



COVERSHEET

Minister	Hon Carmel Sepuloni	Portfolio	ACC
Title of Cabinet paper	Finalising Changes to ACC's Accredited Employers Programme	Date to be published	7 August 2023

List of documents that have been proactively released

Date	Title	Author
June 2023	Finalising Changes to ACC's Accredited Employers Programme	Office of the Minister for ACC
28 June 2023	Finalising Changes to ACC's Accredited Employers Programme SWC-23-MIN-0082 Minute	Cabinet Office

Information redacted

YES / NO [select one]

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In Confidence

Office of the Minister for ACC

Cabinet Social Wellbeing Committee

Finalising changes to ACC's Accredited Employers Programme

Proposal

- 1 I am seeking Cabinet approval for final policy decisions on changes to ACC's Accredited Employers Programme (AEP) following public consultation in November 2022.
- 2 These finalised changes will require amendments to the secondary legislation, *Framework for the Accredited Employers Programme* (AEP Framework) which is published in the New Zealand Gazette.

Relation to government priorities

- 3 These proposals do not have a direct relationship to Government priorities.

Executive Summary

- 4 AEP enables large employers to take on the role of ACC when dealing with workplace injury claims and rehabilitation in return for a substantial reduction in their ACC levy. Large employers may be able to provide a better and more efficient experience for injured workers than ACC.
- 5 However, some Accredited Employers may not be providing a better service than ACC. A review commissioned by MBIE in 2018 found some areas of concern and recommended various enhancements to AEP to improve worker experience and performance reporting.
- 6 A package of four proposed changes to AEP was developed by ACC with input from stakeholders. These were consulted on in late 2022 and were generally supported in principle by submitters. I am seeking Cabinet's agreement to implement three of those proposals unchanged:
 - 6.1 Strengthen the assessment of claims and injury management by employers through various technical changes to improve its effectiveness
 - 6.2 Implement a Performance Monitoring Model with increased reporting requirements on Accredited Employers to allow better supervision by ACC
 - 6.3 Introduce additional pricing options for Accredited Employers on the Partnership Discount Plan which allow a longer period of claims management.

- 7 One proposal has been changed to reflect feedback from the consultation that it could impose unnecessary costs on Accredited Employers. Rather than requiring Accredited Employers to have a SafePlus assessment or become ISO 45001 certified to demonstrate their health and safety credentials (the proposal that was consulted on), I propose that they be able to choose between undertaking an updated ACC audit of health and safety or becoming ISO 45001 certified.
- 8 I also consulted on a preliminary proposal to require Accredited Employers to pay ACC a full and final settlement for the lifetime cost of any claims made by their workers at the end of each claims management period. In response to feedback, ACC will undertake targeted consultation on a revamped version of this proposal, whereby the requirement would only apply when an Accredited Employer leaves AEP.
- 9 To enable the package of proposed changes to be implemented I propose that the AEP Framework be amended with effect from 1 April 2025 (12 months later than proposed in consultation to allow the ACC audit to be updated and employers to prepare).

Background

- 10 AEP enables large employers to take on the role of ACC when dealing with workplace injury claims and rehabilitation in return for a substantial reduction in their ACC levy. The premise is that employers may be able to provide a better and more efficient experience for injured workers than ACC, but they need to have sufficient scale and expertise. While only 459 large employers participate in AEP, it covers 21 percent of New Zealand's workforce.
- 11 There have been media reports over the years suggesting that some Accredited Employers may be failing in their health and safety processes and cover decisions. They may be tempted to save money by delivering workers an inferior service to that provided by ACC.
- 12 While there are checks to try to prevent the misuse of AEP, a review by MBIE in 2018 found some areas of concern and recommended various enhancements to AEP to improve worker experience and performance reporting.
- 13 A package of changes to AEP was developed by ACC, with input from stakeholders, in response to the recommendations. These proposed changes require amendments to the AEP Framework (secondary legislation) as well as changes to operational procedures and the accreditation agreements with employers.
- 14 Section 183 of the Accident Compensation Act 2001 (AC Act) requires that the AEP Framework be changed only after the Minister for ACC undertakes such consultation as he or she considers appropriate.
- 15 On 27 September 2022, Cabinet agreed to public consultation on a package of changes to AEP [CAB-22-MIN-0402], which included:

- Proposal 1: implementing new health and safety assessment requirements
- Proposal 2: strengthening the assessment of Claims and Injury Management
- Proposal 3: introducing a Performance Monitoring Model
- Proposal 4: introducing additional pricing options for Accredited Employers on the Partnership Discount Plan.

- 16 In addition, feedback was sought from stakeholders on the preliminary proposal to require full and final settlement of all claims for Accredited Employers at the end of their claims management period. Currently settlement is required only for active claims, while reactivated claims (like when an employee aggravates an old, covered injury) and new claims are charged back to the employer when they arise. The aim of the proposal was to avoid levy payers having to pick up the bill if Accredited Employers are liquidated.
- 17 MBIE undertook the public consultation on behalf of the Minister for ACC, which commenced on 6 October 2022 and closed on 6 November 2022. Sixty five submissions were received from Accredited Employers, unions, third-party administrators, health and safety experts and other interested parties.
- 18 I consider that the consultation undertaken satisfies the requirements of section 183 of the AC Act.

Stakeholder feedback

- 19 At the end of consultation, MBIE and ACC completed an analysis of all submissions. A summary of submissions is attached at **Appendix One**.
- 20 Most submitters were supportive of the goals of improving AEP. However, a significant number of Accredited Employers expressed concerns that the new requirements would burden them with increased time and resource commitments.
- 21 Following feedback from stakeholders, I intend to progress proposals 2, 3 and 4 as consulted. However, I have made some policy changes to proposal 1 given the feedback from submitters, which are discussed below.

Changes to Proposal 1 – new health and safety standards

- 22 This proposal was to require all Accredited Employers to use a third-party external assessment tool (either SafePlus or ISO 45001¹), instead of the current ACC Health and Safety audit. This would give ACC confidence that Accredited Employers have effective health and safety processes in place to keep workers safe.

¹ ISO 45001 is a highly specified international standard for management systems dealing with occupational health and safety. SafePlus is a tool developed by WorkSafe New Zealand, MBIE and ACC that provides guidance on obtaining 'good' health and safety practices, with a focus on internal continuous improvement, as opposed to a point-in-time audit.

- 23 Submitters raised a number of concerns about both ISO 45001 and SafePlus. These related to the extra cost and extended time it would take to implement either product compared to the benefits. Specific concerns were raised about the suitability of SafePlus as an assessment tool for the purpose of accreditation for AEP. A summary of this feedback is included in **Appendix One**.
- 24 I have accepted stakeholder feedback on the cost and suitability of the proposed health and safety products. To address this, I propose letting Accredited Employers choose between ISO 45001 or an improved version of the current ACC health and safety audit that is updated to reflect modern health and safety working practices.
- 25 This strikes the right balance between ensuring Accredited Employers have good health and safety processes in place, and not overburdening them with compliance costs. My preferred approach will mean that:
- 25.1 Accredited Employers who already have ISO 45001 (or are planning to implement it) will have reduced costs from not being subject to multiple health and safety assessments
- 25.2 employers who would not have other business reasons to implement ISO 45001 (such as large banks and government organisations that undertake low-risk activities) can continue to be subject to an ACC health and safety audit, but this will be updated and improved.
- 26 SafePlus will not be an option as initially proposed. MBIE, ACC and WorkSafe acknowledge the concerns raised during consultation – that although a valuable tool, it is not currently suitable for the purpose of AEP accreditation.
- 27 ACC will support WorkSafe to actively promote SafePlus to Accredited Employers as a complementary tool. WorkSafe will also be involved in updating the current ACC health and safety audit as well as in the evaluation of any future health and safety products that may become available.

Feedback on Proposals 2 & 3 – strengthen the assessment of claims and injury management and introduce a performance monitoring model

- 28 These proposals are to strengthen the assessment of claims and injury management by employers through various technical changes to the current procedures, and to implement a Performance Monitoring Model with increased reporting requirements on Accredited Employers to allow better supervision by ACC.
- 29 These proposals were supported by most submitters in principle, particularly the increased focus on outcomes and better recognition of the worker experience. There was some concern about the lack of detail in the proposals, including the new performance measures to be used, and the extra compliance costs they would impose.

Feedback on Proposal 4 – new pricing options for the Partnership Discount Plan

- 30 This proposal is to give Accredited Employers on the Partnership Discount Plan the option to increase their claims management period from one or two years to three or four years, in return for a larger levy discount. It was also proposed that all claims files be returned at the end of the claims management period.
- 31 Submitters showed little interest in this proposal with most not commenting at all and others not seeing any advantages for themselves. However, given this change would be optional for Accredited Employers, they would only select a longer claims management period if they saw benefit for their business.

Feedback on introducing a requirement for full and final settlement

- 32 MBIE also consulted on introducing a requirement for full and final settlement for all claims of Accredited Employers on the Full Self Cover plan at the end of their claims management period. This would mean, in addition to Accredited Employers paying ACC a lump sum to settle the estimated lifetime cost of any active claims made by their workers, they would also pay the likely cost of future reactivated and new claims. These additional costs are currently only charged to Accredited Employers when they arise.
- 33 Most submitters did not support this proposal, with some submitting that a voluntary process would be preferable.
- 34 Given the lack of support, I will not be proceeding with the proposal, but I will ask ACC to consult Accredited Employers on a revised proposal, whereby full and final settlement is required when an Accredited Employer chooses not to renew their AEP accreditation (i.e. leave AEP voluntarily), or has their accreditation terminated due to ongoing poor performance or non-compliance. This will make the liabilities of Accredited Employers and ACC more transparent.

Implementation

- 35 To implement the revised Proposal 1, ACC requires more time to update the current audit process. Accredited Employers also had concerns about the time required to implement changes to meet the new standards.
- 36 I have therefore decided to delay implementation of the changes to AEP by 12 months to address these concerns. The following table outlines the proposed new timeline:

Milestone/Activity	Timeframe
AEP Framework updated	After Cabinet approval an amended

	Framework will be developed and Gazetted around mid-2023
New AEP Framework goes 'live'. This is a 'transition year' for Accredited Employers to prepare to meet the new AEP Framework.	1 April 2024
All Accredited Employers must meet the requirements of the New Framework. Performance Monitoring begins.	1 April 2025

Financial Implications

- 37 The proposed changes to AEP will have no financial impact on the Crown or ACC because Accredited Employers fund the operational costs of AEP via an administration fee that is added to their annual ACC levy.
- 38 AEP operational costs will increase because the changes will require additional staff to manage the programme and monitor the performance of Accredited Employers. ACC estimates an additional 1 to 2 full-time employees (FTEs) will be required during the transitional period, and an ongoing 6.5 to 8 additional FTEs.
- 39 The current AEP administration fee is 2.3 percent of the standard levy (the levy for those not in AEP) and will apply for the levy years 2022 to 2025. The administration fee gets consulted on and changed via ACC's formal levy consultation process, and is capped at 4.6 percent.
- 40 ACC estimates that the administration fee will increase only to a maximum of 2.6 percent of the standard levy after 2025 as a result of the changes to AEP.

Legislative Implications

- 41 To implement the proposed changes, the AEP Framework (regarded as secondary legislation) will be amended by way of Gazette notice. I will give final approval as the notice will not need to be authorised by Cabinet Legislation Committee.

Impact Analysis

Regulatory Impact Statement

- 42 MBIE's Regulatory Impact Analysis Review Panel has reviewed the attached Regulatory Impact Statement prepared by MBIE. The panel considers that the information and analysis summarised in the Impact Statement partially meets the criteria necessary for Ministers to make decisions on the proposals.

Climate Implications of Policy Assessment

- 43 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

- 44 The proposals are intended to improve the experiences of workers employed by Accredited Employers who sustain workplace injuries. The workers employed by Accredited Employers cover all population groups. There is no data available that indicates that any particular population groups will be more affected than the overall population.
- 45 Māori workers are well represented in sectors such as food production, manufacturing and construction, where Accredited Employers are significant employers. Māori are also more likely to experience long-term disability from injury and less likely to claim accident compensation. Therefore, the improvements to AEP are likely to benefit Māori workers as well as other workers. In particular, the changes are likely to benefit injured Māori and other injured workers at risk of acquiring long-term disabilities as well as disabled Māori and other disabled workers who are injured.
- 46 Enhanced reporting requirements for Accredited Employers will allow better monitoring of how claims and rehabilitation rates for workers from different population groups (including Māori) are tracking over time.

Human Rights

- 47 The proposals are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

- 48 ACC, The Treasury, Whaikaha – the Ministry of Disabled People, the Ministry of Social Development, the Ministry of Health and Worksafe New Zealand were consulted on the proposals in this paper. The Ministry for Women, Te Puni Kōkiri, the Ministry for Pacific Peoples, and the Department of the Prime Minister and Cabinet were informed or offered the opportunity to comment.

Communications

- 49 Once the proposals have been agreed, ACC will engage with Accredited Employers, workers and worker representatives to explain the changes and further develop details of the Performance Monitoring Model.

Proactive Release

- 50 MBIE will proactively release this Cabinet paper and accompanying Cabinet minute in accordance with usual practices.

Recommendations

The Minister for ACC recommends that the Committee:

- 1 **Note** that in September 2022, Cabinet agreed to release a public consultation document proposing a package of four changes to modernise and strengthen the Accredited Employers Programme (AEP) [CAB-22-MIN-0402].
- 2 **Note** that most submitters supported Proposals 2 & 3 to strengthen the assessment of claims and injury management and implement a Performance Monitoring Model given the increased focus on outcomes and better recognition of worker experience, although there was concern about lack of detail and increased compliance costs.
- 3 **Note** that Proposal 4 for new pricing options for the Partnership Discount Plan attracted little comment, with those submitting largely not seeing any advantages, but the proposal will impact only those adopting it.
- 4 **Agree** that Proposals 2, 3 and 4 be progressed as consulted, namely:
 - 4.1 Strengthen the assessment of claims and injury management
 - 4.2 Implement a Performance Monitoring Model
 - 4.3 Introduce additional pricing options for Accredited Employers on the Partnership Discount Plan.
- 5 **Note** that Proposal 1 to implement external health and safety assessment using ISO 45001 or SafePlus was largely not supported because the high cost often could not be justified and the SafePlus assessment was not considered suitable, although those already ISO 45001 certified supported not also needing an ACC health and safety audit.
- 6 **Agree** that Proposal 1 be changed to allow Accredited Employers to be subject to an updated ACC health and safety audit or become ISO 45001 certified.
- 7 **Invite** the Minister for ACC to issue drafting instructions to the Parliamentary Counsel Office to give effect to the decisions in this paper.
- 8 **Authorise** the Minister for ACC to make decisions, consistent with Cabinet's decisions on the proposals, on any issues which arise during the drafting process.
- 9 **Note** that, if Cabinet agrees to the proposals, the amended Framework is expected to come into force from 1 April 2025.

- 10 **Note** that ACC will undertake, on my behalf, further, targeted consultation on a full and final settlement methodology to use when an Accredited Employer leaves AEP.

Authorised for lodgement

Hon Peeni Henare

Minister for ACC

Appendix One – Summary of submissions from consultation on proposed changes to ACC’s Accredited Employers Programme