



COVERSHEET

Minister	Hon Iain Lees-Galloway	Portfolio	ACC
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Date	Title	Author
April 15 2019	Extended mental health support for those affected by the 15 March 2019 terrorist attack	Office of the Minister for ACC
April 15 2019	CBC-19-MIN-0014	Vivian Meek Committee Secretary

Information redacted

NO

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Budget - Sensitive

Office of the Minister for ACC

Chair, Cabinet Business Committee

Extended mental health support for those affected by the 15 March 2019 terrorist attack

Proposal

1. This paper seeks agreement for the Government to provide extended support to people mentally harmed by the March 15 attack. It seeks agreement to provide ACC-administered support to people who are not eligible for ACC mental injury cover. This support would be available to those who were not physically injured but have suffered mental harm either as a result of witnessing the attack directly within the vicinity of the attack while not working, or because they are the family members of those who were injured or killed in the attack.

Executive Summary

2. ACC is able to provide financial support (such as weekly compensation) to people who have mental injury that is caused by physical injuries from the attack, or people who were working when they experienced the attack or its aftermath. However, ACC cannot currently provide financial support to people who were not physically injured but who have suffered mental harm as a result of witnessing the attack within the vicinity of the attack while not working, or because they are family of loved ones injured or killed in the attack.
3. It is appropriate to provide - for those who can establish they have suffered mental harm and require treatment and time away from work either as a result of witnessing the attack directly, or because they are the family of loved ones injured or killed in the attack - financial support that is similar to that available to those physically injured by the attack and to mentally injured workers.
4. ACC is well-placed to administer this support because they will already be providing support to those physically injured by this attack, and to mentally injured workers, and already have mechanisms for providing treatment and financial payments. However, being an ancillary service and not within the scope of the Scheme's legislative settings, victims who qualify for any such support would not lose their right to sue for compensation for personal injury as would be the case for people with injuries covered under the Scheme.
5. The most efficient, effective and low-risk way to provide this support is for Cabinet to decide as a matter of policy that it is appropriate to provide it, and for me to use Crown Entities Act 2004 powers to direct, and then specifically fund via appropriation, ACC give effect to that policy by providing services to victims of the attack who fall within that policy pursuant to section 265 of the Accident Compensation Act 2001.

6. The policy underpinning such a direction should be clearly articulated in Cabinet's decision both in terms of the characteristics of people who will be entitled to the support, and the nature and scope of the support to be given. This provides the necessary basis for ACC to "give effect to" the policy as contemplated by section 103 Crown Entities Act 2004, noting that grey areas at the boundaries will potentially result in legal challenge or criticism of ACC/the Government.
7. A consultation phase with ACC must precede the issuance of a direction; ACC's feedback on the operational processes necessary to enable it to give effect to the policy will inform the wording of the direction when made.
8. This will require ACC to be provided with new funding for these services. New funding cannot be sourced from ACC's levied accounts, as the use of those funds is tightly specified in legislation. Estimated costs would be up to approximately \$35 million lifetime costs, including \$1.4 million for 2018/19. This is based on current information available that an estimated potential population of 200 people directly witnessed the event, and potentially an additional 480 people are family members of those injured or killed in the attack.

Background and problem definition

Only those physically injured or working are covered for mental injury

9. People who are covered by ACC for a personal injury can receive: treatment, weekly compensation for loss of earnings (or loss of potential earnings), lump sum payments for permanent impairment, social and vocational rehabilitation, funeral grants, surviving spouse weekly compensation, child care payments (if the deceased had children), and a survivors' grant.
10. ACC cover is currently available to victims of the attack for physical injury and death, mental injury stemming from a physical injury, and mental injury for those who witnessed (experienced, heard, or saw) the terror attack while working.
11. This means that victims of the attack who were in the mosques, but were not physically injured, and not working at the time, cannot receive ACC support for any mental harm they suffer as a result. In particular, they cannot receive treatment and be paid weekly compensation if they are unable to work due to mental harm. Similarly, family of loved ones injured or killed in the attack cannot receive ACC support for any mental harm they suffer as a result.

And ACC is already receiving claims from individuals who are not entitled to cover

12. New Zealand Police is establishing the number of people who were at the mosques at the time of the attack. The current estimates (as of 9 April) are that 50 people died, 68 sustained physical injuries, and a further 148 people were present at the mosques but did not die or sustain physical injuries.
13. ACC informs me that at 9 April 2019 it has received injury claims for 144 individuals. This comprises:
 - a) 80 claims for physical injuries only;

b) 64 claims that also involve mental injury.

14. Of those 64 individuals, 29 would be covered for mental injury, as 22 also have a physical injury, and nine of the 64 are also work-related claims (there is an overlap of 2 claims that are both).
15. Thirty five individuals would currently be ineligible because they have no associated physical injuries and are not work-related claims.
16. Of the 144 claims, 72 claims involve weekly compensation. Of those, 61 have been paid, five are not eligible because the person was either on a benefit or not working in New Zealand and in six cases ACC are waiting for further information.

The health and welfare systems provide only limited support

17. The key gap in the services provided by the health and welfare systems is that they are generally limited based on New Zealand citizenship and New Zealand residence, with the welfare system generally requiring two years of citizenship or residence before support can be accessed.
18. Services to non-citizens and non-residents are also generally time bound.
19. Any ACC-based approach need not be limited to residents and citizens in this way, as existing ACC cover is not generally limited to citizens and residents. ACC support is also not time bound, support continues until a person is fit to return to work or is declared vocationally independent. There is no set timeframe for this.
20. In normal circumstances people who are mentally harmed but not eligible for ACC cover would be treated by the health system and, if unable to work, would rely on sick leave from their employer or the benefit system for financial support. In most cases the benefit will be significantly lower than what a claimant can receive if they are eligible for ACC weekly compensation. One of the reasons ACC entitlements are higher than the support available through the welfare system is because people with ACC cover give up their right to sue in exchange for being covered by the Scheme.
21. Mental health support and treatment is currently available for people affected by the attack and their family members through the health system, and the usual range of financial assistance is available through the benefit system for those eligible.
22. The frontline of the psycho-social response is the 1737 mental health service. They have the ability to offer brief interventions, 30-minute counselling sessions with a trained counsellor, and can link people into other more specialist services over the phone. This service is not restricted to New Zealand residents. A person can call up multiple times over a period and access this if necessary, although the trained counsellor may be a different person each time.
23. Decisions are yet to be made about whether the health system might support longer term or additional specialist support to non-residents; my proposals outlined below would ensure that such support is available through ACC-administered support, as it is for those physically injured in the attack or who were working at the time.

I consider the unique nature of these events requires a unique response from the Government

24. The unique nature of the March 15 attack justifies the targeted provision of ACC-administered support to groups not covered under accident compensation legislation. Unlike many traumatic events, the attack constitutes a deliberate attempt to terrorise and inflict mental harm, as well as physical harm, on a large number of people.
25. It is appropriate to provide similar financial support for those who have suffered mental harm and require treatment and time away from work either as a result of experiencing the attack directly, or the family of loved ones injured or killed in the attack.

I have considered options involving ACC; there are other Government systems that could be altered instead, but there are risks in doing so

26. As Minister for ACC my primary consideration has been of options involving ACC, however my officials have worked closely together across the Ministry of Health and the Ministry of Social Development to give consideration to the Health and Welfare systems as potential avenues for providing targeted support, including financial support, to those who have suffered mental harm and require treatment and time away from work.
27. While special provision could be made under the Health and Welfare systems for some of the group for which ACC support can be extended for a short time, similar levels of cover are not likely to be recommended or possible. A change in legislation may be needed to extend income support to some of the migrants impacted.
28. Similar levels of income support would result in the welfare system treating one set of people who have experienced trauma in these circumstances completely differently (and potentially more generously) than others in the welfare system.
29. Providing income support payments through MSD, even at lower levels than might be available if support administered by ACC were put in place, would also potentially raise questions of fairness for other migrants not generally eligible for welfare support and not caught up in the attack.

The support given should be equivalent to that given to other victims of the attack by ACC

30. To ensure all victims of the March 15 attack are treated in a consistent manner, financial support should be equivalent to that available to victims with ACC covered mental injury for treatment, weekly compensation for loss of earnings (or loss of potential earnings), lump sum payments for permanent impairment, social and vocational rehabilitation.
31. Such financial support would not be classified as based on ACC cover and therefore entitlement to it would not result in the application of the Accident Compensation Act bar on proceedings for compensation for personal injury.

Expansion of support administered by ACC, or other agencies under existing policy settings, for victims of a discrete event is not without risk

32. There is always a risk in extending support for victims of a discrete event that there will be parallel situations in which support is not available which raise questions of fairness. Extending support for consequences of trauma which are not already covered by the scheme will invite questions of the Government about other types of trauma for which ACC support is unavailable. Examples include parents of foreign nationals killed in the Christchurch earthquake who are ineligible for the same level of support as could be offered to family members in this scenario and witnesses of other traumatic events who were not physically injured or working at the time.
33. Even within the scope of the proposed additional services, there will necessarily be boundary issues as there are today with cover and entitlements decisions. These issues can lead to customer dissatisfaction, disputes, litigation and reputational risk as there will always be “hard cases” that fall outside the boundary or are difficult to prove.
34. Despite the risks associated with extending financial support administered by ACC, I consider that providing extended mental harm support to victims who witnessed the attack or are family members of those physically injured is justified in the response to the March 15 attack.

The key questions for Cabinet are who to extend support to and how to fund and deliver it

35. The key questions this paper addresses are:
 - a) What group of victims should be entitled to this extra support for mental harm?
 - b) How should the extra support be funded and delivered?

Who should receive ACC-administered support for mental harm?

Recipients should include those at the sites of the attack and family of those injured or killed

36. Those mentally harmed by the March 15 attack vary in their proximity and relationships to the event. If ACC-administered support is to be extended to those mentally harmed by the attack, the scope of eligibility must be considered.
37. It is appropriate to provide financial support that is similar to that available to those physically injured by the attack and to mentally injured workers to two groups of people who suffer mental harm as a result of the attack but who would not be eligible for ACC cover:
 - a) those in or near the sites of the attack who witnessed the attack directly, and who were not working or physically injured (including worshippers, volunteers and other members of the public attending the scene, including volunteer first responders), and
 - b) the family of people who were injured or killed in the attack, who were not in or near the sites of the attack and therefore did not experience, see or hear the

attack directly but may have witnessed events unfold via phone or video, or who experienced or saw the impact of the attack on their loved ones in hospital.

Not covering family members of victims risks people suffering severe mental harm not receiving appropriate support

- 38.** Limiting the expansion of support to only those who witnessed the attack directly risks high levels of unmet need amongst a population who are likely to be significantly impacted.
- 39.** Support for family members is merited as it is likely that this group will suffer mental harm, with similar impacts to those already covered for work-related mental injury arising from the attack. I propose to adopt the same definition of family as that agreed by Cabinet on 25 March when it agreed to the establishment of a Christchurch Response (2019) Visa for immigration purposes [CAB-19-MIN-0121 refers]. This definition includes immediate family members, which means:
- a) For an adult:
- the adult;
 - their married or de facto partner;
 - their dependent children;
 - the dependent children of their partner.
- b) For a dependent child:
- the dependent child;
 - their parents;
 - their siblings who are also dependent children.
- 40.** Cabinet will also consider whether to further expand the definition of 'immediate family' to:
- a) Parents of adults (and grandparents of children) who were normally living in New Zealand; and/or
- b) non-dependent children (and their partners and dependent children); and/or
- c) adult siblings (and their partners and dependent children).
- 41.** Defining family introduces a potential issue of discrimination under the Bill of Rights Act in the provision of any ACC-administered services and support.
- 42.** There is a pressing issue of unmet need for those who have been directly impacted by the attack, and were in close proximity to the attack. This need for support for mental injuries extends to those with a close and strong family connection to those directly impacted by the attack, given the likely more significant impact upon their mental health. The exclusions from the definition of family are tightly limited to those who do not have such a close and strong connection, and hence are unlikely to have such a pressing need for support of the kind that I propose is administered by ACC.

43. Those not included in the definition of family will still be able to access some government services and support through the health and welfare systems, as outlined in paragraphs 17 to 23.

I considered, but rejected, covering wider groups affected by the attack

44. I considered but rejected the option of extending support to the wider community affected by the attack, including members of our wider Muslim community in New Zealand, or those who watched the live stream of the attack.
45. In addition to the difficulty of defining this wider and larger group in a practical and meaningful way, this option raises significant fiscal risks and questions of equity with those suffering similar injuries who are not covered by the scheme or this targeted response. As noted above in paragraphs 17 to 23, those people can access existing supports through other mechanisms.

How should we fund and deliver mental health support to those mentally harmed by the attack?

46. I considered three options for delivering the extended ACC-administered support:
- 1. Directing ACC to provide services to the covered group:** ACC can provide services to people not covered under the Act if services are consistent with the role and functions of ACC, they are directed to do so by the Minister under the Crown Entities Act 2004 to give effect to a government policy that relates to ACC's functions and objectives, and they are specifically funded to do so via appropriation;
 - 2. Legislative change:** to expand the scheme to cover mental injury following a terrorist attack, funded from within the accident compensation scheme;
 - 3. Fund Ministry of Health or the Ministry of Social Development to contract with ACC for services and entitlements:** develop a support package for those eligible via agreement with the Ministry of Social Development, to be delivered by ACC.

A swift and low-complexity response is required

47. I consider the ability to quickly implement support and technical feasibility to be of paramount importance in responding to this event.
48. The table in **Annex One** provides a detailed assessment of these mechanisms for timeliness, feasibility, ability to impose appropriate fiscal and temporal limits on the response, fitness-for-purpose, and risk to the accident compensation scheme.

Directing ACC to provide services, and funding ACC to do so, is relatively fast and simple, and has the lowest risk

49. I am recommending directing ACC to deliver the services through a Ministerial Direction pursuant to section 265 of the Accident Compensation Act 2001 and section 103 of the Crown Entities Act 2004 as it best achieves the policy objective of

providing a targeted one-off response that is quick and relatively easy to implement. Being targeted, it minimises fiscal risks, risks of scheme expansion, and the method of implementation increases transparency around the services being provided.

50. Before issuing any such direction I will need to consult with ACC on the nature and scope of the operational processes to establish who qualifies for the proposed new services, the types of services they may qualify to receive and the operational impact of this. This will enable me to set the parameters of the direction as clearly as possible so that the boundaries of the service are transparent.
51. Applying the existing ACC sensitive claims model, there would not be a time limit on the targeted support, including financial support, but it is practically limited by the need to tie the mental harm to the attack.

But this option will require new funding for ACC, as existing levied funds cannot be used

52. This option will require ACC to be provided with new funding for the services to be provided, and as the use of funds in the ACC accounts is tightly specified in the Act it cannot be sourced from the levied accounts.
53. The funds in each Account must be used to fund injury prevention activities and entitlements in respect of injuries that relate to the scope of the different Accounts. For instance, Work Account funds provided by employers can only be used to prevent and address work-related or motor vehicle related injuries.
54. ACC cannot return surpluses (if any) from the levied accounts to the Crown, and can only use a surplus in the levied accounts to reduce future levies payable under those accounts (via a funding adjustment). ACC cannot cross-subsidise between accounts.

The Non-Earners' Account appropriation could be reduced, and used to fund these proposals

55. There is greater flexibility with the Non-Earners' Account (NEA), which is funded via appropriation. Cabinet could agree to reduce ACC's current NEA appropriation by the amount required to fund these services, and then appropriate that money to fund the services; this is essentially reprioritisation from the NEA to these services. This could be done on a current year cash cost basis, as opposed to the fully funded lifetime cost approach used for NEA funding.
56. There are no limitations under the Act to reducing the NEA appropriation so long as the account can continue to meet the entitlements that are provided by the legislation; the principles of financial responsibility in relation to the accounts (section 166A) do not apply to the NEA, only the levied accounts.

But there are solvency and sustainability risks to doing so

57. However, removing funds from the NEA would put it further away from meeting its solvency target under the existing Government funding policy for the Account (set by the previous administration).

58. The NEA post-2001 portion of the Account is currently at 69.9% solvency, well below the Government's funding policy solvency target of 88%.
59. ACC also notes that any significant funding withdrawal from the NEA could raise Crown Entities Act 2004 concerns for the ACC Board given its legal responsibility to ensure ACC operates in a financially responsible manner, including by prudently managing the entity's assets and liabilities and endeavouring to ensure the entity's long-term financial viability and that it acts as a successful going concern (section 15 of the Crown Entities Act 2004). ACC may require further legal advice to test this.

The process to issue a direction is relatively straightforward

60. The decisions cabinet takes on the recommendations in this paper will provide the Government policy required for the Ministerial Direction.
61. Under section 115 of the Crown Entities Act 2004, the procedure to provide a Ministerial Direction is:
- a) Consult with ACC before giving the direction to the entity.
 - b) As soon as practicable after giving the direction:
 - publish the Direction in the Gazette; and
 - present a copy of it to the House of Representatives.

The consultation period with ACC provides the opportunity to address the operational implications and mitigate risk

62. ACC has advised me that administering the new services will require consideration of issues such as burden of proof, assessments (which can in themselves be complex) and impact on the clinical provider community which is already stretched in the mental health area.
63. I consider that, given the context, a short consultation period of no longer than a few days is appropriate with the Board of ACC. While not without risk, the unique nature of the events to which we are responding and the process gone through to develop these proposals mitigate the shortness of the consultation period.
64. In particular the involvement of ACC in the development of these proposals means that ACC is already aware of the likely direction and its scope and the implications of the direction on its operations.
65. ACC has indicated that it will consider the proposed direction promptly.

The other options considered are more time consuming, complex and risky

66. Legislative change (option 2) and contracting with other agencies (option 3) are slower and more difficult to implement. Legislative change requires further policy work and would have to go through the legislative process. It would also cover all future terror events and has a high risk of future scope expansion.

67. Contracting with other agencies may create policy risks for the Ministry of Social Development which will lengthen the time it will take to be implemented, and raises questions about whether ACC can deliver such services as they are not part of its core functions. It also introduces an extra step, as in practical terms a funding appropriation will need to be granted to the Ministry of Social Development. If this was agreed I would recommend this funding is then transferred to ACC to deliver services, as opposed to the funding appropriation being granted to ACC directly. I see no benefits associated with options 2 and 3 that outweigh these risks.

Next steps and timing

68. If cabinet agrees to my preferred option, my officials will finalise a Ministerial Direction letter for consultation with the ACC Board early this week.
69. Once the direction is in place, ACC will determine how it delivers the support in each particular case, as it determines appropriate to give effect to the government policy to provide similar financial support for those who have suffered mental harm and require treatment and time away from work either as a result of experiencing the attack directly, or the family of loved ones injured or killed in the attack.

Consultation

70. The following departments and entities have been consulted on the proposals in this paper: Ministry of Health, Ministry of Social Development, the Accident Compensation Corporation the State Services Commission and the Treasury. The Department of the Prime Minister and Cabinet has been informed.

Treasury comment

71. The Treasury do not support a permanent or one off expansion of ACC-administered support in this case, as:
- a) there is an existing infrastructure for mental health support through the Health system, as a result of the response to the Christchurch earthquakes
 - b) there is a large risk of opening ACC up to further expansions, as questions will be asked about why only a very narrow portion of mental health injuries is covered. This could be very costly and expansions should be properly considered proactively, not on an ad hoc basis, and
 - c) any significant policy change should be aligned with the health and disability system review and the WEAG review. The longer term ACC legislation modernisation project would provide an opportunity to look at these sorts of issues alongside the other work in this space.

Ministry of Social Development comment

72. The Ministry of Social Development does not consider that a payment through the welfare system (e.g. through a specific welfare programme) is a feasible option.
73. Design and approval processes would take time and it is questionable whether MSD could operationally deliver such support, as MSD would need to determine eligibility

based around ACC rules, and MSD does not have a clinical function that could make judgements around mental trauma. Option three (Fund Ministry of Health or the Ministry of Social Development to contract with ACC for services and entitlements) is similarly problematic.

74. It would also result in the welfare system treating one set of people who have experienced trauma in these circumstances completely differently (and much more generously) than others in the welfare system.
75. If someone has suffered health issues because of trauma but is not covered by ACC they could be entitled to support through the benefit system and working for families currently, subject to the eligibility criteria.

Ministry of Health comment

76. The Ministry supports the sentiment of the paper, and distinguishes between two types of support being considered:
 - a) Additional services to support the mental wellbeing of people directly affected by the attack, and
 - b) Additional support for people missing work as a result of the attack.
77. On the former, the Ministry considers that the current psycho-social response is well placed to support those affected by the events in Christchurch. The Ministry is closely monitoring this on a day to day basis and will ensure that resources needed to do so are available. The Ministry is ensuring any funding required is available to the local response, and believes the right mechanisms are presently in place.
78. On the latter, neither the Ministry nor Canterbury District Health Board are able to offer compensation payments for people missing work as a result of the attack. The Ministry supports the proposal to extend payments to people directly affected.
79. The Ministry notes it is not well set up to implement option 3 (Fund Ministry of Health or the Ministry of Social Development to contract with ACC for services and entitlements) within its current structures or legislation. If the objective is to avoid the precedent setting nature of the change to ACC's structures, then the Ministry would suggest a tightly defined discretionary fund be established.

Financial Implications

80. Financial impacts are expected to primarily arise from the additional weekly compensation liability. At this stage, it is not possible to estimate the eventual burden of mental harm from the attack, and the consequent liability associated with it.
81. It is not possible to accurately predict these costs based on the information currently available because there is no clear information about who witnessed the event or would meet the criteria to qualify as family members, we do not have accurate predictions of the rate at which people may suffer mental harm, and we cannot at this stage predict the scope of access to income replacement compensation or other support.

82. In order to provide a preliminary cost indication, ACC has estimated a potential population of 200 people who experienced saw or heard the attack directly, and an additional 480 people who are family members of those injured or killed in the attack. The estimate of 200 people who directly experienced the event is based on current information available, but this may change as new information becomes available. Once more accurate information is available I will report back to cabinet with revised cost estimates.
83. ACC has estimated these costs based on international literature about rates of Post-Traumatic Stress Disorders following terrorist attack and its knowledge of other mental illness cases, including sensitive claims.
84. The lifetime costs are estimated to be:

Summary high level estimate: Lifetime cost		
People included	200 (direct witnesses only)	680 (with family members included)
Low estimate	\$5m	\$20m
High estimate	\$10m	\$35m

85. The first year cash cost is estimated to be:

Summary high level estimate: First year cash cost		
People included	200 (direct witnesses only)	680 (with family members included)
Low estimate	\$0.3m	\$0.9m
High estimate	\$1m	\$1.4m

86. It is not possible to accurately predict these costs based on the information available.
87. This means that it is assumed that 4 to 6 people (of the 200 direct witnesses) will require lifetime support or a lump sum payment for permanent impairment from ACC (and would not currently be eligible for this). Overall, about 90 will require counselling and a further 20 to 30 will also require financial support (weekly compensation).
88. The average cost to ACC of the support provided ranges from \$1,700 per person (counselling only) to \$2.3 million per person (lifetime support including weekly compensation). These amounts could be higher for particular individuals e.g. lifetime support including weekly compensation for a 20-year old with a high income.
89. The calculations do not currently include any costs for vocational rehabilitation or social rehabilitation. At this point it is expected that these would be low but have not explored whether this is accurate. Some of the assumptions may be conservative.

Legislative Implications

90. There are no legislative implications.

Impact Analysis

91. An impact analysis is not required as the paper does not propose legislative or regulation change.

Human Rights

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

Gender Implications

93. There are no specific gender implications in the proposals in this paper.

Disability Perspective

94. There are no specific disability considerations in the proposals in this paper.

Publicity

95. The new policy will be announced following Cabinet agreement. This will provide certainty to those affected as quickly as possible. Officials will work with my office to develop a communications strategy, which will also include communicating the new policy directly to those affected through the most appropriate channels.

Proactive Release

96. The Ministry of Business, Innovation and Employment intends to proactively release this Cabinet paper on its website within 30 business days of a decision being made by Cabinet. Proactive release will be subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Minister for ACC recommends that Cabinet:

1. **Note** people who are mentally harmed as a result of experiencing the March 15 attack, but are not physically injured or working at the time of the attack, are not eligible for ACC cover.
2. **Note** that ACC cover and entitlements are currently able to provide financial support (such as weekly compensation) to people who have mental injury caused by physical injuries from the attack, or people who were working when they experienced the attack or in the aftermath.
3. **Note** that the unique nature of the attack justifies a limited and event specific delivery of services equivalent to those ACC is able to provide to victims who have ACC-covered injuries.

4. **Note** that health and welfare systems are providing some support for people affected by the attack and their family members through mental health services and the usual range of financial assistance through the benefit system for those in need.
5. **Note** that limiting the expansion of ACC-administered support to only those who witnessed the attack directly and not to family members of those injured or killed risks high levels of unmet need amongst a population who are likely to be significantly impacted.
6. **Note** that a swift and low-complexity response is required to implement an expansion of ACC-administered support.
7. **Note** that there is always a risk in extending support for victims of a discrete event, as there will be parallel situations in which support is not available which raise questions of fairness.
8. **Note** that ACC is well placed to administer such support as an ancillary service when compared with other agencies.
9. **Note** that victims of the attack who qualify for ACC-administered support delivered as an ancillary service would not lose their right to sue for compensation for personal injury as would be the case for people with injuries covered under the Scheme.
10. **Agree** to provide ACC-administered financial support as an ancillary service to:
- 10.1 any person who experienced, saw, or heard the March 15 attack directly, and who thereby suffered mental injury (as defined in recommendation 13 below):
 - 10.2 the family members (as defined in accordance with recommendations 14 and 15 below) of those who were injured or who died in the attack, where those family members did not experience the attack directly, but suffered mental injury (as defined in recommendation 13 below) caused either by:
 - i. seeing the attack indirectly or
 - ii. the impact of the attack on their family members who experienced the attack directly;

11. **Agree** that ACC-administered financial support will be equivalent to that available to victims with ACC-covered mental injury for treatment, weekly compensation for loss of earnings (or loss of potential earnings), lump sum payments for permanent impairment and social and vocational rehabilitation.
12. **Note** that, applying the existing ACC sensitive claims model, there would not be a time limit on the support, including financial support, but that it is practically limited by the need to tie the mental harm to the attack.
13. **Agree** that mental injury be defined as in section 27 of the AC Act (clinically significant behavioural, cognitive, or psychological dysfunction).

- 14. Agree** that those included in the scope of 'family' comprise:
- a. an individual and
 - b. (for adults) their married or de facto partner, and any dependent children of the individual or their partner;
 - c. (for a dependent child) their parents and other dependent siblings;
- 15. Confirm** whether Cabinet wishes the scope of 'family' to include the following groups (in addition to the groups outlined in recommendation 14 above):
- a. The parents of adults (and grandparents of children) who were normally living in New Zealand;
- AND / OR
- b. the individual's (or their partner's) non-dependent children and the children's partners and all dependent children;
- AND / OR
- c. adult siblings of the individual and their partner and all dependent children.
- 16. Note** that the Minister for ACC will consult with ACC on the Minister's intention to issue a direction to ACC to give effect to the policy noted in recommendations 10 to 15 above.
- 17. Agree** that following consultation with ACC the Minister for ACC will issue a Ministerial Direction under Section 103 of the Crown Entities Act 2004 directing ACC to give effect to the policy pursuant to Section 265 of the Accident Compensation Act 2001.

Financial recommendations

18. **Approve** the establishment of a new multi-category appropriation “Christchurch Terrorist Attack” in Vote Labour Market, to be administered by the Ministry of Business, Innovation and Employment and with the Minister for ACC as appropriation Minister, to facilitate a co-ordinated approach to supporting those suffering mental injury as a result of the March 15 attack.

19. **Approve** that the single overarching purpose of this appropriation is to provide mental health services and financial support equivalent to ACC entitlements to direct witnesses of the attack and family members of those killed or injured in the attack suffering mental injury as a result of the terrorist attack in Christchurch on Friday 15 March 2019 and not already covered by ACC.

PROACTIVELY RELEASED

20. **Agree** that the categories for this appropriation be as follows:

Title	Type	Scope
Administration of funding	Non-departmental Output Expense	This category is limited to cover the cost of claim lodgement and management for claims by eligible persons on the Multi-category appropriation.
Provision of mental health services	Non-departmental Output Expense	This category is limited to purchasing medical services and contracted services in respect of claims on the Multi-category appropriation
Payment of weekly compensation and other services	Non-departmental Output Expense	This category is limited to the provision of income maintenance, other compensation payments for claimants, purchasing social and vocational rehabilitation and contracted services in respect of claims on the Multi-category appropriation.

21. **Agree** to increase expenditure to provide for costs associated with the new multi-category appropriation described in recommendations 18, 19 and 20 above, with the following impacts on the operating balance and net core Crown debt:

	\$m – increase/(decrease)				
Vote Labour Market	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Operating Balance and Net Core Crown Debt Impact	1.4	2.1	4.8	1.3	1.2
Operating Balance Only Impact					
Net Core Crown Debt Only Impact					
No Impact					
Total	1.4	2.1	4.8	1.3	1.2

PROACTIVELY RELEASED

22. **Approve** the following changes to appropriations to provide for the new multi-category appropriation described in recommendations 18, 19 and 20 above:

	\$m – increase/(decrease)				
Vote Labour Market	2018/19	2019/20	2020/21	2021/22	2022/23 & Outyears
Multi-Category Expenses and Capital Expenditure:					
Christchurch Terrorist Attack MCA					
Departmental Output Expenses: Administration of Funding (funded by revenue Crown)					
Non-departmental Output Expenses: Provision of mental health services (funded by revenue Crown)	0.4	0.4	0.1	0.1	0.1
Payment of weekly compensation and other services (funded by revenue Crown)	1.0	1.7	4.7	1.2	1.1
Total	1.4	2.1	4.8	1.3	1.2

23. **Agree** that the proposed changes to appropriations for 2018/19 above be included in the 2018/19 Supplementary Estimates and that, in the interim, the increase be met from Imprest Supply.

24. **Agree** that the operating balance impact in recommendation 21 above of expenses incurred under recommendation 22 above be a pre-commitment against the Budget 2019 operating allowance.

25. **Note** that the financial impacts identified for 2019/20 and outyears will likely be subject to change as more information becomes available.

Authorised for lodgement

Hon Iain Lees-Galloway

Minister for ACC

PROACTIVELY RELEASED

Annex 1: Mechanisms available for providing mental health support to those affected by the March 15 attack

Description	Timeliness	Feasibility	Time/cost limits	Fitness-for-purpose (generic or specific)	Scheme expansion risk
Option 1 Directing ACC to provide services to the covered group					
<p>Section 265 allows for ACC to perform services outside of its normal functions, where consistent with the purposes of the Accident Compensation Act, if a direction to give effect to Government policy is issued by the Minister under section 103 of the Crown Entities Act 2004. The direction can be made after consultation with ACC.</p> <p>The government policy must relate to ACC's functions and objectives. Requires a Government appropriation and new funding to cover the costs of the services provided.</p>	<p>Fast.</p> <p>Quickest to implement – ACC confirms its Board will respond promptly to such a request from the Minister.</p> <p>Does not require legislative change.</p> <p>Key constraint is timeframe for policy direction and Cabinet decision on appropriation.</p>	<p>Feasible.</p> <p>The section 265 mechanism is designed for such circumstances. Legislation requires that out-of-function services are funded by Government appropriation – requires Cabinet decision.</p> <p>Costs cannot be accurately estimated at this time.</p> <p>ACC's current staff and processes are trained and suitable for the type of support required presently.</p>	<p>Constrained.</p> <p>Requirement to consult with ACC enables operational and financial impacts to be assessed, and can be done quickly. ACC is assessing these impacts now, prior to the Minister sending the letter of request.</p>	<p>Specific.</p> <p>The section 265 mechanism is designed for such circumstances. Allows a specific response to this event.</p> <p>Can make additional adjustments/ expansions as and when needed, provided within parameters of the AC Act and the Crown Entities Act.</p> <p>Not generically applicable to past or future events – should not be used as such.</p>	<p>Relatively low.</p> <p>Enables a bespoke Government response administered by ACC, rather than expanding boundaries of the scheme with unknown future impacts.</p>

Description	Timeliness	Feasibility	Time/cost limits	Fitness-for-purpose (generic or specific)	Scheme expansion risk
Option 2: Legislative change to extend mental injury cover following a terrorist event					
<p>Legislatively extend mental injury cover to include injury caused by a terrorist event. Could mirror existing sensitive claims provisions, referring to offence(s) under the Terrorism Suppression Act, or any event that may lead to Civil Defence activation.</p>	<p>Slow. Policy work required to refine cover criteria and nature of entitlements. Significant time required to draft and pass legislation.</p>	<p>Complex. Requires passage of legislation. Linking cover to specified offences may inappropriately put ACC in the position of determining potential criminal responsibility.</p>	<p>Broad. Difficult to place time limits on entitlements related to this event – once cover is granted, it is difficult to revoke.</p>	<p>More generic. Changing legislation may be a disproportionate response, given the section 265 mechanism already exists. Embeds preferred approach to terrorist events in legislation. Retains review rights.</p>	<p>High. Expansion of mental injury cover may create pressure to widen the scheme further.</p>
Option 3: Fund Ministry of Health or the Ministry of Social Development to contract with ACC for services and entitlements					
<p>An agreement (a Memorandum of Understanding, or a contract) made between ACC and the Ministry of Health/Ministry of Social Development, to fund delivery of specified services to be provided by ACC. This would be funded through a Vote Health/Vote Social Development appropriation.</p>	<p>Very slow. Cabinet decision required for appropriation. Additional time to develop MoU/contract. MSD advises that the time required to develop systems and processes would be significant.</p>	<p>Complex. May involve ACC providing services beyond statutory functions, outside of the specific mechanism provided by section 265. Cabinet decision required for Vote Health/Vote Social Development appropriation. MSD has experience in design and delivery of income support, but not clinical or medical services. Costs cannot be accurately estimated at this time. Cabinet decision required.</p>	<p>Constrained Specific and limited to March 15 attack – no application to past or future events. Scope to limit timeframe for seeking or receiving support, if desired.</p>	<p>Specific. Allows a bespoke response to March 15 attack. Not generically applicable to past or future events. May require ACC to act outside of its powers.</p>	<p>Relatively low. Enables a Government response administered by ACC, rather than expanding boundaries of the scheme with unknown future impacts.</p>