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Consultation: Suggestions to Schedule 2

Tēnā koe

Fire and Emergency New Zealand welcomes additions to the list of occupational diseases under the Accident Compensation Act 2001 (AC Act) that would make it easier for our firefighters to access AC cover.

We know firefighters have an increased risk of certain types of cancer due to their exposure to cancer-causing toxins (carcinogens). It is an issue fire services around the world are grappling with and many countries have introduced presumptive legislation as a means to address these risks. Work-related cancer claims by firefighters are currently assessed by ACC's Toxicology Panel of independent clinical experts. As MBIE will be aware since February 2020, ACC has used a specific tool – an exposure index tool – to help the Toxicology Panel assess work-related cancer claims by career firefighters. The tool helps to establish whether occupational exposure has caused, or contributed to, a cancer.

As at 5 May 2023, 45 work-related cancer claims have been reviewed by the Toxicology Panel. The majority of these claims/decisions were made following the introduction of the index exposure tool in February 2020 and are claims from male firefighters (current or former).

Of the 45 claims reviewed by the Toxicology Panel, 28 were for prostate cancer, of which 23 have been accepted and five declined.

Of the remaining 17 cancer-related claims considered by the Toxicology Panel, 12 have been accepted for cover. These are claims for multiple myeloma, intestinal tract, oral/ tongue, kidney, testicular and bowel/colon cancer.

This data provides some indication of the occupational diseases/the types of cancer that should be further examined in this review, and potentially added to Schedule 2 in terms of firefighters and/or additional exposures or occupations. We suggest that MBIE seeks commentary from the Toxicology Panel on what has informed these specific decisions. We see this as helpful to informing additions to Schedule 2.

Should the types of cancer to which firefighters have increased risk, due to their exposure to carcinogens, be added to Schedule 2 – as determined by section 30(3A) of the AC Act – section 30(4) states that personal injury of a type described in subsection (3), which includes Schedule 2, does not require an assessment of causation under section (1)(b) or (c).

Schedule 2 is a presumption of exposure and therefore a causal link to the disease and, as such, ACC cover should automatically be granted. In recognising that a review of section 30 of the AC Act is out of scope for this consultation, we are keen to work with both MBIE and ACC on any potential mechanisms to support our volunteer firefighters who fall outside the scope of the Act. Fire and Emergency would advocate for a more inclusive approach.

While understanding any legislative change is a matter for Parliament, we remain supportive of presumptive legislation for all firefighters, as exists in countries such as Australia, Canada and some states of the US. We see this as the mechanism to address exposure to the types of cancer that place firefighters at risk in carrying out their work, whether in a voluntary or career capacity.

Mental injury coverage

We appreciate that this review will also not consider work-related mental injury cover as this is covered under section 21B of the AC Act. However, we make the point that section 21B is specific to individual traumatic events. As firefighters are frequently exposed to traumatic events, psychological harm can result from accumulation of exposure, rather than individual events.

Of 51 claims lodged for mental injury cover, over a third (19) have been declined.¹ In most of these cases, a claim was declined because there was no specific event. We are keen to work with both MBIE and ACC on any potential mechanisms to support work-related mental injury cover for our firefighters.

Nāku noa

Privacy of natural persons

Privacy of natural persons

**Te Tumu Whakarae / Chief Executive
Fire and Emergency New Zealand**

¹ These claims are assessed and managed by Fire and Emergency's Injury Management Unit (as an AC Accredited Provider). Four other claims are pending decision.