

Submission on A New Zealand Income Insurance Scheme

Your name and organisation

Name	Kirsten Windelov
Organisation (if applicable)	New Zealand Public Service Association Te Pūkenga Here Tikanga Mahi
Contact details	Privacy of natural persons

Responses to consultation document questions

Chapter 4 – How a new income insurance scheme could achieve our objectives (Pg 30-48)

The Forum considers the benefits of income insurance for job loss due to displacement or health conditions would outweigh its costs.

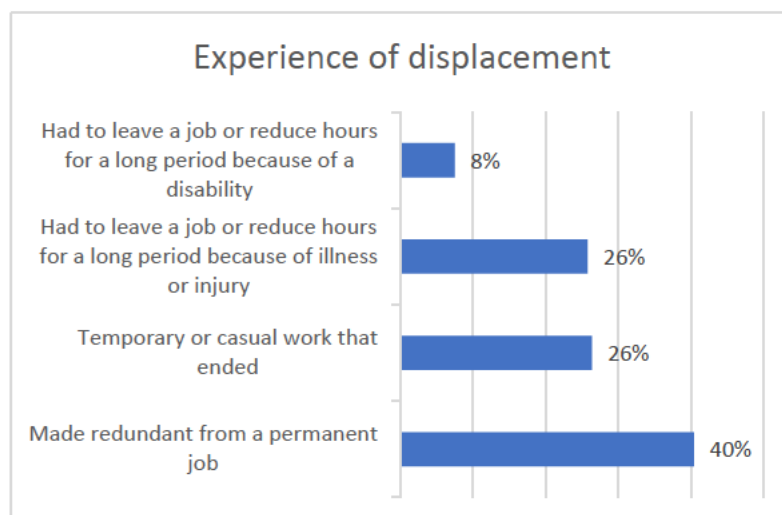
1

Do you agree New Zealand should introduce an income insurance scheme for displacement and loss of work due to health conditions or disabilities?

Yes. This will close a big gap in our social safety net for workers who lose their jobs or have to reduce their hours because of redundancy, illness or disability.

The PSA represents over 80,000 people working in all parts of the country. We have been representing public and community sector workers for 109 years and over this time several hundred thousand of our members have been made redundant. This has had a significantly negative effect on their lives and the impacts have been felt by their families sometimes for generations.

As part of preparing our response to the consultation we invited PSA members to complete a survey about the proposal and about their experience of the loss of jobs or hours due to redundancy, illness or disability. 515 people responded. The chart below shows that experience of displacement for reasons within the scope of the proposed scheme is common. Please note that the figures in this chart add to more than 100% as some people had experienced more than one type of displacement:



In comments provided to this part of the survey, people reported the impacts of this including extreme stress and anxiety about insecurity of income and ongoing mental health impacts such as depression. Some reported no personal experience but then commented on the experience of partners and wider family and the impacts this had across the family.

This scheme is urgently needed. People made redundant are most likely to take lower paid and less skilled work – because they just need work. This has long term negative consequences for individual, whānau and community income and health.

This proposal will help create more equitable outcomes: The people most likely to be made redundant are those already disadvantaged in the labour market and wellbeing outcomes - Māori, women, Pacifica, disabled and younger workers, all of whom are more likely to be in lower paid and insecure work.

The proposed scheme will also play a really important part of ensuring a just transition for people whose work is impacted by climate, technology or other change. We know that over the coming years as our society transforms to a low-emissions one, some industries are going to wind down while others start up. A social insurance scheme will give workers security and space to retrain, upskill and transition into good quality, sustainable jobs. It will support better industry level workforce and skills coordination and planning, which will also benefit businesses and regional and the national economy.

This is a new and welcome addition to our social safety net in Aotearoa. Our social safety net – our way of looking after each other – has evolved significantly over the last century. Some of what we have works well, but some of does not and keeps people in poverty. It's time for this to change.

Benefit levels need to be increased but more and, perhaps more fundamental, change is needed. To work for everyone, our social safety net needs to:

- Provide income support that is not just livable but that enables individuals and communities to thrive
- Be equitable, integrated and support people at each of the different stages of their lives, whether they are children, parenting, on parental leave, in training, out of work or needing more work, injured, living with disability or illness or they are over 65.
- Be supported: Having a strong welfare system and wider social safety net is in all of our interests and makes us stronger as a country – it's not just something for "others"
- Be reliable – people's access to essential supports shouldn't depend on politics. We support a social safety net with:
 - Rates of income support being set by an independent process and its rules and funding being better protected so it can't be easily diverted to other political priorities.
 - Embedded in its purpose the interests of those supported (and whānau, communities); and
 - Governance including the people it supports - disability reps, worker reps and employer reps, and genuine co-governance by Māori.
 - Active support offered that is seamless with other public services and with the skills system.

2 *How can we ensure the proposed income insurance scheme honours Te Tiriti o Waitangi?*

Te Rūnanga o Nga Toa Āwhina represents the over 10, 000 Māori members of the PSA and has provided the responses to this part of the submission.

Our Māori members believe that the scheme should explicitly state it will uphold Te Tiriti in the governance structure, it's development and in its operational delivery.

Māori must be included in the development and the ongoing governance of the proposed income insurance scheme to ensure it honours Te Tiriti and that Te Tiriti is promoted, and its principles followed in this important mahi.

The governance structure of the scheme must include co-governance with Māori as well as with workers and business. The design of the scheme, and when in place its operation, should reflect the principle of partnership with Māori and with workers.

3 *What are the opportunities for partnership and Māori representation in the proposed income insurance scheme's governance and operations?*

In this respect, the PSA - Te Pūkenga Here Tikanga Mahi and, in particular, Te Rūnanga O Nga Toa Āwhina have a desire to awahi this body of work to ensure that it reaches its desired outcomes. We have a substantial Māori membership with a broad range of vocational experience covering a range of sectors, industries and public service organisations across Aotearoa.

We have a great desire to ensure that not only people are treated fairly within the confines of work but extending to the cessation of work also. For this we can offer our highly skilled and experienced members and kaimahi to assist in ensuring partnership and Māori representation to achieve governance and operational excellence for this scheme.

The governance structure of the scheme must include co-governance with Māori as well as with workers and business.

The design of the scheme should be developed in partnership with Māori, workers and business. It should reflect tikanga Māori, which should be both design principles and the values by which the scheme is operated.

How ACC as the agency that delivers the scheme conducts itself as an employer is also key. As a Crown agency it will have a responsibility under the Public Service Act 2020 (s14) to develop and maintain the capability to engage with Māori and understand Māori perspectives; it will also need, in both its leadership strategies and employment policies, to recognise the aims and aspirations of Māori; the employment requirements of Māori and the need for greater involvement of Māori in the Public Service (s73). The PSA Te Pūkenga Here Tikanga Mahi is the union for workers at ACC and Te Rūnanga o Ngā Toa Āwhina, the Māori structure of the PSA, would expect to be approached by the agency to partner with it to develop employment strategies and policies that give effect to its obligations under Te Tiriti.

The scheme will be delivered both directly by the agency and by contracted providers. While the legislation establishing the scheme can include obligations for the agency in terms of partnership and Māori representation in the scheme's governance and operations, these will not apply to contracted providers. We recommend both that:

- The legislation establishing the scheme require the agency to operate a procurement policy that requires providers to include:
 - o Partnership and Māori representation in their governance and operations; and

- o Operation of an employment policy that: develops and maintains the capability of the organisation to engage with Māori and understand Māori perspectives; and recognises the aims and aspirations and the employment requirements of Māori.
- That the Government's Procurement Rules also be amended to include these requirements.

4

How can we ensure equity of access, participation, and outcomes for Māori in the proposed income insurance scheme?

As in our responses above, Māori must be included in the development and the ongoing governance of the scheme to ensure equity of access, participation, and outcomes for Māori.

The Rūnanga has also discussed the need to ensure fairness for Māori being part of the scheme given the relatively higher impact of access (such as fees) on Māori workers given that the majority are on lower wages.

These issues, relevant to Māori, also needs to be acknowledged, supported and reflected in the operation and delivery of the scheme and those who will be tasked to deliver it.

Similar to Local Government, it is necessary that the agencies tasked to deliver and operate this scheme have metrics and strategic plans that uphold Te Tiriti internally when aligning with the delivery focuses of a scheme the promotes Te Tiriti, "Māori participation and partnership", in its governance structure.

Our Māori members believe It would be helpful for delivery agents to highlight the importance of "the scheme's" aspirations, and how they will incorporate Te Tiriti with a 360 Te Ao lens in the operational space.

Capability of both the agency, and its workforce, will be key. The agency will be responsible for ensuring it has the necessary capability to engage with Māori and understand Māori perspectives. A robust workforce strategy will be needed to create the workforce needed. The PSA, including Te Rūnanga o Ngā Toa Āwhina is best placed to partner with the agency to design the necessary workforce strategy.

5

How can we reflect and embed te ao Māori in the proposed income insurance scheme's design?

The scheme can embed and reflect te ao Māori by ensuring opportunities for partnership and Māori representation in the scheme's governance, development and review, to ensure it honours Te Tiriti and that Te Tiriti principles are promoted.

By way of example, the PSA's values of Ngā Kaupapa does just this. These are instruments of our behaviours and attitudes as a union body that honours and promotes Te Tiriti and its principles. The Ngā Kaupapa principles are universal to Māori and can be applied to any situation.

We believe that the scheme's design 'should be prioritised to support the most vulnerable 'Māori'. The design must be on purpose and must lead to the mana enhancing value that will assist the people most affected by job loss through no fault of their own.

The following is an example of agreement reached by us with the Ministry of Education for this kind of purpose:

The Ministry and the PSA are committed to upholding the application of Ngā Kaupapa o Te Rūnanga o Ngā Toa Awhina PSA and the Principles of He Huarahi Pai MoE. The Ministry acknowledges Ngā Kaupapa and the Principles are expressed through the following clauses, will be actively applied into practice.

To this end:

- *Ngā Kaupapa and the Principles will be applied according to their Te Ao Māori meaning, as detailed in Section 2 of this collective.*
- *The Ministry will ensure Managers understand the significance of Ngā Kaupapa and the Principles to Te Tāhuhu and Te Mahau.*
- *The Ministry undertakes to aid Managers to apply Ngā Kaupapa and the Principles into practice according to their cultural significance.*

The design of the scheme should be developed in partnership with Māori, workers and business. It should reflect tikanga Māori, which should be both design principles for the scheme and the values by which the scheme is operated.

Chapter 6 – Coverage for displaced workers (Pg 53-72)

Displacement and standard employment (full- and part-time permanent employees)

6 *Do you agree with defining displacement as the involuntary loss of work due to the disestablishment of a job?*

We do not support this. Voluntary loss of a job should also be covered. Both because this may still be a genuine redundancy and because this may disincentivise workers from taking the opportunity to proactively leave a “sunset” job and access active labour market policies including access to retraining in work that both provides them with more sustainable access to income and industry and employers with access to skills needed for the future.

7 *Do you agree with excluding poor performance and gross misconduct as reasons for claiming insurance?*

This is an importing of outdated punitive approaches that work against the overall aims and wider benefits of the scheme. Poor performance can be the result of many factors and if an employer has not provided adequate support or systems to address performance then this is added reason for the employee to have access to case management to provide this, with benefits to the worker of help to find work and so a secure income, and benefits to employers and industry of access to much needed skills.

8 *Do you agree with excluding resignation as a reason for claiming insurance?*

We do not agree with this.

There would appear to be an assumption that workers would see it as desirable to resign and become dependent on the State for their income – this could be interpreted as an extension of some of the assumptions behind the design principles still embedded in our welfare income support system including an assumption that people who leave jobs are negatively motivated to work.

Historically (and politically) it has been seen as necessary to include a punitive response to someone voluntarily leaving a job, based on this assumption. However, because of the disproportionate number of Māori, women and younger people receiving income support, it could be argued that these assumptions, which result in discriminatory outcomes for these groups, are strongly influenced by negative bias.

Such assumptions have no place in a system being established to support more equitable outcomes. We note that in European countries, it is very common instead to have those who voluntarily leave their jobs also covered by first-tier unemployment insurance benefits after a fixed initial period of ineligibility (usually some weeks). It is seen as most efficient to have this

group who is looking for a new job also included in the social insurance system that is deemed closer to the labour market. In fact, voluntarily quitting a job in order to find a more suitable/more fulfilling job can in the longer run also have an economic and societal rewards and value.

Coverage provided for complete job loss only

9 *Do you agree that income insurance should cover only the complete loss of a job, and cover situations where a person loses only one of several jobs that they hold?*

We support the inclusion of coverage for those with multiple jobs.

We do not support limiting cover to total displacement.

Limiting cover to only when there is complete loss of a job would leave some people in significant hardship – particularly those on lower pay and people who are already working one part-time job but wanting and needing more hours to cover their costs.

If someone working full-time on the minimum wage is “partially displaced”, for example by losing 20% of their hours, they will severely struggle and likely be forced to find an additional part time job. Limiting coverage to total displacement risks an unintended consequence of increasing the number and proportion of workers holding multiple part time jobs. And these workers would presumably be paying the full levy but not benefiting from the scheme.

As the discussion paper points out, this will be discriminatory in effect as women and younger workers will be disproportionately disadvantaged. It also risks incentivising undesirable employer behaviour such as choosing to reduce people’s hours, rather than make them redundant so as to avoid paying the bridging payment or any redundancy.

10 *Do you agree that insurance would be payable only where income loss was greater than a minimum threshold, such as a 20 percent loss of total earnings, counting income from all of their jobs?*

Displacement and non-standard employment – a principle-based approach

11 *Do you agree that it is important to provide income insurance coverage to non-standard workers, where practical?*

Yes, this is fundamental to fairness. In our survey of PSA members, 3 out of 4 respondents said this was important. Comments provided in response to this part of the survey included: “It would be beneficial to ensure these types of workers are covered as some employers use these contracts to reduce their costs, and some workers I know struggle because of this.”; “Contractors already have a horrible deal in many industries where this type of employment is used to avoid paying sick leave, stat days etc (e.g. fitness industry). These are all vulnerable employment types and it is very important that they have protection under the scheme as they have so little protection built into their contracts already.”

Excluding non-standard work from coverage would incentivise engaging workers through these less secure forms of work so as to avoid the costs of the scheme. This would also mean that the workers concerned, and employers and industries, would not benefit from the much needed retraining and skills redistribution aspects of the scheme.

12 *Do you agree that income insurance should cover the 'loss of reasonably anticipated income'?*

This sounds reasonable. Analysis of the uptake of the COVID wage subsidy scheme might provide useful insight in relation to this.

13 *Do you agree that income insurance entitlements should be based on an 'established pattern of work'?*

This sounds reasonable. Analysis of the uptake of the COVID wage subsidy scheme might provide useful insight in relation to this.

Coverage provided for fixed-term and seasonal employees

14 *Do you agree that income insurance should cover fixed-term and seasonal employees if they are displaced before the end of an employment agreement, with the duration of the payment running to the scheduled end of the employment agreement, or the maximum insurance entitlement duration, whichever is shorter?*

Yes. Consideration will be needed of the situation where a worker does not have an employment agreement.

15 *Do you agree that income insurance should cover fixed-term and seasonal employees, where their employment agreements are not renewed, and they can show a regular pattern of work and reasonable expectation of future income?*

Yes. This will provide opportunities for re-training for a future seasonal job opportunity therefore contributing to a just transition and mobility of workers while ensuring income.

Coverage provided for casual employees

16 *Do you agree that income insurance should cover casual employees who can show a regular pattern of work with an employer and a reasonable expectation of future income?*

Yes. Although this may also provide evidence that the worker is in fact employed on an ongoing basis, rather than a casual one.

17 *How would these design choices work in practice? What risks can you see with the approach to establishing a regular pattern of work?*

In order to avoid casual workers being reclassified as permanent, or to benefit from the scheme, employers may be incentivised to create gaps in employment that would be to the detriment of workers.

Coverage for self-employed workers

18 *What risks do you see with covering, or not covering, people in self-employment?*

In principle, self-employed workers should be treated the same as standard employees under an income insurance scheme. A scheme that covers all workers, regardless of what their prior employment was, would ensure everyone receives the benefits of the scheme.

Under the current regulatory regime in New Zealand many self-employed people are disproportionately vulnerable, particularly those who are dependent contractors. Not covering

self-employed people might incentivise employers to encourage self-employment where people are genuinely employees.

19 *Are there some groups of self-employed who should and should not be covered?*

We support the Forum's view that the scheme should provide full cover self-employed workers who most resemble employees, such as those with a small number of clients; and that it should provide cover loss due to disability or health conditions for all self-employed workers.

The safety net provided by the scheme in relation to income loss due to health conditions and disability would be a significant benefit for self-employed people: Private personal income insurance is expensive and many schemes exclude or limit coverage for loss of income due to disability and health conditions and in particular mental health conditions. A recent investigation by Consumer discusses this: <https://www.consumer.org.nz/articles/are-insurance-policy-exclusions-for-mental-health-unfair>

20 *How can we practically distinguish between contractors who resemble employees, and those with a high degree of independence?*

This is something that needs to be better addressed by legislation, and we understand that this is under development. This clarification is necessary and urgent: It should not be left to the income insurance scheme to make potentially precedent setting decisions about whether or not someone is an employee, a dependent contractor or an autonomous self-employed contractor.

21 *Because a self-employed person cannot technically be made redundant, what types of events would be appropriate 'triggers' for insurance payments?*

Analysis of the uptake of the COVID business support schemes might provide useful insight in relation to this.

22 *How do you think the levy should be collected from self-employed workers?*

In the same way as ACC levies.

A modest minimum contribution period

23 *Do you agree with the proposed minimum contribution period of six months over a period of 18 months preceding the claim?*

We support this approach. Taking this approach means that workers who cycle through short term low paid work (most likely to be younger workers) and part time work (most likely to be women) will still be able to be covered. This is a significant improvement on the design of many of the European social insurance schemes. It is a criticism of some of the European social insurance schemes that eligibility based on days or hours worked excludes more marginally employed workers and therefore creates a regressive effect overall, including through limiting women's financial independence as women with children whose partners are working are more likely to be trapped in substandard employment with little possibility of advancement or improving their income.

Limits on subsequent claims

24 *Do you agree limits should be placed on the number claims people can make?*

This could create significant hardship if someone genuinely experiences repeated displacement. If the concern is to reduce opportunities for abuse, this could be balanced by including an ability for someone who has genuinely experienced repeated displacement to apply for an exemption from the limit.

25

Do you agree with limiting claims to a total of six months within an 18-month period?

This could create significant hardship if someone genuinely experiences repeated displacement. If the concern is to reduce opportunities for abuse, this could be balanced by including an ability for someone who has genuinely experienced repeated displacement to apply for an exemption from the limit.

26

Could the risks associated with a low contribution history be managed in other ways?

Coverage for New Zealand citizens and residents

27

Do you agree with limiting coverage of the proposed income insurance scheme to New Zealand citizens and residents?

No. This proposal will create inequitable outcomes for workers on temporary visas and incentivise undesirable practices which increase their vulnerability.

28

To ensure New Zealand workers are not disadvantaged by lower cost international workers, do you agree that working holiday makers, international students and temporary work visa holders – and their employers – should contribute to the proposed income insurance scheme's costs?

This proposal will create inequitable outcomes for workers on temporary visas and incentivise undesirable practices.

Workers on temporary visas will pay the full levy but get no benefit from This. Bad employers may be incentivised to make these workers redundant over other workers as they will not have to pay the redundancy payments or paid notice required by the scheme.

In addition, if these workers are illegally made redundant (or their hours reduced or job lost because of illness or disability) then they will be less likely to challenge this as they will have to either leave the country before they are able to do so or will be worried about their job reference for another job to get another visa.

The reality is that people on temporary visas without a right to remain are strongly incentivised to find another job that will allow them to remain in the country – so even though migrant workers do in fact remain in the country, they will not qualify for the payments under current proposal.

We think there are other, better options for dealing with the concern about incentivising the employment of temporary workers over workers with a right to remain. For example

- *Option one:* (Not our preferred option) Where a worker is on a temporary visa they can not benefit from the scheme but their employer still pays the levy. The worker does not pay the levy. This deals with the rationale of avoiding incentivising employers to employ workers not covered by the scheme (such as temporary visa holders) because that would

be cheaper. This is not the preferred option as the worker still does not get the same protections (scheme coverage) as other workers.

- *Option two:* (Our preferred option) Instead of eligibility for coverage by the scheme being tied to a worker's "right to remain", this is tied to "as long as they remain" in the country. It is Immigration New Zealand's job to decide whether someone can stay in the country – not the income insurance scheme. So workers on temporary work visas and their employers pay the levy and then if that worker is then genuinely made redundant or has their hours reduced because of illness/disability etc then their employer would pay them the statutory redundancy and notice and they would receive support from the scheme for as long as they remained in New Zealand. Under this option, if such a worker is illegally made redundant etc then they will be much better placed to challenge this and bad employers will be disincentivised from doing this.

Another option, which is a feature of some schemes in other countries, is that any worker who pays into the scheme and then leaves the country can claim back their contributions. We wouldn't support this option as the evidence is that it is rare for workers to do this as they face many barriers to completing the necessary processes – and that this results in the emergence of businesses that do this on workers' behalf and take a substantial cut of the worker's entitlement.

Chapter 7 – Entitlements for displaced workers (Pg 73-95)

Income caps and income replacement rates that match the accident compensation scheme

29 *Do you agree with a replacement rate set at 80 percent?*

This could create significant hardship for lower paid workers. We recommend creating a minimum threshold under which there would be an abating replacement rate up to 100%.

30 *Do you agree with a cap on insurable (and leviable) income set at the same rate as the accident compensation scheme (currently \$130,911)?*

Yes.

Only personal exertion income would abate (reduce) insurance entitlements

31 *Do you agree that only the insurance claimant's personal exertion income should affect their insurance entitlements?*

32 *Do you agree that income insurance should have individualised entitlement, meaning a partner's income would not affect the rate payable?*

Yes. This is necessary in particular to ensure financial independence of women.

Abatement rates would ensure a claimant is not financially better off as a result of their loss of work

33 *Do you agree that someone should be able to earn some income from paid employment before it affects their entitlements to income insurance?*

Yes

34

Do you agree that insurance should abate 'dollar for dollar' when earned income and insurance combined reach 100 percent of previous income?

Insurance would generally be treated as income, to determine eligibility for welfare and student support

35

Do you agree that insurance should be treated as income for assessing eligibility for income support such as main benefits and Working for Families tax credits and student support?

Yes

36

Given the purpose of the In-Work Tax Credit and Minimum Family Tax Credit in encouraging people into employment and helping with in-work costs, do you agree that income insurance claimants would not be eligible for these tax credits?

Insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension

37

Do you agree that income insurance claimants could also receive New Zealand Superannuation or the Veteran's Pension?

Yes

38

Do you think a limit should be placed on the amount of time someone can receive New Zealand Superannuation or the Veteran's pension and income insurance?

Where eligible, insurance claimants could choose whether to access Paid Parental Leave or income insurance and may receive both sequentially

39

Do you agree that income insurance and Paid Parental Leave could be accessed sequentially but not at the same time?

It is important to bear in mind that this will mean that those on parental leave (currently most likely to be women) will not be able to access support to find a new job until their entitlement to parental leave finishes. This is undesirable as this transition point back to work is a very vulnerable time for workers and a time when they often need access to reduced hours or other

forms of flexible working, which make them less desirable as employees. Paid parental leave is also well below the minimum wage so this will be happening at a time when the family will have been at a reduced and low income for some time, and are likely to have significant need of additional income. The worker taking parental leave may also have had to reduce their hours before going on parental leave. If this is the case, then they would receive only 80% of that reduced pay packet. This would put them under increased financial pressure. Such workers should be paid at the rate they were receiving 9 months before the date on which they took parental leave.

Insurance claimants could also receive ACC weekly compensation where it covers a different income loss

40 *Do you agree that claimants should be able receive both ACC weekly compensation and income insurance at the same time for differing income loss subject to independently meeting the eligibility criteria for both?*

Yes

A sufficient base entitlement period

41 *Do you agree with a base insurance entitlement length of six months, plus a four-week bridging payment paid by the employer?*

Yes

42 *Would you support a longer or shorter length of base insurance entitlement?*

Extending the maximum period in specified circumstances

43 *Do you think the scheme should allow extensions to the base period of income insurance entitlements for training or vocational rehabilitation?*

Yes, this may have significant benefits for the worker, employers and industries and the economy.

Enhancing the income insurance scheme with notice periods

44 *Do you agree that employers should give at least four weeks' notice to employees, and the insurer, before redundancy takes effect?*

Yes.

Avoiding unnecessary redundancies

45 *Do you agree that employers should pay former workers for the initial period of unemployment for four weeks?*

Yes

46 *Should bridging payments be applied to all workers, including those not eligible for income insurance?*

Yes

47 *Should the income insurance scheme finance bridging payments in circumstances where the payments are not forthcoming from employers, and refund employers for bridging payments if workers find work within this period?*

48 *Do you consider that stronger integrity measures are necessary to manage the risk of spurious claims to the income insurance scheme?*

Chapter 8 – Coverage and entitlements for loss of work due to health conditions or disabilities (Pg 96-112)

No restrictions on the types of conditions covered by the income insurance scheme

49 *Do you agree there should be no restrictions on the types of conditions covered by the scheme?*

In preparing our responses to Chapter 8, the PSA Deaf and Disability Network surveyed its members. There was strong support for coverage and entitlements for loss of work due to health conditions or disabilities. 96% of those who responded supported that there should be no restrictions on the types of conditions covered by the scheme. As one respondent commented “This is important for the whole point of the scheme which sets it aside from ACC. It either covers all conditions or it is not worth doing.” Respondents commented on the need to avoid creating a hierarchy of conditions.

In particular we support full coverage of mental health conditions. This is warmly welcomed. This is an area not widely covered by private income insurance and excluding this would have a discriminatory effect.

No restrictions on the working arrangements covered by the scheme

50

Do you agree that all work arrangements should be covered (assuming other eligibility criteria are met)?

Yes. In our survey of the PSA Deaf and Disability Network, 98% of respondents supported this. Respondents' comments included that this is important for the overall fairness of the scheme and that no form of working arrangement should be discriminated against. It was also commented that employers should cover the cost of any independent medical exam required in addition to the employee's health practitioner.

Coverage for loss of at least 50 percent of capacity to work, for at least four weeks

51

Should the scheme cover partial loss of earnings due to a health condition or disability reducing work capacity?

96% of respondents to the PSA Deaf and Disability Network survey supported this. Comments included that "this would be huge help I am sure"; "Many chronic illnesses affect someone's ability to work full time thereby reducing their income significantly which further reduces their quality of life and contributes towards poverty."; "Many families are having a rough time financially and even a short period of incapacity can cause financial hardship, not to mention the added costs of an event".

52

If partial loss is to be covered, do you agree claimants should have at least a 50 percent reduction of capacity to work caused by a health condition or disability and that reduction is expected to last for at least four working weeks?

50% is too high a threshold. Respondents to the PSA Deaf and Disability Network survey noted that even a 10% loss of earnings can place significant pressure on individuals and families, especially where people have found it hard to find suitable work – which is common for many with disabilities. With a threshold this high there is a risk of incentivising people to return to work at 100% too early and putting their full recovery at risk.

Claimants' medical practitioners would assess work capacity, with final eligibility assessed by the scheme administrator

53

Do you agree that the claimants' health practitioner should be main the assessor of work capacity?

54

Do you agree that, where appropriate, employers could provide supporting information to inform the claimant's work capacity assessment process?

Employers would remain responsible for taking reasonable steps to support an employee to continue working

Are the current requirements on employers to make workplace changes sufficient to allow health condition and disability claimants to return to their regular employment (or alternative work)?

4 in 10 respondents to the PSA Deaf and Disability Network survey think current requirements are insufficient. Comments provided include: "An employer only needs to consider recommendations, they are not currently legally obligated to implement those recommendations to assist their employee in returning to work. I have seen a colleague bullied to resign because the employer would not implement the recommendations from her ACC case manager and doctor/physio etc."; "Employers tend to come back to 'budget restrictions' and words alike that limit the amount they are able to put towards support for returning to work."; "Employers would need better support to make their workplaces accessible for a return to work. This means more funding would be needed to engage rehabilitation type services to support employers with this process."; "In my experience getting employers to provide reasonable accommodations can be time consuming. Not only for the initial approval (can be weeks) but also in fielding the agreed accommodation (for example getting equipment or software asked for) may take months to years (in my case after 3 years of trying to get the software running properly on my computer I gave up)"; "It is a lot to expect employers to cater for employee's health conditions and disability needs, however it's important for them to. There is a risk that employers would not employ people with extra needs."

How could employers be supported to help workers with health conditions or disabilities to remain in or return to work?

Respondents to the PSA Deaf and Disability Network provided the following comments:

- Implement legislation where employers are legally obligated to implement recommendations from any scheme's case workers and employee's health professionals. This makes it clear to the employer what is required for their employee. - 2. Include an employer rep (HR rep or Manager) in the case management of the worker, i.e. set meetings and correspondence that include the worker, case manager and employer. That way the employer is included and becomes part of the solution in agreeing to assist the employee.
- By listening to their needs, making sure the workplace is safe, even though it can be a client's home, and the clients' needs aren't extra stuff, that you weren't told about. And expected to do.
- Collaborate in regards to any restrictions/boundaries the worker has come across, find best solutions
- Educating employers
- Engage with external agencies for support
- Extra supports needed to help with this should be provided by the government. not all employers have the means or knowhow to make such changes
- Flexible working - Preparation ahead of time for those with existing conditions - Meeting with the staff member ahead of time to assess their needs and how they can support them - Consideration about workload - when I returned to work on 18 hours (from 40 hours) only one work task (less than 2 hours per week of work) was taken from me. As a manager I am expected to make arrangements for my staff member's workload, but my manager did not do the same for me so I had to do all of the work bar one task.
- Flexible working spaces. Office and WFH. - Equipment needed to do their job properly. - Managing workload with persons disability capabilities.

- Give employer a subsidy/incentive for doing so.
- Good clear communication by all
- Good question, depends on the job and the injury or illness
- Guidance on access to technology and assistive devices
- Hybrid working conditions to be the norm not the exceptional
- If the scheme or another provided ready access to suppliers of accessibility equipment for employers to go out and get it without issue that would be great. Also after market support is another important thing if issues arise like software not integrating well with the employers existing systems. May be these could also be provided/supported by the new Ministry for Disabled People?
- It is employer's responsibility to ensure that their employees and well-beings are okay in the workplace.
- Like ACC has a return to work programme, same sort of principle, the employer and employee work together with external agencies to ensure the employee receives a plan/programme that takes into account what they are able to do, provides the equipment that is needed and the hours the person can work. If appropriate the hours start out small and build up.
- Making the first move
- More emphasis and communications to employers on the benefits of hiring people with varying needs. - More financial incentive? Allow businesses to claim a certain amount of expenses required to make a workplace more accommodating to people with needs?
- My boss was supposed to organised NZ Sign Language class for the staff to learn about deaf way and some signs however he has never got around to it. He did email to a NZSL tutor which is a friend of mine and said that he did not bother to reply to her email message.
- Regular check up
- Rehabilitation services such as Workbridge should be funded to work with employers to support them to better support workers return to work
- Somewhere they could go to find out information on the health condition or disability to help them become better informed
- Surely this would be different for individuals.
- The requirements on employers should be doubled down to make them either pay to remove the workers employment (be it a year or two's salary) or absolutely provide the assistance necessary for the worker to remain in place. - - This assistance funding could be provided by an outside group that would fill in the more extreme supports, but other things that could be provided to all employees regardless of health/disability should be a minimum requirement to be funded from the employer, like chairs/stools for sitting at a checkout in the supermarket (screw standing all day, they deserve to be able to choose to sit or stand as they want)
- They don't need to be supported to help us. They just need to drop the prejudice, realise we are valuable, and stop looking for reasons to sack us.

Employers would be expected to make reasonable efforts to keep a job open where a return to work within six months is likely

57

Where an employee must stop work entirely because of a health condition or disability, do you think employers should be expected to keep a job open and help with vocational rehabilitation where a reasonable prognosis is made of return to work within six months?

98% of respondents to the PSA Deaf and Disability Network survey supported this, some pointing out that employers already understand and have systems set up for this as parental leave is job protected.

58

Should this be a statutory requirement placed on employers or an expectation?

92% of respondents to the PSA Deaf and Disability Network supported a statutory requirement. Comments provided included: "Statutory. If the employer has an expectation then the norm will just be to get rid of the individual for the sake of profit. It needs to be enforced the same as a minimum wage is enforced so that employers can't just do the bare minimum they think is suitable...."

The scheme would generally meet the full cost of income replacement once a claim is accepted

59

Do you agree that employers should only pay a bridging payment to employees leaving work because of a health condition or disability when the employment is terminated by the employer?

44% of respondents to the PSA Deaf and Disability Network survey did not agree with this. Comments provided include: "Yes - if the employee is unable to return to their job. However, if the employer is successful at keeping the job open for the employee and makes reasonable adjustments to enable the employee to come back to work, then the bridging payment should be refunded. This will be a win for the employer and a win for the employee."; "There needs to be substantial evidence that all avenues were tried. there needs to be significant proof that there is no way the employee can do any role at all especially if it is not the employee who has identified a difficulty in doing the work. There needs to have been mentoring etc, everything must have been tried."

Chapter 9 – Insurance claimants' obligations (Pg 113-120)

Reasonable obligations for people receiving income insurance payments

60

Do you agree claimants should be obligated to look for work or prepare to return to work while receiving insurance?

61

Do you agree that claimants would not be expected or required to accept offers of employment that provide lower wages or conditions?

Yes, this is a problem the scheme should be designed to avoid. If this was required it would impact disproportionately negatively on those already disadvantaged in the labour market.

62

Do you agree the insurer could waive obligations partially or fully where a claimant is unable to meet those obligations?

63

Do you agree claimants should be obligated to remain in New Zealand to remain eligible for income insurance?

Yes, with the exception that a period of time should be allowed for travel overseas to carry out family obligations.

64

Do you think a period of time, such as 28 days, should be allowed for travel overseas, for example, to support ill family?

Yes. Not to do this would disproportionately negatively impact on women.

Specific obligations for claimants with a health condition or disability

65

Should claimants with health conditions or disabilities be subject to obligations to participate in rehabilitative programmes and other support, where appropriate?

66

Should claimants with health conditions and disabilities be subject to obligations to search for work or undertaking training where they are able to?

Consequences for non-compliance

67

Do you think financial penalties should be in place for people who do not meet their obligations while receiving insurance payments?

68

Do you agree that payments could be fully suspended in cases of serious, intentional non-compliance with obligations?

69

Do you think any other consequences should be in place for people repeatedly not meeting their obligations, such as permanent suspension of entitlements?

Chapter 10 – Delivering income insurance (Pg 121-134)

Independent and effective delivery

70 *Do you think it is best for ACC to deliver the income insurance scheme alongside the accident compensation scheme?*

Yes, ACC has experience in administering social insurance. We note the matters raised about this in the submission of the ACC Futures Coalition.

71 *Would the income insurance scheme be better delivered by a government department or a new entity?*

ACC should be able to deliver the scheme without the need for a new entity. However, change in culture will be needed to ensure a truly public good approach is taken, rather than a commercial insurance model followed. The governance of the scheme will play an important part in achieving this.

Accountable and effective governance

72 *How could employer and worker perspectives best be incorporated to strengthen the income insurance scheme's delivery for New Zealanders?*

We strongly support the proposed tripartite and Māori governance of the scheme. In our survey of PSA members' views about the scheme, 91% said worker involvement in the governance of the scheme was important.

73 *How could Māori perspectives best be incorporated to ensure the income insurance scheme is delivered equitably and with aspiration?*

Te Rūnanga o Ngā Toa Āwhina represents the over 10, 000 Māori members of the PSA and has provided the responses to this part of the submission.

Our Māori members believe that the scheme should explicitly state it will uphold Te Tiriti in the governance structure, it's development and in its operational delivery.

Māori must be included in the development and the ongoing governance of the proposed income insurance scheme to ensure it honours Te Tiriti and that Te Tiriti is promoted, and its principles followed in this important mahi.

The governance structure of the scheme must include co-governance with Māori as well as with workers and business. The design of the scheme, and when in place its operation, should reflect the principle of partnership with Māori and with workers.

The PSA - Te Pukenga Here Tikanga Mahi and in particular Te Rūnanga O Nga Toa Awhina have a desire to awhi this body of work to ensure that it reaches its desired outcomes. We have a substantial Māori membership with a broad range of vocational experience covering a range of sectors, industries and public service organisations across Aotearoa.

We have a great desire to ensure that not only people are treated fairly within the confines of work but extending to the cessation of work also. For this we can offer our highly skilled and

experienced members and kaimahi to assist in ensuring partnership and Māori representation to achieve governance and operational excellence for this scheme.

The governance structure of the scheme must include co-governance with Māori as well as with workers and business.

The design of the scheme should be developed in partnership with Māori, workers and business. It should reflect tikanga Māori, which should be both design principles and the values by which the scheme is operated.

How ACC as the agency that delivers the scheme conducts itself as an employer is also key. As a Crown agency it will have a responsibility under the Public Service Act 2020 (s14) to develop and maintain the capability to engage with Māori and understand Māori perspectives; it will also need, in both its leadership strategies and employment policies, to recognise the aims and aspirations of Māori; the employment requirements of Māori and the need for greater involvement of Māori in the Public Service (s73). The PSA Te Pūkenga Here Tikanga Mahi is the union for workers at ACC and Te Rūnanga o Ngā Toa Āwhina, the Māori structure of the PSA, would expect to be approached by the agency to partner with it to develop employment strategies and policies that give effect to its obligations under Te Tiriti.

The scheme will be delivered both directly by the agency and by contracted providers. While the legislation establishing the scheme can include obligations for the agency in terms of partnership and Māori representation in the scheme's governance and operations, these will not apply to contracted providers. We recommend both that:

- The legislation establishing the scheme require the agency to operate a procurement policy that requires providers to include:
 - o Partnership and Māori representation in their governance and operations; and
 - o Operation of an employment policy that: develops and maintains the capability of the organisation to engage with Māori and understand Māori perspectives; and recognises the aims and aspirations and the employment requirements of Māori.
- That the Government's Procurement Rules also be amended to include these requirements.

Displaced workers: Getting back to good jobs

74 *What practical support should be available to insurance claimants to return to work?*

75 *Who should provide that return-to-work support?*

76 *What type of claimants would need an employment case manager, and who could self-manage?*

77 *What do you think a 'return-to-work plan' should include?*

Health condition and disability claimants: Getting back to good jobs

78 *What practical support should be available to income insurance claimants with a health condition or disability to return to work?*

79 *Who should provide that support to return to work?*

80 *What type of claimants would need a case manager, and who could self-manage?*

Dispute resolution

81 *Do you agree with the proposed four-step dispute resolution process for the scheme?*

82 *Are there specific aspects to the scheme's dispute resolution you think should be considered?*

Scheme integrity and enforcement

83 *Do you agree with the proposal to establish an effective offences and penalties framework to protect the scheme's integrity?*

Information collection and sharing

84 *Do you agree with the proposal to develop information sharing agreements and sharing arrangements with employers, other agencies and service providers?*

Yes, on the basis that scheme members and those working to administer the scheme are consulted in the development of information rules relating to this.

Chapter 11 – Funding income insurance (Pg 135-144)

Most funding would come from compulsory levy payments on income

85 *Do you agree the income insurance scheme should be funded from compulsory levies on the income that is insured, rather than from general taxation?*

Yes, this would socialise the cost of the scheme for lower paid workers and would mean that those not in work and so who cannot benefit from the scheme would not be funding it. It would also protect it more from political change and so ensure greater certainty for those covered.

Levy payments would be shared by employers and workers

86 *Do you agree that levy contributions should be equally split between the employee and employer?*

Yes, this would encourage a more equal sharing of risk and responsibility.

87

Do you agree that levies for health conditions and disabilities and for redundancy should be set separately?

Both the employee and employer would be charged at a flat rate

88

Do you agree that employees should be levied at a flat rate on income below \$130,911?

89

Do you have any other suggestions for how the employee levy should be structured?

90

Do you agree that experience rating would not be an appropriate design setting for the employer levy?

Levies would adjust smoothly over time, with independent fund management

91

Do you agree that an independent fund with a stable levy-setting system should be established to finance the income insurance scheme?

Yes, it is important to provide certainty and predictability for those insured and employers.

92

Do you favour a Pay As You Go or Save As You Go funding approach?

Building in scheme adaptability, while protecting levy sustainability

93

Do you agree that the legislation for the income insurance scheme should provide the flexibility to vary entitlements and eligibility in times of crisis, over and above the proposed income insurance scheme?

94

Does such flexibility create risks that require additional mitigations?

Other comments

--

