to the Minister for ACC.

Timing and deliverables

It is expected that the project will begin in August 2009.

An interim report outlining progress with the individual components will be provided to the Minister for ACC in December 2009 and the final report with recommendations for the Scheme as a whole will be delivered by the end of *[June]* 2010.

Governance

The Minister for ACC will be the sponsor for the project.

Steering group

A steering group with an independent Chair, and comprising two additional independent advisors and senior officials, will provide oversight of the project, commission the work, monitor progress, and assess and report the results.

The steering group will ensure that the advice provided meets the stated objectives of the project.

The steering group will determine its own schedule and programme. Members will be expected to meet as directed by the Chair, and likely at least seven times during the course of the project. Work will also be undertaken using, as necessary, teleconferencing and email contact.

Consultants

The steering group will ensure that the consultants appointed:

- have the requisite skill sets and competence to undertake the work commissioned
- will be mindful of the considerable public interest this project will generate, and will conduct the work in such a way as to be sensitive to this interest
- have no conflicts of interest that may influence the independence of the advice being provided
- are able to deliver the work within the set timeframes.

Assumptions

Background material and data will be made available to the consultant(s) as needed.

Key people within ACC and the Department of Labour will be made available to the consultant(s) as appropriate and necessary, for interviews or as part of a group consultative process. Meetings with key people in central agencies may also be required.

Budget

The overall budget will be overseen by the steering group.

The budget for undertaking specific pieces of work and for individual parts of the project will be agreed with the consultant(s) through the initial procurement process and on confirmation of the approach.

Payments will be phased according to delivery of the main pieces of work and meeting of time and quality performance measures as agreed between the parties.

Communications

The Stocktake steering group will ensure relevant parties are kept informed about progress with the Stocktake as necessary and as the Chair deems appropriate.