

IMPROVING HEALTH AND SAFETY AT WORK: JOINT APPROACH TO INJURY PREVENTION AND INCENTIVE PROGRAMMES BETWEEN ACC AND WORKSAFE NEW ZEALAND

- 1 This paper proposes a response to the Independent Taskforce on Health and Safety recommendations about the need for: better coordination on workplace injury prevention (IP) between the new health and safety Crown agent, WorkSafe New Zealand¹ (WorkSafe) and the Accident Compensation Corporation (ACC); and more effective incentive programmes to motivate employers to prevent injuries by improving their health and safety practices.

Executive summary

- 2 We set a target of reducing serious injuries and fatalities in the workplace by at least 25 per cent by 2020, and established an Independent Taskforce on Workplace Health and Safety (the Taskforce) to advise us on how this could be achieved. This paper is one of a suite of four papers² responding to the Taskforce's recommendations and the 2020 target.
- 3 In particular, this paper responds to Taskforce recommendations for improvement in the following areas:
 - workplace IP
 - incentive programmes including a new safety rating scheme
 - ACC levies, including experience rating.

Workplace injury prevention

- 4 Submitters to the Taskforce's public consultation raised concerns about confusion, lack of coordination and unclear messaging about IP in the workplace from ACC and the Ministry of Business, Innovation and Employment (MBIE).
- 5 We recommend a legislated requirement that at least once every three years the Boards of both agencies agree an action plan of workplace IP activities. Input from both agencies will ensure a coherent package and better outcomes. WorkSafe will have some funding available drawn from the Health and Safety in Employment (HSE) levy which it can contribute to workplace IP activities, but it is likely that most of the funding for the action plan will come from ACC's Work Account. ACC would retain ultimate responsibility for any funding provided by them to WorkSafe given they have a statutory requirement to show how injury prevention spend will reduce claims. In order to assist ACC in fulfilling this requirement, any funding for specific programmes agreed between the two agencies would be set out in a written agreement.

¹ A new standalone workplace health and safety agency is being established in response to a recommendation from the Royal Commission on the Pike River Coal Mine Tragedy and reinforced by an early recommendation from the Independent Taskforce on Workplace Health and Safety. The agency, to be called WorkSafe New Zealand, will have broad regulatory, enforcement, and education roles.

² The other papers are: (1) *Improving health and safety at work* (overarching paper); (2) *Improving health and safety at work: an effective regulatory framework* (3) *Improving health and safety at work: occupational health and management of hazardous substances proposals relating to HSNO and workplaces*.

- 6 This written agreement would outline key performance indicators (KPIs), which would be reported on quarterly to ACC, and annual reporting on outcomes. WorkSafe would be responsible for not only reporting to ACC but also for providing evaluations of its activities as required. The flow of money between the agencies would be specified as part of the agreement (i.e. whether it is quarterly or six monthly) and contingent on meeting of KPIs and other specified measures.
- 7 While there will be the above reporting and monitoring requirements, it is envisaged that a partnership approach will be taken between the two agencies. The Board of ACC believes the success of WorkSafe New Zealand is a critical contributor to reducing claims on the Work Account and improving injury prevention outcomes more generally. In any monitoring arrangements in relation to the money provided to WorkSafe NZ, the ACC Board will recognise the medium to long term nature of any joint injury prevention action plan and will work closely with WorkSafe to make the most of its investment. A partnership agreement and at least one shared Board member will also ensure strong connections between WorkSafe and ACC and support the agreement and delivery of a joint action plan.
- 8 Jointly delivered IP activities, and activities delivered by WorkSafe with ACC funding, would need to be consistent with ACC's workplace IP priorities and the Workplace Health and Safety (WHS) Strategy. ACC's workplace IP priorities and the WHS Strategy would also need to take account of each other when they are developed and amended.
- 9 Some activities that are a priority for one agency but not the other will be funded and delivered by that agency alone.
- 10 Ministers will use the usual accountability mechanisms for Crown agents to outline the high-level direction and Government priorities to the agencies. MBIE is the monitoring agency for WorkSafe. To ensure that WorkSafe and the ACC Board do not provide conflicting expectations and feedback, and/or there is not duplication of effort in the monitoring of injury prevention activity funded by ACC, MBIE and the ACC Board will work closely together around how to monitor this activity.
- 11 This approach encourages the agencies to cooperate to make sure a coherent package of workplace IP activity is delivered, which will result in better outcomes and consistent health and safety messages to employers. Both agencies will continue to interact with businesses, but the risk that they double-up in their interactions will be minimised by this joint approach and there will be greater collective impact of any IP spend.
- 12 A diagram representing the recommended new approach is attached as Annex I.

Voluntary incentive programmes

- 13 ACC offers businesses a discount on their Work Account levy through optional financial incentive programmes.
- 14 The Taskforce has recommended that there be a more effective performance rating scheme, that there should be greater financial discounts/incentives to reward good health and safety practice, and that thought be given to linking performance ratings to other incentives like opportunities to compete for government procurement contracts.
- 15 ACC and MBIE had already been developing a more effective performance rating scheme called Safety Star Rating, intended to encourage a proactive focus on injury prevention, compliance with health and safety legislation, and more effective workplace health and safety practices. This paper constitutes a report-back on the development of Safety Star Rating.

- 16 Prescriptive requirements in the Accident Compensation Act 2001 (the AC Act) constrain the ability to adapt and improve incentive programmes and introduce new schemes such as an improved Safety Star Rating scheme.
- 17 We recommend that ACC, WorkSafe and MBIE report back to us on the design of the Safety Star Rating scheme by December 2013. We also recommend that:
 - WorkSafe should be responsible for audits under the Safety Star Rating scheme
 - Any legislative reform package responding to the Taskforce remove the existing prescription in the AC Act and regulations, and replace it with principles for the development of incentive programmes.

Levies and experience rating

- 18 The Taskforce considered that there is greater potential to use ACC levies, including experience rating, to incentivise good health and safety performance, and also recommended that the new agency, MBIE and ACC be jointly mandated to provide advice to the Government on this.
- 19 An evaluation and a review into ACC funding policy currently being undertaken jointly by MBIE, ACC, and Treasury and due to be finished by early 2014 is looking at experience rating.

Background

- 20 The Government has set a target of reducing serious injuries and fatalities in the workplace by at least 25 per cent by 2020. On 16 April 2012 Cabinet agreed to the establishment of a taskforce to undertake a strategic review of whether the New Zealand workplace health and safety system remains fit for purpose.
- 21 The Taskforce identified systemic problems in New Zealand's WHS system, including a lack of collaboration and coordination between agencies on harm prevention efforts. It presented its final report on 30 April 2013. This paper is one of a suite of four papers responding to the recommendations of the Taskforce and the 2020 target. In particular, this paper responds to recommendations for improvement in the following areas:
 - workplace IP
 - incentive programmes including a new safety rating scheme
 - ACC levies, including experience rating.
- 22 All of the Taskforce's recommendations aim to achieve a strong and productive relationship between WorkSafe and ACC, with support from MBIE. For that reason, we, the Ministers for ACC and Minister of Labour, are submitting this paper to Cabinet jointly, with proposals to respond to the Taskforce and support a clear direction and effective interagency coordination.
- 23 The AC Act gives ACC the primary function of promoting measures to reduce the incidence and severity of personal injury whereas the focus of WorkSafe will be on 'harm reduction'. There is considerable overlap between these terms and this paper will use the term 'workplace injury prevention' (workplace IP) for simplicity. Workplace IP includes such activities as, for example, training and education programmes, campaigns, the publication and dissemination of literature and information, grants or subsidies, and research. It does not include enforcement and regulation-setting activities.
- 24 Incentive programmes are a form of workplace IP but there are special considerations, so for the purposes of this paper they will be discussed separately. The same overall objectives apply.

Objectives

- 25 We want to ensure that the two Crown agents are able to effectively deliver on their statutory functions, and where these functions are aligned, be clear on expectations for how the two will work together for best effect.
- 26 In proposing how ACC and WorkSafe can work effectively together to help meet the 2020 target, we have borne in mind the objectives set out below. We believe new institutional arrangements for workplace IP and incentive programmes must:

Be effective

- Be expected to reduce rates of injury, including contributing to the Government's goal to reduce serious injuries and fatalities by at least 25 per cent by 2020
- Be evidence based, which indicates that education, enforcement and other supporting incentives should align to form a coordinated, systematic approach
- Ensure workplace IP actions and incentive programmes have clear targets, are able to be evaluated (to determine their cost-effectiveness) and are stopped early or changed if not working

Be coherent, and consistent with Government objectives

- Take account of the WHS Strategy and ACC's injury prevention priorities
- Meet businesses' expectations for consistent and coherent messages about health and safety in the workplace and their desire for streamlined and easy interactions with Government

Recognise the role of the Boards of the Crown agents and encourage effective working relationships between the Boards

- Encourage a mature working partnership between the Boards of ACC and WorkSafe
- Provide checks and balances but allow the Boards the freedom to carry out their statutory responsibilities and maintain clear accountabilities

Recognise the different roles of ACC and WorkSafe

- The two agencies have overlapping but different roles. ACC has a statutory function to reduce the incidence and severity of injuries, as well as provide rehabilitation and compensation; whereas WorkSafe will have a primary function of preventing harm to all persons at work and in the vicinity of work through education, engagement and enforcement. Both agencies will continue to have interactions with businesses

Be efficient

- Maximise the contribution of each agency operating in the system and play to each other's strengths (i.e. consider how between the two agencies they can have the best collective impact)
- Avoid duplication of effort.

Part A: Workplace injury prevention

Current arrangements

ACC's role in injury prevention

- 27 The AC Act gives ACC a primary function of reducing the incidence and severity of personal injuries. ACC can invest in IP when it is satisfied that such measures are likely to result in a cost effective reduction in actual or projected levy rates or expenditure from the Non-Earners' Account.³ Research on the incidence and causes of injury is subject to a different test: it may be funded if it is directed at reducing the cost of compensation and rehabilitation provided under the Act.
- 28 ACC and MBIE are both focussed on high risk industries where injury frequently occurs. ACC may also focus on areas outside this that drive Scheme liability and costs, for example high-frequency and high-cost claims.
- 29 Last financial year ACC spent \$6.9 million on workplace IP. The ACC Board is increasing its emphasis on and investment in IP across all the ACC Accounts.
- 30 The Cabinet Social Policy Committee (SOC) agreed on 20 March 2013 [SOC Min (13) 4/3) refers] that ACC should lead the development of a new Action Plan for IP, covering all types of injuries, modelled on the Better Public Services Results Action Plans, and with a focus on achieving explicit results and outcomes. This Action Plan is being developed to coordinate government's overall IP efforts under the New Zealand Injury Prevention Strategy (NZIPS) and is due to be presented to Cabinet for approval in September 2013.
- 31 Officials were also asked to report to SOC with advice on ensuring there is no duplication of reporting and cross-departmental activity in relation to existing IP activities.

The health and safety regulator

- 32 The Health and Safety in Employment (HSE) Act 1992 places duties on employers to protect workers from harm. Harm is defined as illness, injury, or both; and includes physical or mental harm caused by work-related stress.
- 33 The Health and Safety Group within MBIE (formerly the Department of Labour), acts as the regulator by enforcing standards, providing information, and leading the WHS strategy. When WorkSafe is established, the Health and Safety Group within MBIE and its current functions will transfer to the new agency together with any new functions.
- 34 Under the NZIPS, MBIE has responsibility for the work-related injury priority area through the Workplace Health and Safety Strategy for New Zealand to 2015, which is in turn supported by the National Action Agenda 2010-2013. MBIE's Health and Safety Group has oversight of the implementation of sector action plans for each of five priority areas (construction, agriculture, forestry, manufacturing, and fishing⁴). The five priority areas correspond to the sectors with the highest number of injuries and cost in ACC's Work Account. There is also an action plan relating to occupational health that spans all sectors.
- 35 The Agenda and Action Plans are due for review at the end of 2013 and are an important foundation for WorkSafe to work with ACC to build future initiatives and programmes that reduce harm, and also target high numbers and costs of injury and illness claims in the Work Account.

Problem definition

³ ACC may also invest in IP if Parliament has appropriated money specifically for that purpose, or if money is available from another source such as sponsorship.

⁴ Maritime New Zealand is responsible for the Fishing Sector Action Plan.

- 36 Submitters to the Taskforce’s public consultation have raised concerns about confusion, lack of coordination and unclear messaging about workplace IP from ACC and MBIE. A lack of coordination reduces efficiency and effectiveness, especially as experience has shown that IP measures will be most effective if aligned with enforcement and education.
- 37 WorkSafe will be stepping up its role in workplace IP and over time will develop greater capacity and capability than the regulator has had previously to carry out enforcement, education, training, promotion of health and safety, and activities to improve occupational health. WorkSafe and ACC need to carefully coordinate their actions to avoid duplication and further confusion.

Relevant Taskforce recommendations

- 38 Relevant Taskforce recommendations are listed in Annex II. A summary of these recommendations is given below.

- Greater emphasis and resource should be given to IP.
- There should be a partnership between the new agency and ACC to oversee funding arrangements for the delivery of workplace IP activities
- ACC’s funding for workplace IP activities would move to the new agency. In turn, the new agency would lead the delivery of workplace IP activities. This would offset the increase in funding required by the new agency, so it would be fiscally neutral overall
- These activities would need to demonstrate a reduction of workplace injury and claims on the ACC scheme as well as be consistent with the WHS and IP strategies

Recommended approach

- 39 We agree with the Taskforce’s recommendation that an effective partnership between ACC and WorkSafe is needed.
- 40 ACC has long-standing expertise in IP, consistent with its primary function to promote measures to reduce the incidence and severity of personal injuries in all settings. ACC’s ability to oversee all IP in all settings is crucial to ensure the most effective investment in IP.
- 41 Under the NZIPS, MBIE has the lead role for the work-related injury priority area; this will transfer to WorkSafe. Over time WorkSafe will be well placed to play a lead role and to deliver more workplace IP activities, given its dedicated focus on workplace health and safety, the extent of its role and its expanding capacity, capability and expertise.
- 42 However we do not agree with the Taskforce that all of ACC’s workplace IP funding should transfer to WorkSafe for the following reasons. ACC:
- carries out IP activities that cut across multiple ACC Accounts, and needs to retain a holistic approach to injury prevention across a range of areas (e.g. types of injuries affecting more than one ACC Account, such as falls or alcohol)
 - needs to ensure IP activities reduce costs to the Work Account
 - needs to undertake activities that address drivers of Scheme liability but that will not always be a high priority for WorkSafe (e.g. discomfort and pain injuries). This is alongside ACC’s focus on high risk areas where injuries frequently occur.

- may from time to time be best placed to deliver activities where more traction could be achieved because of employer concerns with dealing with WorkSafe as the enforcement body. This may be particularly the case during the first few years of establishment of WorkSafe where it is building up its education and prevention roles.
- 43 Our recommended approach is to establish a clear and transparent process for ensuring the ACC and WorkSafe Boards collaboratively and effectively plan and deliver workplace injury prevention activities. As part of this ACC and WorkSafe can agree for WorkSafe to deliver specific workplace IP activities that ACC will fund.

Legislative approach

- 44 Both the AC Act and the new health and safety legislation will provide that:
- ACC's IP priorities and the WHS strategy must take account of each other
 - at least once every three years the ACC and WorkSafe Boards develop and agree a workplace IP action plan that is consistent with ACC IP priorities and the WHS Strategy. This would be subject to the appropriate checks and balances to ensure that ACC can meet its requirements under the AC Act for any spend to provide a reduction in levy rates and expenditure (see paragraph 49)
 - the action plan outlines all⁵ workplace IP activities being undertaken by the agencies, either individually or jointly; how the activities are to be funded; and the total amount of funding committed by one agency to fund specific activities carried out by the other.
- 45 The legislation would also include a provision that gives effect to the following objectives. The workplace IP action plan should:
- avoid duplication
 - ensure activities are delivered by the appropriate agency with the comparative advantage
 - ensure that employers and workers see a coherent package of activity
 - complement other enforcement and education activity where appropriate.

Funding workplace injury prevention

- 46 The amount of funding ACC puts into workplace IP is and will continue to be set by the ACC Board when it sets its budget.
- 47 It is likely that most of the money for the action plan will come from the Work Account, but WorkSafe will also have some funding available drawn from the HSE levy which it can contribute to IP activities. WorkSafe requires some permanent core capability to support IP activities and this too will be funded from the HSE levy. The overarching Cabinet paper *Improving Health and Safety at Work* discusses the funding needs of WorkSafe.
- 48 Jointly delivered IP activities, and activities delivered by WorkSafe with Work Account funding, would need to have a written agreement that:
- shows how these activities would reduce costs in the Work Account (in accordance with the legislative requirements for use of levy funding for IP activities)

⁵ With one exception: some workplace injury prevention activities targeting work vehicles on the road, i.e. fleet safety programmes, are funded from the Motor Vehicle Account not the Work Account and it is not intended that these be included in the joint action plan.

- shows how they would be consistent with ACC's IP priorities
 - shows how they would be consistent with the WHS Strategy
 - outlines clear key performance indicators and how activities will be evaluated; (see below).
- 49 ACC would retain ultimate responsibility for any funding provided by them to WorkSafe given they have a statutory requirement to show how injury prevention spend will reduce claims. In order to assist ACC in fulfilling this requirement, any funding for specific programmes agreed between the two agencies would be set out in a written agreement. This written agreement would contain key performance indicators which would be reported on quarterly to ACC, and annual reporting on outcomes.
- 50 WorkSafe would be responsible for not only reporting to ACC but also for providing evaluations of its activities as required. The flow of money between the agencies would be specified as part of the agreement (i.e. whether it is quarterly or six monthly) and contingent on meeting of KPIs and other specified measures. In carrying out monitoring of spend, the ACC Board will recognise the medium to long term nature of any joint injury prevention action plan and will work closely with WorkSafe to make the most of its investment.
- 51 Jointly delivered workplace IP activities, or activities delivered by WorkSafe with ACC funding, may be jointly branded. This is to ensure that levy-payers can see how their levies are used and that they are getting value for money for the levies they pay, and also to reflect the joined up approach of the agencies. This is an important part of customers maintaining positive relationships with ACC and a sense of trust and confidence in ACC.
- 52 Although their two strategies will be aligned, there will still be areas in which the two agencies have slightly different priorities. For example, because of the requirement that ACC's IP investment must be likely to show a reduction in levies and its role across all IP, ACC may have a greater focus on areas that cut across injury prevention settings, which WorkSafe may not prioritise as highly.
- 53 Some activities that are a priority for one agency but not the other may be funded and delivered by that agency alone. That means ACC can continue to use Work Account funding to deliver programmes targeted at drivers of Scheme liability and initiatives that cut across injury prevention areas, and WorkSafe can use HSE levy funding for activities that are not a priority for ACC. These activities would still form part of the joint action plan to ensure a coherent approach to workplace IP.
- 54 Both agencies will continue to interact with businesses, but the risk that they double-up in their interactions will be minimised by this joint approach.
- 55 Other agencies will also be involved as appropriate; for example Maritime New Zealand with respect to injury prevention activities in the fishing sector.
- 56 In addition to the arrangements outlined above, a mature and effective relationship about IP between the agencies would be encouraged through:
- a partnership agreement between the agencies
 - agencies sharing at least one Board member to ensure strong connections and support the agreement of a joint action plan
 - the Minister for ACC and Minister of Labour using the usual accountability mechanisms for Crown agents, such as Letters of Expectation (LoEs), to outline the high-level direction and Government priorities to the agencies. Greater detail can be included in agencies' service and purchase agreements, and agencies would also be expected to refer to their joint IP action plan in their Statements of Intent

- monitoring (WorkSafe by MBIE and ACC by the Crown Ownership Monitoring Unit within the Treasury) to ensure they are performing well and meeting expectations.
- 57 Over and above these arrangements the reality is that both agencies are strongly incentivised to work collaboratively together. The Board of ACC believes the success of WorkSafe New Zealand is a critical contributor to reducing claims on the work account and improving injury prevention outcomes more generally, and WorkSafe will be encouraged to work with ACC not just for the funding, but their broader expertise on injury prevention.
- 58 MBIE is the monitoring agency for WorkSafe. There could be a risk of inconsistent expectations and feedback, or duplication for the monitoring of WorkSafe on the injury prevention activity funded by ACC. To address this MBIE and the ACC Board will work closely together around how to monitor this activity, and MBIE will aim to rely on and not replicate work done by the ACC Board on monitoring.

Benefits

- 59 The benefits of the recommended approach include:
- stronger incentives to cooperate to make sure a coherent package of workplace IP activity is developed, and ensure employers get consistent messages and their interactions with government agencies are as streamlined as possible
 - the process of putting forward business cases for joint proposals, that must be approved by both agencies, will add rigour to decision-making on workplace IP activities
 - the AC Act requirement that IP activities funded by the Work Account must be able to demonstrate a reduction in costs in the Work Account reduces the chance of waste by ensuring spending is making a measurable difference
 - there is flexibility for some activities that are a priority for one agency but not the other to be funded and delivered by just that agency, without losing the coherent overall approach because these activities would still form part of the joint action plan
 - a joint approach avoids duplication of effort, to maximise efficiency
 - agencies can play to their strengths - the new agency will have specific workplace health and safety expertise, whereas ACC has capability and experience in workplace IP and IP generally as well as a broader IP perspective and strategy
 - jointly agreeing on an action plan means each agency benefits from the perspective and expertise of the other
 - decision-making is at the appropriate level and there are the appropriate checks and balances to ensure IP spending is undertaken responsibly with a clear line of sight to reductions on costs in the Work Account.

Risks

- 60 The risks of the recommended approach include:
- joint agreement between Boards could take time to reach and is reliant on a positive working relationship, willingness to cooperate, and equality of standing between the two organisations. A shared Board member/s, and accountability mechanisms, will help make this work

- there could be extra administration costs associated with the process of determining the joint action plan. Under the status quo there is no requirement to spend time reaching agreement – but there is also the risk of disjointed planning and delivery
- the slightly different focus of the two agencies could cause challenges in agreeing joint work. However, this risk is likely to be small given both agencies have overlapping interests, incentives to work together, are driving towards the same outcomes, and there other mechanisms outlined above to incentivise cooperation. Ministers could also align the expectations in the LoEs
- this funding arrangement could create some uncertainty for WorkSafe when planning its activities. The proportion of WorkSafe’s funding that comes from ACC will depend both on the ACC Board’s decision on the total funding available for workplace IP, and mutual agreement between the Boards on the specific activities to be funded. The three year period of the joint action plan will help. The success of this arrangement is reliant on good relationship management and regular monitoring and evaluation of programmes. The ability for WorkSafe to contribute some HSE levy money to the total funding for the joint action plan will also help

Moving to new institutional arrangements for IP

- 61 The Health and Safety Group (within MBIE) and ACC have recently put in place measures to improve their collaboration and cooperation at the operational level. Recognising that in the past there have been inefficiencies, duplications and overlaps, the agencies are developing a formal operational partnership with clearly defined roles and responsibilities, to better coordinate their activities.
- 62 This partnership will be built on to include any additional working requirements needed to effectively implement the recommendations in this paper.
- 63 Should Cabinet agree to the proposals in this paper, agencies will continue their operational cooperation in anticipation of the changes coming into force. MBIE (through the Health and Safety Group and the Establishment Board of WorkSafe) and the ACC Board will continue to work together on the Injury Prevention Action Plan to develop coordinated initiatives.
- 64 As part of this, ACC and the Health and Safety Group/WorkSafe will identify:
- which actions WorkSafe will lead, such as activities under sector action plans
 - which actions ACC will lead, such as cross-cutting initiatives (for example, falls prevention activities) or activities that drive areas of Scheme liability
 - which actions should be delivered together
 - how these activities will be funded.
- 65 The actual proportion of workplace IP activities to be carried out by WorkSafe and ACC is not fixed. It will be determined by the Boards as they apply the decision-making process set out above to agree their action plan.
- 66 Over the longer term, WorkSafe will build its capacity and capability. This will allow it to increase its IP activity gradually.

Part B: Voluntary incentive programmes

67 This section of the paper discusses voluntary incentive programmes, and how ACC, WorkSafe, and MBIE should work together on these as part of a new health and safety system. Financial incentives are a useful tool to motivate businesses to promote safety, improve their practices and educate them on what good health and safety practice looks like.

Current arrangements

68 Currently ACC offers businesses a discount on their Work Account levy through optional financial incentive programmes. The objectives of ACC's programmes are to promote measures to reduce the severity and incidence of injuries and to reduce costs to the ACC scheme. There are currently two programmes, one for small firms and another for medium/large firms.⁶

69 MBIE and ACC have undertaken development work on a new voluntary incentive programme called Safety Star Rating.

70 The primary objective of Safety Star Rating is to encourage a proactive focus on injury prevention, compliance with health and safety legislation, and more effective workplace health and safety practices. It would do this by:

- creating a credible standard to allow stakeholders to compare businesses' health and safety practices and outcomes
- giving government agencies a pathway into working with businesses to improve safety practices and performance.

71 A Safety Star Rating scheme would give participating businesses a single rating that brings together information about not only their safety systems but also their outcomes. It is also envisaged that high-performing firms would receive a levy discount.

72 Initially this scheme was to be developed based on ACC's current optional financial incentive programmes and incorporate both claims experience and information on compliance activity. In February the launch of the proposed Safety Star Rating scheme was deferred to allow it to better take account of feedback from stakeholders in the design of the rating system.

73 A consistent message from stakeholders is that Safety Star Rating is a credible concept and that employers are likely to see value in a programme that enables them to visibly demonstrate their positive safety performance. However, they did not feel confident about participating in the system as it was initially proposed because they considered that it would be insufficiently robust.

⁶ They are:

- The Workplace Safety Discount (WSD) programme is for small employers (ten or fewer full-time employees or less than \$519,000 in Liabile Earnings). The programme was expanded in April 2013 so that businesses in all industries are now eligible.
- The Workplace Management Safety Practices (WSMP) scheme rewards medium and large employers who meet audit requirements. There are three levels: primary, which earns a 10% discount, secondary, which earns a 15% discount, and tertiary, which earns a 20% discount.

In addition, ACC operates the Accredited Employers Programme (AEP) which is designed for large employers who can take on some of their own workplace injury risk. This programme is different to the WSMP and WSD because employers take on the costs of claims and responsibility for the management of claims. No changes to the AEP are proposed.

In 2011 the Government consulted on two proposals for the Work Account: (1) introducing competition to the Work Account, and (2) extending the Accredited Employers Programme (AEP) and introducing risk-sharing for employers outside the AEP. The proposed changes to incentive programmes in this paper do not relate to these proposals.

- 74 Stakeholders were concerned about the inherent limitations of basing star rating calculations on participation in ACC's current optional financial incentive programmes. They also recommended additional aspects of a firm's health and safety practice that should be considered, such as the risk profile of the industry the firm is in (for example, a business in a high risk industry may need to have to take different actions compared to a business in a low risk industry).

Problem definition

- 75 More could be done to incentivise good health and safety practices and reward high-performing employers. Existing incentive programmes do not provide a complete picture of an employer's health and safety performance and do not connect well with health and safety legislation.
- 76 A Safety Star Rating scheme would fill this gap and could take account of such aspects as management commitment to health and safety, worker participation, claims history, the industry a firm is in, return-to-work outcomes and the firm's record with the health and safety inspectorate. However a re-vamped Safety Star Rating scheme that takes account of businesses' feedback and goes beyond what is possible under the existing incentive programmes cannot be introduced without changes to the AC Act.
- 77 Prescriptive elements of the AC Act constrain the ability to adapt and improve incentive programmes and introduce new schemes such as Safety Star Rating.
- 78 The legislation only permits programmes to base levy discounts on an assessment of a business's safety management practices (i.e. injury prevention systems). These programmes do not provide a comprehensive assessment of a business's workplace health and safety outcomes because legislation prevents ACC from assessing other areas of performance, such as their claims experience or how injured employees are supported back to work.

Relevant Taskforce recommendations

- 79 Submitters to the Taskforce identified a number of shortcomings with existing financial incentives programmes. The Taskforce report includes the following description of stakeholder views about incentive programmes and audits:
- 80 "The Workplace Safety Management Practices system, and its associated audits, were criticised for encouraging paper-based compliance, not safer systems in practice. More robust auditing, increased levy reductions for good performers, greater support for smaller businesses, and regular reviews of all the ACC incentive schemes were recommended".
- 81 Relevant Taskforce recommendations are listed in [Annex III](#). A summary is given below.

- The Government should introduce a new business health and safety rating scheme
- While a business health and safety rating scheme could be introduced based on existing performance measures, e.g. ACC levy discount schemes, this would pose risks for the Government, MBIE, ACC, the new agency and businesses, as the current discount programmes do not involve an in-depth review of a business' health and safety performance. Significant design work needs to be undertaken by MBIE, ACC and the new agency prior to the introduction of any such scheme
- ACC should be responsible for implementing the differentiated levies. However, the new agency should be responsible for auditing performance under a new risk- and performance-rating levy regime. The audit role would be significantly more intensive than ACC's current audit processes.

Increasing flexibility to design and modify voluntary incentive programmes

- 82 We recommend that alongside changes to health and safety legislation, minor complementary changes should be made to the AC Act to increase the flexibility to design and modify optional incentive programmes in the Work Account. This will not only enable an improved Safety Star Rating scheme to be introduced, but will also allow incentive programmes to be adapted over time to respond to emerging customer needs.
- 83 We recommend removing the existing details in legislation and regulations and replacing them with principles for the development of incentive programmes. A principles-based approach is appropriate because the programmes are optional: no employer is forced to take them up and standard cover remains available to all employers.
- 84 We recommend a collaborative approach to incentive programmes. The injury prevention aspects of incentive programmes should be designed jointly by ACC and WorkSafe. We recognise that ACC should play the lead role in return-to-work aspects and in ensuring that discounts on levies have an actuarial basis. This is important because in the existing programmes the cost of the discounts is funded by non-participants.
- 85 Where appropriate, other agencies should also be involved: for example Maritime New Zealand would be involved in discussions about how incentive programmes operate in the fishing sector.
- 86 Requirements for Ministerial approval and consultation are incorporated. They are designed to be proportional to the level of impact a programme is likely to have on either other levy-payers, or the government of the day.
- 87 These changes are limited in scope: they only affect voluntary incentive programmes in the Work Account. There will be no change to any other Account and no impact to claimants.

Recommended principles

- 88 The following objectives should guide the development of incentive programmes, including Safety Star Rating:
- 1) There is flexibility to develop and amend incentive programmes for employers that are designed to incentivise injury prevention and assist the ACC Scheme to meet its objectives
 - 2) Incentive programmes will be designed by ACC except for any workplace injury prevention aspect which will be designed jointly by ACC and WorkSafe
 - 3) Claimants continue to receive their entitlements
 - 4) Programmes are both effective and efficient
 - In deciding whether to introduce a programme, the following should be considered:
 - the extent to which the programme is likely to lead to reductions in the number and severity of work injuries and improvements in rehabilitation and durable return-to-work
 - the extent to which the programme impacts on the levies of non-participating levy payers

- the administration costs associated with the programme and any impact it may have on ACC Scheme administration and claims management processes.
- 5) Discounts should reflect the likely savings created by the behaviours they reward: i.e. any discount offered by an incentive programme is proportional to the lower injury costs expected to be incurred
- 6) Programmes meet the needs of different types of businesses, including small and large firms
- 7) Programme details are transparent and easily accessible
 - The terms and conditions of all programmes proposed to be offered, including the entry conditions, must be published
- 8) Relevant interests are safeguarded through adequate consultation and Ministerial oversight
 - The Minister for ACC can decide that ministerial approval and stakeholder consultation is required for a programme. ACC must provide the Minister with the necessary information on which to base this decision (i.e. the business case it presents to its Board)
 - In making this decision, the Minister may consider any relevant factors, including:
 - the public interest
 - how the programme aligns with the Government's broader objectives
 - the impact of the programme on particular groups of levy payers
 - the impact on the levies of levy payers who are eligible, but do not choose to participate in the programme
 - If Ministerial approval is not required ACC must consult as it sees fit, considering the impact of the proposals on the levies of non-participating levy payers in determining the appropriate level of consultation
- 9) Appropriate accountability and monitoring arrangements are in place
 - ACC and WorkSafe must report, at least annually, on how incentive programmes are contributing to the stated objectives
 - ACC and WorkSafe must maintain an adequate monitoring and audit programme for employers in the programmes.

New Safety Star Rating scheme

89 Through the further development of the scheme it has become clear that:

- 1) Not only will a new Safety Star Rating scheme require minor legislative amendments to the AC Act and regulations to redevelop, but it will also need to leverage off work being undertaken as part of this wider review of WHS including legislation, regulation and guidance. If it does not there could be conflicting messages about what good safety practices are for business

- 2) A Safety Star Rating scheme will be most effective if it is not only linked to ACC levy discounts, but is also recognised and demanded by those interacting with businesses. For these reasons, exploring further how it can be linked to procurement, especially Government procurement, is important, and consistent with the Taskforce's suggestions for how a rating scheme could be used. Further work will be done to explore this
- 3) Further consideration will be given to how Safety Star Rating is funded and implemented, including:
 - a) More rigorous and resource-intensive checks are envisaged. How should these be paid for? Should a fee be charged to manage demand and because there are direct benefits to firms, or should the costs of auditing firms be covered by the ACC levy or HSE levy?
 - b) Should there be a different approach to different sectors?
 - c) Should there be a phased approach to implementation by sector and how would this work?

Impact on existing programmes

- 90 As the Safety Star Rating scheme is being developed, there is a need to consider what role existing programmes should play once Safety Star Rating is fully implemented and how this will impact on ACC's business customers.

Responsibility for audits under a new Safety Star Rating scheme

- 91 The audits carried out as part of ACC's optional financial incentive programmes are suitable for that purpose, but the Taskforce found that there are inconsistencies between these audits and the compliance requirements under the HSE Act. In particular, businesses raised concerns that they could be assessed as meeting the standards for an ACC programme, only to be deficient in a number of areas from the perspective of the regulator. The Taskforce recommended that care should be taken in designing the new scheme to ensure alignment.⁷
- 92 The design work on the Safety Star Rating scheme is still to be completed. A decision on the agency to be responsible for the audit function for that programme is needed so that capacity and capability can be built in the right place: should it be placed in WorkSafe, it will have implications for the design of that agency's IT systems and internal structures and capability.
- 93 We consider that the responsibility for ensuring firms are adequately audited for their Safety Star Rating should sit with WorkSafe, because:
- a Safety Star Rating workplace audit is likely to require the auditor to have detailed knowledge of health and safety duties and requirements for WHS systems; WorkSafe will have this knowledge and the skills to determine whether or not firms are meeting these standards and advise them on how to improve
 - to carry out "significantly more intensive" audits, ACC would need to boost its existing capability and this could risk replicating many of the functions and knowledge that are to be developed in WorkSafe.

Next steps on Safety Star Rating

⁷ Paragraphs 350 and 357 of the Taskforce's report.

94 As stated above a new Safety Star Rating scheme is reliant on changes to the AC Act and the implementation of the new WHS legislation, regulations and guidance that is part of the reform package. For this reason we propose the following process and timeframe for work on the Safety Star Rating scheme:

- 1) ACC and MBIE will report back to us on the design of the Safety Star Rating scheme by December 2013. This will also include a report back on the future role of other incentive programmes and their audit arrangements
- 2) In early to mid-2014 officials will carry out a proof-of-concept of the scheme
- 3) Following the proof-of-concept, officials will report to us again on the results of the proof-of-concept, along with information on discounts, procurement, and fee for service aspects of the scheme and whether changes would be needed. They would also report on a detailed implementation plan.

Benefits

95 The benefits of the recommended approach include:

- Safety Star Rating scheme:
 - Businesses get a more complete picture of their health and safety, with reduced risk of contradictory messages, due to better links between the health and safety regime and ACC regime
 - Better alignment of incentives, education and compliance
- Greater flexibility in the AC Act:
 - ACC and WorkSafe will have the ability to more accurately incentivise businesses to improve their practices to prevent injuries by targeting the things that matter - not limited to workplace safety management practices
 - Arrangements will be more durable over time because programmes can be adapted to changing needs.

Risks

96 The risks of the recommended approach include:

- Safety Star Rating scheme:
 - Developing the new scheme will take effort and resources in ACC and WorkSafe because of the need to connect their two systems. We consider it is worth investing these resources into developing a better product for employers
 - There is a risk that despite the best efforts of both agencies to design a Safety Star Rating scheme that incentivises good practices, these changed behaviours may not flow through to a significant drop in the injury rates of participating businesses. Over time, agencies can use evaluation data to identify refinements to the scheme
 - The transition from ACC's current incentive programmes, and the associated auditing function that ACC provides, will need to be carefully planned and managed. It will be essential that business customers are clear about the transition process, that WorkSafe is adequately resourced to meet auditing demands and that ACC is still able to meet customer

expectations (for example, the assessment process for an incentive programme ensures that ACC is able to apply levy discounts in a timely manner). These factors will be important for maintaining trust and confidence in both ACC and WorkSafe, and in the Safety Star Rating.

- An audit is a snapshot of performance at a given point; even the most thorough audit cannot guarantee future performance. For example, there remains a risk that a business could experience a fatality or serious injury shortly after passing an audit, leading people to question the adequacy of the audits.
- Greater flexibility in the AC Act:
 - More flexibility to design and change incentive programmes means less formal control by Ministers, as the details of the programmes will no longer be in regulations. However, the framework for these programmes will remain in legislation and there will be other opportunities for Ministerial oversight.

Part C: Levies and experience rating

97 Taskforce recommendations and comments relating to levies and experience rating are attached as Annex IV.

98 In summary:

- The Taskforce considers that there is potential to use ACC levies, including experience rating, to incentivise good performance by introducing a greater differential between good and poor performers
- This should include lead and lag indicators, which need to be developed and tested
- The Taskforce recommends that the new agency, MBIE and ACC be jointly mandated to provide advice to the Government on how the rating system can be used to better incentivise good performance

99 Experience rating is the system ACC uses to adjust levies based on firms' claims history. Experience rating results in employers with a better than average claims history paying lower levies than their competitors with a poorer than average claims history.

100 However, unlike incentive programmes, experience rating is a mandatory adjustment to levies, not a voluntary option. Another difference is that experience rating is based on past claims data and does not include any audits of health and safety systems in the workplace.

101

[withheld]

102 An evaluation of the experience rating system is also underway and will continue regardless of any decision to change loadings. This evaluation will be done in two phases, the first looking at employers' responses to experience rating and the second at the impact of experience rating and whether it has ultimately reduced injuries. Phase one will conclude at the end of 2013 and phase two is expected to be completed by the end of 2014.

- 103 It is proposed that the initial findings of the evaluation of experience rating, and the Taskforce recommendations, be considered as part of a review into ACC funding policy currently being undertaken jointly by MBIE, ACC, and Treasury and due to be finished by early 2014.

Lead indicators

- 104 A lead indicator is a measure of a firm's ongoing health and safety initiatives (i.e. those likely to lead to better outcomes, such as health and safety training), or of the workplace conditions leading to illness and injuries. Lead indicators are intended to be used as predictors of future performance and are already used in incentive programmes, i.e. firms with good practices in place are rewarded.
- 105 The Taskforce was not specific on which new indicators it considered should be added into the levy-setting process. The use of lead indicators in levy setting would be challenging; such information is likely to be difficult to collect and credibly apply in the context of a mandatory levy. ACC officials advise that they have been unable to find much information from other jurisdictions on how lead indicators are, or can be, applied to insurance premiums. Levies already incorporate ways of differentiating risk; it is not clear that lead indicators would add enough value to justify the extra compliance cost on business.
- 106 We recommend that lead indicators are not applied to the setting of mandatory levies at this time. The work on optional incentive programmes will consider what lead indicators are most appropriate to be linked to levy discounts through incentive programmes.

Involvement of other agencies

- 107 ACC, MBIE and the Treasury already provide advice to Ministers on ACC levies. The Taskforce recommended that WorkSafe should be able to make recommendations to ACC on levy discounts and experience rating and their workability. We agree; this can occur as part of ACC's usual agency and public consultation processes.
- 108 MBIE would continue to provide advice to Ministers on funding through the HSE and ACC levies, and how the levies are structured.

Evaluation and data considerations

- 109 Problems have been identified with existing workplace health and safety data and agencies are working together to improve it.
- 110 IP activities and incentive programmes rely on good data. Workplace IP programme development will draw on the information and expertise of each agency. WorkSafe and ACC will cooperate to collect and share data to support workplace IP activities and incentive programmes.
- 111 As noted earlier, the AC Act allows ACC to carry out IP activities only if it is satisfied that such measures are likely to result in a cost effective reduction in actual or projected levy rates. Evaluation of IP activities will be crucial to meet this requirement and evaluation arrangements will be determined at the outset.

Costs of implementing the proposals in this paper

- 112 There will be additional costs for WorkSafe as a result of these proposals but no additional funding is sought in this paper. Resourcing of WorkSafe is discussed in the accompanying paper, Improving Health and Safety at Work, which recommends funding for implementation of the Safety Star Rating scheme and for an increased coordination role with the Environmental Protection Agency, ACC and other regulators. Refer to that paper for a complete discussion of funding recommendations.
- 113 There may be some additional costs for ACC associated with the proposals in this paper. ACC will manage any additional costs within existing operational budgets.

Consultation

- 114 This paper has been prepared jointly by MBIE and ACC.
- 115 Treasury, State Services Commission, Civil Aviation Authority, Maritime New Zealand, New Zealand Police, New Zealand Transport Agency, the Transport Accident Investigation Commission, the Tertiary Education Commission, New Zealand Qualifications Authority, Te Puni Kōkiri, Environmental Protection Authority, and the Ministries of Health, Justice, Transport, Education, Women's Affairs, Pacific Island Affairs, Defence, Internal Affairs, Foreign Affairs, Primary Industries, and Environment have been consulted on this paper. The Department of Prime Minister and Cabinet was informed.
- 116 The main body of the paper has been amended to take account of comments from Maritime New Zealand.
- 117 Te Puni Kōkiri noted that given the disproportionate number of Māori who experience injury in the workplace, there are potential benefits to Māori from improving injury prevention. Te Puni Kōkiri suggested including effectiveness for Māori in the future evaluation of the proposed joint approach.
- 118 We instead recommend that effectiveness for Māori could be considered in the development of the Workplace Health and Safety Strategy.

Human rights

- 119 The proposals are not expected to have any detrimental impact on human rights or on ACC claimant outcomes.

Legislative implications

- 120 Legislative amendments outlined in this paper would be made as part of the Health and Safety at Work Bill which implements the Government's response to the recommendations of the Taskforce by introducing new health and safety legislation.
- 121 Changes to the AC Act would also form part of this package.

Regulatory impact analysis

- 122 One regulatory impact analysis has been prepared for the suite of four Cabinet papers on how the Government should respond to the recommendations of the Taskforce.

Publicity

- 123 The changes in this paper form part of a suite of changes to New Zealand's health and safety system and we will inform the public about all these changes at the same time. They will be included in a public document setting out the Government's response to the recommendations of the Taskforce. The Minister of Labour will release this document in July 2013.

Recommendations

The Minister for ACC and the Minister of Labour recommend that the Committee:

- 1) **note** that achieving the Government's target to reduce serious injuries and fatalities in the workplace by at least 25 per cent by 2020 will rely, among other things, on a strong and productive relationship between WorkSafe New Zealand (WorkSafe) and the Accident Compensation Corporation (ACC), with support from the Ministry of Business, Innovation, and Employment (MBIE);

Workplace injury prevention (IP)

- 2) **note** that submitters to the public consultation carried out by the Independent Taskforce on Workplace Health and Safety (the Taskforce) raised concerns about confusion, lack of coordination and unclear messaging about IP in the workplace from ACC and MBIE;
- 3) **note** that the Taskforce recommended that (in summary):
 - greater emphasis and resource should be given to IP;
 - there should be a partnership between the new agency and ACC to oversee funding arrangements for the delivery of workplace IP activities;
 - ACC IP funding should be available to the new WHS agency, which would lead the delivery of workplace injury prevention activities. These activities would need to demonstrate a reduction of workplace injury and claims on the ACC scheme as well as be consistent with the WHS and IP Strategies;
- 4) **note** that the overall level of workplace IP activity is going to increase and WorkSafe and ACC will need to carefully coordinate their actions to avoid the risk of duplication and further confusion;
- 5) **agree** that both the AC Act and the new health and safety legislation will provide that:
 - ACC's IP priorities and the WHS strategy must take account of each other;
 - at least once every three years the ACC and WorkSafe Boards will develop and agree a workplace IP action plan that is consistent with ACC IP priorities and the WHS strategy;
 - the action plan will outline all workplace IP activities (except workplace injury prevention activities targeting work vehicles and funded from the Motor Vehicle Account) being undertaken by the agencies, either individually or jointly; how the activities are to be funded; and the total amount of funding committed by one agency to fund specific activities carried out by the other;
- 6) **agree** that the legislation also include a provision that gives effect to the following objectives. The workplace IP action plan should:
 - avoid duplication;
 - ensure activities are delivered by the appropriate agency with the comparative advantage;
 - ensure that employers and workers see a coherent package of activity;

- complement other enforcement and education activity where possible;
- 7) **note** that in keeping with its statutory responsibilities to ensure levy-payers' money is used appropriately, ACC will continue to be ultimately responsible for activities that are funded from the ACC Work Account and that ACC's ability to oversee all IP in all settings is crucial to ensure the most effective investment in IP;
 - 8) **agree** that jointly delivered workplace IP activities, or jointly agreed activities delivered by WorkSafe with ACC funding will need to have a written agreement that:
 - shows how the activities would reduce costs in the Work Account (in accordance with the legislative requirements for use of levy funding for IP activities);
 - shows how they would be consistent with ACC's IP priorities;
 - shows how they would be consistent with the WHS Strategy;
 - outlines clear key performance indicators and how activities will be evaluated;
 - 9) **agree** that for activities that WorkSafe delivers with ACC funding:
 - WorkSafe will report quarterly to ACC on key performance indicators, and annually on outcomes;
 - WorkSafe will be responsible for evaluating the activities undertaken;
 - The agreement outlined in recommendation 8 above will specify how funding will be provided to WorkSafe by ACC, including the timing of any payments;
 - ACC's funding will be contingent on KPIs and outcomes being met;
 - 10) **note** that it is likely that most of the funding for the action plan will come from the ACC Work Account, but WorkSafe will also have some funding available drawn from the HSE levy which it can contribute to IP activities;
 - 11) **note** that jointly delivered workplace IP activities or activities delivered by WorkSafe with ACC funding may be jointly branded, so that levy-payers can see how their levies are used and that they are getting value for money for the levies they pay, and also to reflect the joined up approach of the agencies;
 - 12) **note** that some activities that are a priority for one agency but not the other will be funded and delivered by that agency alone, but these activities would still form part of the joint action plan to ensure a coherent approach to workplace IP;
 - 13) **agree** that ACC and WorkSafe will share at least one Board member to ensure strong connections between them and support the agreement of a joint action plan;
 - 14) **note** that the ACC Board and MBIE, who is the monitoring agency for WorkSafe, will work closely together to ensure no duplication of effort, or inconsistency, in the monitoring of any IP activity funded by ACC;

Voluntary incentive programmes

- 15) **note** the Taskforce recommendations that (in summary):
 - the Government should introduce a new business health and safety rating scheme;
 - while a business health and safety rating scheme could be introduced based on existing performance measures, e.g. ACC levy discount schemes, this would pose risks for the Government, MBIE, ACC, the new agency and businesses, as the current discount programmes do not involve an in-depth review of a business' health and safety performance. Significant design work needs to be undertaken by MBIE, ACC and the new agency prior to the introduction of any such scheme;

- ACC should be responsible for implementing the differentiated levies. However, the new agency should be responsible for auditing performance under a new risk- and performance-rating levy regime. The audit role would be significantly more intensive than ACC's current audit processes;

Safety Star Rating

- 16) **note** that officials have already been working on a rating scheme, called "Safety Star Rating", that is consistent with the Taskforce's suggestions;
- 17) **note** that a new Safety Star Rating scheme will require minor legislative amendment to the AC Act and regulations to provide adequate incentives to implement and will need to leverage off work being taken as part of the wider review of workplace health and safety;
- 18) **agree** that the responsibility for ensuring firms are adequately audited for their Safety Star Rating should sit with WorkSafe;
- 19) **note** that the transition from ACC's current incentive programmes, and the associated auditing function that ACC provides, to the Safety Star Rating scheme will need to be carefully planned and managed. It will be essential that business customers are clear about the transition process, that WorkSafe is adequately resourced to meet auditing demands and that ACC is still able to meet customer expectations around the provision of levy discounts;
- 20) **agree** to the following process and timeframe for work on the Safety Star Rating scheme:
 - ACC and MBIE will report back to the Minister for ACC and Minister of Labour on the design of the Safety Star Rating scheme by December 2013. This will also include a report back on the future role of the other incentive programmes;
 - in early to mid-2014 officials will carry out a proof-of-concept of the scheme;
 - following the proof-of-concept officials will report to Ministers again on the results of the proof-of-concept, along with information on discounts, procurement, and fee for service aspects of the scheme and whether changes would be needed. They would also report on a detailed implementation plan;

Increasing flexibility to design and modify voluntary incentive programmes

- 21) **note** that increasing flexibility in the AC Act would mean greater ability to introduce new programmes (in particular, Safety Star Rating) and to make improvements to programmes over time to respond to emerging customer needs;
- 22) **agree** that existing details in the AC Act and associated regulations should be removed and replaced with principles to govern incentive programmes, recognising that a principles-based approach is appropriate because incentive programmes are optional;
- 23) **approve** the following objectives to guide the development of incentive programmes:
 - 1) There is flexibility to develop and amend incentive programmes for employers that are designed to incentivise injury prevention and assist the ACC Scheme to meet its objectives;
 - 2) Incentive programmes will be designed by ACC except for any workplace injury prevention aspect which will be designed jointly by ACC and WorkSafe;
 - 3) Claimants continue to receive their entitlements;
 - 4) Programmes are both effective and efficient:
 - In deciding whether to introduce a programme, the following should be considered:

- the extent to which the programme is likely to lead to reductions in the number and severity of work injuries and improvements in rehabilitation and durable return-to-work;
 - the extent to which the programme impacts on the levies of non-participating levy payers;
 - the administration costs associated with the programme and any impact it may have on ACC Scheme administration and claims management processes;
- 5) Discounts should reflect the likely savings created by the behaviours they reward: i.e. any discount offered by an incentive programme is proportional to the lower injury costs expected to be incurred;
- 6) Programmes meet the needs of different types of businesses, including small and large firms;
- 7) Programme details are transparent and easily accessible:
 - The terms and conditions of all programmes proposed to be offered, including the entry conditions, must be published;
- 8) Relevant interests are safeguarded through adequate consultation and Ministerial oversight:
 - The Minister for ACC can decide that ministerial approval and stakeholder consultation is required for a programme. ACC must provide the Minister with the necessary information on which to base this decision (i.e. the business case it presents to its Board);
 - In making this decision, the Minister may consider any relevant factors, including:
 - the public interest;
 - how the programme aligns with the Government's broader objectives;
 - the impact of the programme on particular groups of levy payers;
 - the impact on the levies of levy payers who are eligible, but do not choose to participate in the programme;
 - if Ministerial approval is not required ACC must consult as it sees fit, considering the impact of the proposals on the levies of non-participating levy payers in determining the appropriate level of consultation;
- 9) Appropriate accountability and monitoring arrangements are in place:
 - ACC and WorkSafe must report, at least annually, on how incentive programmes are contributing to the stated objectives;
 - ACC and WorkSafe must maintain an adequate monitoring and audit programme for employers in the programmes;

Levies and experience rating

- 24) **note** that the Taskforce considered that there is potential to use ACC levies to incentivise good performance by introducing a greater differential between good and poor performers;
- 25) **note** that WorkSafe will be able to provide input on Work Account levies and experience rating as part of ACC's usual agency and public consultation processes;

- 26) **note** that the findings of an evaluation of experience rating of employer levies, and the Taskforce recommendations, will be considered as part of a review into ACC funding policy currently being undertaken jointly by MBIE, ACC, and Treasury and due to be finished by early 2014;

Costs of implementing the proposals

- 27) **note** that there will be additional costs to WorkSafe resulting from the proposals in this paper but that these are included in a discussion of the total resource needs of WorkSafe in the accompanying paper, *Improving Health and Safety at Work*;
- 28) **note** that there may be some additional costs for ACC associated with the proposals in this paper, which will be managed within existing operational budgets;

Legislative implications

- 29) **agree** that these changes will be made as part of the Health and Safety at Work Bill which implements the Government's response to the recommendations of the Taskforce by introducing new health and safety legislation. This Bill is discussed in more detail in the related Cabinet paper, *Improving Health and Safety at Work*;
- 30) **authorise** the Minister for ACC and Minister of Labour to further clarify or develop technical and policy matters relating to the proposals set out in this paper in a way that is not inconsistent with Cabinet decisions on these recommendations;
- 31) **invite** the Minister for ACC and the Minister of Labour to issue drafting instructions to Parliamentary Counsel to give effect to the legislative proposals agreed to in this paper.

Hon Judith Collins
Minister for ACC

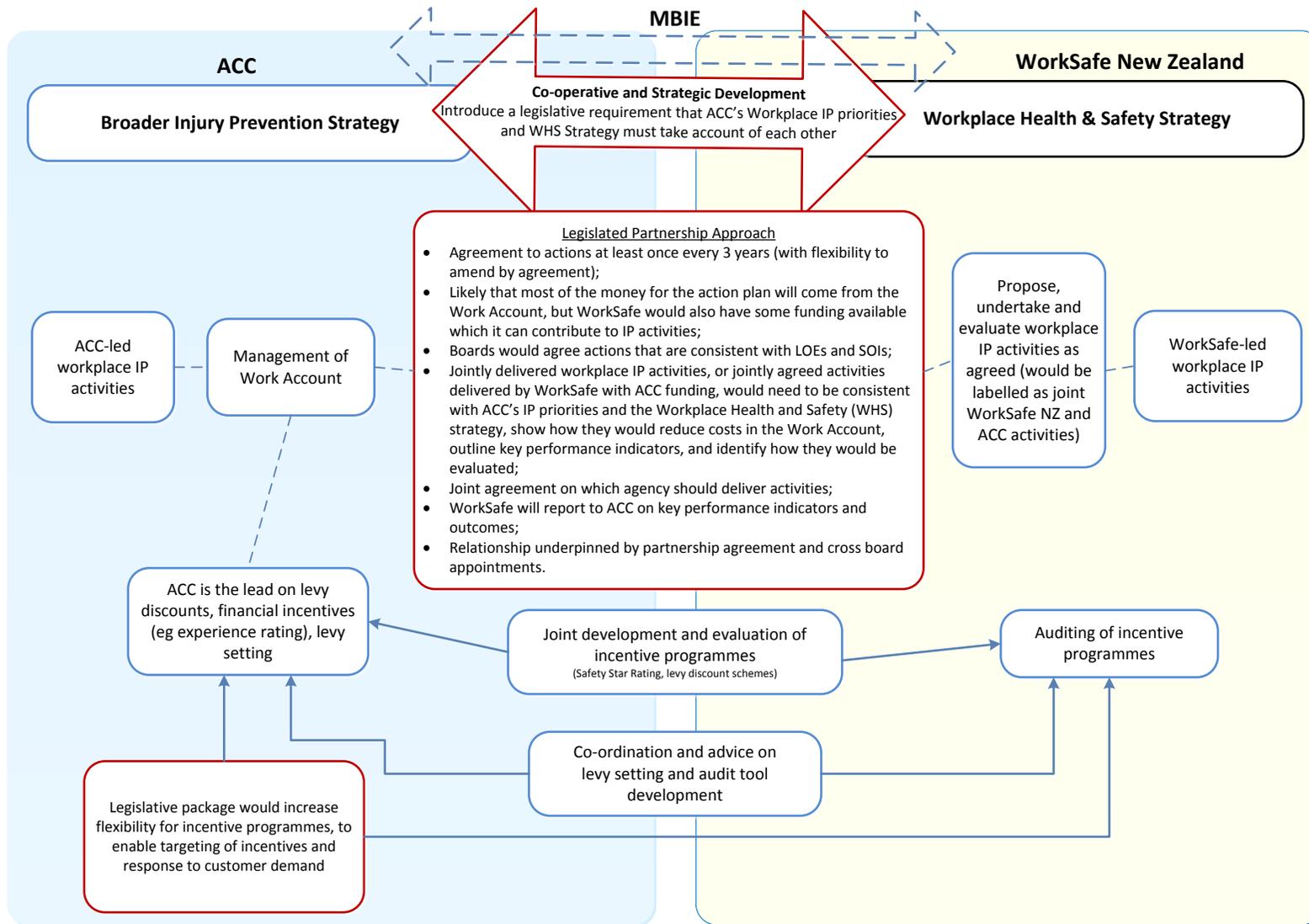
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Hon Simon Bridges
Minister of Labour

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Annex I

Interface and Collaboration between ACC and WorkSafe New Zealand



Annex II: Relevant Taskforce recommendations – injury prevention

Focus on IP

The Taskforce recommends greater emphasis and resource be given to IP:

“We believe that far more resource must go into preventing ill-health, injury and death – and that the returns will come in greater quality of life for New Zealanders, higher productivity, and reduced medical and other costs.” *(page 136 of the Taskforce report)*

“The Taskforce does not consider that ACC’s current levels of injury-prevention activity in the workplace are necessarily sufficient. ACC has been decreasing funding for these activities over time. ACC, MBIE and the WHS agency should review the current activity levels and identify whether further IP activities in the workplace are appropriate, how they should be funded, and who should deliver them.” *(paragraph 537)*

WHS agency should be responsible for workplace IP

The Taskforce recommends the new agency should have access to ACC levy funding to carry out IP activities:

“The Taskforce recommends that the Government:

- a) establish a new workplace health and safety agency with a clear identity and brand, and statutorily defined functions, including:
 - iii. the new agency should have primary responsibility for workplace harm prevention, including strategy and implementation
- e) ensure a much stronger alignment and co-ordination of WHS activities through:
 - ii. a partnership between the new agency and ACC to oversee funding arrangements for the delivery of workplace IP activities” *(paragraph 196)*

“The Taskforce recommends that the new agency be given the legislative functions to:

- c) provide authoritative guidance, advice and information so as to improve certainty and predictability
- g) promote, support and co-ordinate WHS activities across appropriate government and non-government agencies
- k) promote and support research into health and safety
- o) collaborate and co-ordinate with industries, unions, sectors and communities in engaging the whole system in harm-prevention efforts” *(paragraph 206)*

“The new agency should provide leadership and actively work with other agencies, industries, unions, sectors and communities to engage the whole system in harm-prevention efforts” *(paragraph 284)*

“Through a partnership arrangement and defined methodology, ACC’s funding for workplace IP activities would move to the new agency, which would lead the delivery of

workplace injury prevention activities. These activities would need to demonstrate a reduction of workplace injury and claims on the ACC scheme as well as be consistent with the WHS and IP strategies” (*paragraph 288*)

“Under the recommended partnership between the new agency and ACC to oversee funding arrangements for the delivery of workplace IP activities, ACC’s funding for workplace IP activities would move to the new agency. In turn, the new agency would lead the delivery of workplace IP activities. This would offset the increase in funding required by the new agency, so it would be fiscally neutral overall” (*paragraph 536*)

Annex III: Relevant Taskforce recommendations – incentive programmes

“The Government should introduce a business health and safety rating scheme that is credible and offers value to both the businesses that go through its assessment process and the people who depend on its ratings” (*paragraph 347*)

“The ratings assigned through the scheme should be useful for things like decisions on accepting employment, investment decisions, attracting quality directors, influencing procurement decisions and potentially reducing the requirement for inspections by the new agency” (*para 348*)

“Such a scheme should be voluntary, and have the following attributes and qualities:

- a) has complementarity and ‘fit’ with other government rating systems (e.g. fuel and electricity efficiency, vehicle safety)
- b) is externally and independently assessed
- c) uses a strong evidence base rather than merely observation
- d) is robust in design and implementation
- e) is well maintained and responsive to changes in assessment indicators
- f) uses a combination of lead and lag indicators that are clearly aligned to measures of good performance adopted for the New Zealand health and safety system
- g) uses an assessment methodology that is commensurate with the risk posed by the business activity
- h) incurs costs commensurate with the risk posed by the business activity and the likely rewards from participation” (*para 349*)

“While a business health and safety rating scheme could be introduced based on existing performance measures, e.g. ACC levy discount schemes, this would pose risks for the Government, MBIE, ACC, the new agency and businesses, as the current discount programmes do not involve an in-depth review of a business’ health and safety performance. The Taskforce therefore considers that significant design work needs to be undertaken by MBIE, ACC and the new agency prior to the introduction of any such scheme” (*para 350*)

“The Taskforce recommends that the new agency, MBIE and ACC be jointly mandated to provide advice to the Government on how the rating system can be used to better incentivise good performance” (*para 351*)

“The Taskforce considers that ACC should be responsible for implementing the differentiated levies. However, the new agency should be responsible for auditing performance under a new risk- and performance-rating levy regime, as audits will involve engagements with individual firms and need to be consistent with the guidance provided by the new agency. This audit role is likely to be significantly more intensive than ACC’s current audit processes. Consideration should also be given to the balance between self-auditing and auditing by the new agency, and whether cost recovery should apply” (*para 357*)

Annex IV: Relevant Taskforce recommendations – levies and experience rating

The Taskforce has also made recommendations about ACC levies and how the system could be used to heighten incentives on employers:

“The Workplace Safety Management Practices system, and its associated audits, were criticised for encouraging paper-based compliance, not safer systems in practice. More robust auditing, increased levy reductions for good performers, greater support for smaller businesses, and regular reviews of all the ACC incentive schemes were recommended” (*Taskforce report paragraph 128*)

“The Taskforce considers that there is greater potential to use ACC levies to incentivise good performance by introducing a greater differential between good and poor performers. ... The Taskforce recommends that the new agency, MBIE and ACC be jointly mandated to provide advice to the Government on how the rating system can be used to better incentivise good performance” (*paragraph 351*)

“Specifically, the Taskforce considers that stronger lead and lag indicators need to be developed and tested. Poorly performing and higher-risk employers should be subject to much higher levy loadings. These loadings should be relative to the average for their industries, with a broader range of differences between best and worst. Major hazard industries should also pay higher levies, even if the risk to people through those industries is considered low” (*paragraph 352*)