



COVERSHEET

Minister	Hon Carmel Sepuloni	Portfolio	ACC
Title of Cabinet paper	Consulting on changes to the Accredited Employers Programme	Date to be published	9 November 2022

List of documents that have been proactively released

Date	Title	Author
September 2022	Consulting on changes to the Accredited Employers Programme	Office of the Minister for ACC
21 September 2022	Changes to the Accredited Employers Programme: Approval to Consult SWC-22-MIN-0165 Minute	Cabinet Office

Information redacted: **YES**

Any information redacted in this document is redacted in accordance with MBIE's policy on Proactive Release and is labelled with the reason for redaction. This may include information that would be redacted if this information was requested under Official Information Act 1982. Where this is the case, the reasons for withholding information are listed below. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Some information has been withheld for the reasons of Constitutional conventions.

In Confidence

Office of the Minister for ACC

Cabinet Social Wellbeing Committee

Consulting on changes to the Accredited Employers Programme

Proposal

- 1 I am seeking Cabinet agreement to release the attached consultation document on proposed changes to modernise and strengthen the Accredited Employers Programme (AEP).
- 2 Key aspects of the proposed changes will require amendments to the secondary legislation, *Framework for the Accredited Employers Programme* (AEP Framework) which is published in the New Zealand Gazette.

Relationship to Government priorities

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

Executive Summary

- 4 AEP enables large employers to take on the role of ACC when dealing with workplace injury claims and rehabilitation in return for a reduction in their ACC levy. The premise is that employers may be able to provide a better and more efficient experience for injured workers than ACC, but they need to have sufficient scale and expertise. While only 418 large employers participate in AEP, it covers 23% of New Zealand's workforce.
- 5 Officials advice and media reports over a number of years suggest that Accredited Employers may be tempted to try save money by delivering workers an inferior service to that provided by ACC.
- 6 While there are checks to try to prevent this from happening, an independent review commissioned by MBIE in 2018 found some areas of concern and recommended various enhancements to AEP to improve worker experience and performance reporting.
- 7 Responding to the review and working with stakeholders, ACC developed the following package of four proposed changes which I propose to consult on:
 - implement new health and safety assessment requirements
 - strengthen the assessment of Claims and Injury Management
 - introduce a Performance Monitoring Model
 - introduce additional pricing options for Accredited Employers on the Partnership Discount Plan.

- 8 These changes are expected to put worker wellbeing at the centre of AEP by creating better health and safety assessments, improving the way that Accredited Employers handle claims, picking up poor performers quickly and providing a greater range of sanctions if poor performance occurs.
- 9 I also want to test whether there is support for requiring the full and final settlement of claims for all Accredited Employers at the end of their claims management period, to avoid levy payers picking up the bill.
- 10 The proposed changes to AEP will require amendments to secondary legislation (the AEP Framework), as well as operational changes by ACC.
- 11 I am seeking Cabinet's agreement to release the attached consultation document, detailing the proposed changes to AEP, to undertake what I consider is appropriate consultation.
- 12 After consultation, I will make a final recommendation to Cabinet Constitutional conventions taking into account the views of submitters.

Background

- 13 AEP enables large employers to take on the role of ACC when dealing with workplace injury claims and rehabilitation. In return for taking on the financial liability of dealing with workplace claims, employers have their ACC levy reduced by up to 93%.
- 14 The premise for AEP is that employers may be able to provide a better and more efficient experience for injured workers than ACC, given they should have a closer relationship with their employees and know their industry better.
- 15 However, there have been media reports over a number of years about various failings of Accredited Employers, in particular concerning their health and safety processes and cover decisions. The report have also highlighted the apparent lack of consequences for these employers.
- 16 These reports reflect officials' advice on possible downsides to AEP. There is an incentive for Accredited Employers to save money by delivering workers an inferior service to that provided by ACC. Costs might be saved by putting fewer resources into processing and handling claims, leading to longer wait times and less personal assistance for claimants.
- 17 To protect against possible misuse, AEP is available only to employers with sufficient scale, expertise, and integrity. This means that only 418 large employers participate in AEP, but they cover 23% of New Zealand's workforce.
- 18 There are also built-in checks to try to prevent misuse. However, the current AEP regime relies heavily on a narrow auditing approach to check compliance. There is also limited reporting on AEP performance.

- 19 An independent review of AEP commissioned by MBIE in 2018 found some areas of concern and recommended various enhancements. These were mostly related to improving worker experience and the quality of AEP performance reporting.
- 20 In response to the recommendations from the 2018 review, ACC engaged with stakeholders in a co-design process to develop a package of proposed changes.
- 21 The proposed changes to AEP require amendments to the AEP Framework (secondary legislation) as well as changes to operational procedures and modifications to the accreditation agreements with employers.
- 22 Under section 183 of the Accident Compensation Act 2001, the AEP Framework can be changed only after I undertake such consultation as I consider appropriate.
- 23 I consider appropriate consultation is the release of the attached public consultation document. The consultation document includes operational and AEP Framework changes because the complete set of proposed changes is presented as a package.

Proposed changes to AEP

- 24 Addressing concerns with the current AEP regime requires a move to using more proactive and holistic methods of assessment, better reflecting the experience of workers, and improving the quality of reporting.
- 25 The proposed changes are based on feedback that ACC received from workers, employers, health and safety experts and other interested parties during several rounds of co-design. These changes are aimed at improving AEP so that it:
 - puts worker wellbeing at the centre of AEP
 - achieves better outcomes by improving the oversight and guidance ACC provides to Accredited Employers
 - incentivises Accredited Employers to continually improve their performance.
- 26 These changes are expected to create better health and safety assessments, improve the way that Accredited Employers handle claims, pick up poor performers quickly and provide a greater range of sanctions if poor performance occurs.
- 27 These solutions are included in the package of four proposals developed by ACC in response to the 2018 review and concerns of stakeholders.

- 28 This package of four proposals, that I wish to consult on includes:
- implementing new health and safety assessments that require the implementation of prescribed third-party tools, to replace ACC specified audits. These will ensure that all Accredited Employers are implementing quality, effective health and safety practices. As these employers are some of the largest in New Zealand, a positive change to their health and safety practice can have an outsize influence on health and safety across the system.
 - strengthening the assessment of Claims and Injury Management by moving to a panel of approved assessors with the requisite experience, tightening audit standards and improving the capture of worker experience. This is expected to improve worker engagement and encourage a culture of continuous improvement.
 - introducing a Performance Monitoring Model that uses a mix of quantitative and qualitative sources to provide a better and more holistic view of Accredited Employer performance, and uses a performance scale to determine the future level of engagement between ACC and the Accredited Employer. Poor performers will be actively supported by ACC to improve, while continuous poor performance will lead to exit from AEP entirely.
 - introducing new pricing options for Accredited Employers on the Partnership Discount Plan (one of two options available) to make it more comparable to the Full Self Cover plan.
- 29 In addition, to further enhance AEP, I also want to test whether there is support for requiring the full and final settlement of claims at the end of an Accredited Employer's claims management period, for those on the Full Self Cover plan. Currently, if Accredited Employers are liquidated, the ongoing residual cost liability has to be picked up by remaining levy payers.
- 30 If there is sufficient support for this preliminary proposal, a further targeted consultation on a final full and final settlement proposal would be undertaken next year.

Implementation

- 31 After consultation is complete, I intend to return to Cabinet Constitutional conventions with proposed final changes to AEP and the required changes to the AEP Framework, taking into account the submissions received.
- 32 Because AEP is contractually agreed between each Accredited Employer and ACC, implementing changes to AEP will be staged over two years, and timed to align with the start of each contract year. The first year will be a 'transitional' year where Accredited Employers (with support from ACC) will bring their processes up to the new requirements of the AEP Framework. All Accredited Employers will be required to meet the standards of the new AEP Framework by 1 April 2024.

Financial Implications

- 33 There is not anticipated to be any material financial impact on ACC as a result of the proposed changes, although ACC considers that they will require an increase in ACC's operational capacity. I intend to provide more detail on the operational impact of the proposals and a full financial implications analysis when I return to Cabinet for final approval Constitutional conventions.

Legislative Implications

- 34 There are no legislative implications as a result of the release of the consultation document. If the proposed changes are agreed following consultation, the AEP Framework (regarded as secondary legislation) will need to be amended by way of Gazette notice. If approved, the amended Framework is expected to come into force Constitutional conventions.

Impact Analysis

Regulatory Impact Statement

- 35 The Treasury's Regulatory Impact Analysis team has determined that the proposal to release the consultation document is exempt from the requirement to provide a Regulatory Impact Statement (RIS). The exemption is based on advice that the consultation document includes the key features of an interim RIS.
- 36 The MBIE Quality Assurance panel has reviewed the consultation document and confirms that it Partially Meets the criteria and substitutes as an interim RIS. The Discussion Document is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to inform subsequent decisions. A full RIS will be completed at a later date to inform Cabinet's final decisions on this proposal once it returns from consultation.

Climate Implications of Policy Assessment

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

Population Implications

- 38 The proposals presented for consultation are intended to improve the experiences of workers employed by Accredited Employers who sustain workplace injuries.
- 39 The workers employed by Accredited Employers cover all population groups. There is no data available that indicates that any particular population groups in the Accredited Employer workforce will be more affected than the overall population, but consultation and improved reporting will give us an opportunity to test population impacts. For instance, it might be that certain industries using AEP might have an over-representation of Māori or Pacific employees, or employees from ethnic or rural communities.

- 40 The proposals are likely to benefit injured workers at risk of acquiring long-term disabilities and disabled workers who are injured.

Human Rights

- 41 The proposals proposed to be consulted on are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

Government consultation

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

Public consultation

- 43 If Cabinet agrees I will release the *Consultation on ACC's Accredited Employers Programme*. Public consultation will be held for a period of 28 days (in line with ACC's levy consultation). ACC proposes to hold a number of workshops with Accredited Employers and other interested stakeholders to try to ensure that they understand the proposals and feel sufficiently informed to make submissions.
- 44 After the consultation period, submissions will be summarised, and I will present final recommendations to Cabinet Constitutional conventions, taking into account public submissions.

Communications

- 45 The consultation document will be made available on the MBIE website. As indicated above, consultation will be specifically targeted at Accredited Employers, their representatives and representatives of their employees.

Proactive Release

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

Recommendations

The Minister for ACC recommends that the Committee:

- 1 **agree** to release the attached public consultation document that proposes a package of changes to modernise and strengthen the Accredited Employers Programme
- 2 **note** that key aspects of the proposed changes will require amendments to secondary legislation
- 3 **note** that the proposed changes are not expected to have a material cost for ACC
- 4 **note** that after consultation I will report back to Cabinet Constitutional conventions with final recommendations, taking into account submissions.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for ACC