



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI



# Briefing for Incoming Minister for ACC

**November 2020**



# MBIE Karakia

Tāwhia tō mana kia mau, kia māia

Ka huri taku aro ki te pae kahurangi,  
kei reira te oranga mōku

Mā mahi tahi, ka ora, ka puāwai

Ā mātau mahi katoa, ka pono, ka tika

**TIHEI MAURI ORA**

**TRANSLATION:**

*Retain and hold fast to your mana, be bold, be brave*

*We turn our attention to the future, that's where the  
opportunities lie*

*By working together we will flourish and achieve greatness*

*Taking responsibility to commit to doing things right*

**TIHEI MAURI ORA**

**MĀIA**  
BOLD & BRAVE

**PAE  
KAHURANGI**  
BUILD OUR FUTURE

**MAHI TAHI**  
BETTER TOGETHER

**PONO  
ME TE TIKAI**  
OWN IT

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# 1. Portfolio overview

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## Purpose

1. As the Minister for ACC, you are responsible for the Accident Compensation Scheme (the Scheme) and the overall performance of the Accident Compensation Corporation (ACC). The Ministry of Business, Innovation and Employment (MBIE) advises you on policy, the Scheme's legislative framework, its broader direction, and balancing Scheme interests and the interests of claimants, providers and levy payers.
2. This briefing provides you with information about the ACC portfolio.

## The Scheme

3. The Scheme is a key social and economic institution responsible for promoting injury prevention and providing rehabilitation and compensation entitlements to people who are injured so that they can return to normal life as quickly as possible. It is a key labour market institution assisting workers displaced from the labour market to get back to work, having evolved and grown from a workers' compensation scheme.

## Overview and purpose of the Scheme

4. The Scheme arose out of the 1967 Royal Commission of Inquiry on Workers' Compensation, chaired by Sir Owen Woodhouse. The Commission's report, commonly referred to as the 'Woodhouse Report', recommended five principles for the Scheme. These five principles (known as the Woodhouse Principles) have underpinned the Scheme since its inception:
  1. community responsibility: the community shoulders the individual's loss when their ability to contribute to the general welfare by their work is interrupted by injury
  2. comprehensive entitlement: all injured people are entitled to a consistent level of assistance for a similar level of incapacity/need regardless of their causes which give rise to their injury
  3. complete rehabilitation: injured people should be supported to achieve timely physical and vocational recovery
  4. real compensation: payment of income-related benefits for income losses for the period of incapacity and in recognition of permanent bodily impairment
  5. administrative efficiency: all aspects of the Scheme should be managed in a timely, consistent and economic way.
5. While there is substantial support for the Scheme, there are a number of areas of contention. Fundamentally, coverage and entitlements offered by the Scheme must balance considerations of equity, societal expectations, and financial sustainability.
6. ACC has links with many other ministerial portfolios and it is important to consider the impact of the Scheme and how it works in the broader context of the economy and the

government's finances, its interface with the health system, and its contribution to health and safety through the government's wider injury prevention objectives.

7. ACC, unlike the Ministry of Health (MoH) and the Ministry of Social Development (MSD), is a Crown entity, positioned at arms-length from the Government. ACC was established to deliver the Scheme, which is premised on a social contract between the New Zealand Government and levy payers.
8. The Scheme replaces civil actions in tort for damages arising out of personal injury by accident with comprehensive no-fault entitlements for those who are injured. The Scheme is also the result of a restructure of an earlier workers' compensation system.
9. The Scheme provides no-fault personal injury cover to everyone in New Zealand funded through levies and taxes, including:
  - entitlement-based fair (not full) compensation for the loss that a claimant suffers
  - health treatment, and
  - other forms of rehabilitation to restore a person to independence.
10. The boundary that determines whether a claimant will be covered under the Scheme is whether the injury was caused by an accident as opposed to an illness or other health condition. There are however a few exceptions to this, including cover for work-related gradual process injuries caused by exposure to an employment task or environment.
11. The AC Act has also expanded in scope to allow coverage for mental injury if it is the result of a physical injury; the result of a one-off work-related event; or where it results from the claimant being a victim of sexual violence criminal offence of the kind listed in the *Accident Compensation Act 2001* (the AC Act).

### **The wider labour market and accident compensation**

12. A well-functioning labour market is vital to the social and economic wellbeing of New Zealand's people and businesses, and the country as a whole.
13. An effectively functioning Accident Compensation Scheme plays an important role in rehabilitating injured workers and potential workers so that they can participate in the labour market.
14. To achieve good outcomes for claimants, it is important to ensure that rehabilitation provided by the Scheme complements other labour market interventions. Effective injury prevention and high return to work rates are critical to achieving a high performing labour market.
15. Performance of the labour market against fundamental objectives has been mixed over time – strong in generating and filling jobs, but with longstanding weaknesses in other areas, including use of human capital, job quality and safety, matching of skills and labour supply to real demand, equity of outcomes, and the appropriate sharing of costs, risks and rewards.

16. These areas of relatively poor performance are a drag on New Zealand's success – constraining of firms on one hand and allowing for persistent disadvantage and real distress for some people on the other. Some chronic problems are likely to become more serious over the next few years.
17. COVID-19 and the New Zealand and global responses to it have disturbed the New Zealand labour market on all fronts: the demand for and supply of skills and labour, and the matching of these to fill jobs in firms and provide employment<sup>1</sup>. Some responses to COVID-19 have cushioned the shock (especially the wage subsidies, fiscal and monetary stimulus, and business support). But we are seeing different impacts and rates of recovery across sectors, regions and population groups.
18. At the same time, New Zealand is being increasingly affected by, and must respond to, long-term global trends, including climate change, technological change, globalisation and changing international and domestic populations.
19. The combination of COVID-19 impacts with these long-term trends creates a complex picture and considerable uncertainty. Plausibly COVID-19 scenarios could have very different impacts on economy and labour market(s). The trajectories for recovery from the current recession are unclear and dependant on a complex mix of factors, some amenable to Government decision making and some not. Export prices and volumes are likely to be affected by the global impact of COVID-19 on world trade, and there is likely to be ongoing impacts on the labour market even if New Zealand keeps COVID-19 under control.
20. The short-run labour market impact of COVID-19 to date has been much less severe than expected. While we need to respond to the specific issues the situation has created, any immediate crises now seem more likely to be localised or sector-specific. However, it is likely that COVID-19 will continue to affect economic activity and people flows for some time to come.
21. This means there is an opportunity for Government to design and build better labour market institutions for the long-term and addressing the ongoing issues and risk of New Zealand's poor labour market outcomes and widening disparities.

### **Scheme Funding**

22. The Scheme is funded through a combination of levies and Government appropriations. ACC manages its funding under five separate Accounts which relate to where and how injuries occurred:
  - the Work, Earners' and Motor Vehicle Accounts are funded through levies
  - the Non-Earners' Account is funded from government appropriations, set via the Budget process

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<sup>1</sup> While New Zealand experienced demand and supply shocks, overseas financial markets were also affected.

- the Treatment Injury Account is funded from contributions from the Earners' and Non-Earners' Accounts.
23. Table 1 outlines who contributes to each of the Accounts and the cover each Account provides.

**Table 1: ACC Accounts**

Account	Who funds it	What is covered	Amount raised through levies/appropriation in 2019/20
Work Account	Levies from Employers: based on wages paid to staff Levies from Self-employed: based on income earned	Work related injuries	\$815 M
Earners' Account	Levies from Employees: levy based on income earned Levies from Self-employed: levy based on income earned	Non-work injuries to people in employment	\$1,664 M
Motor Vehicle Account	Levies from vehicle owners: funded through petrol use and motor vehicle licensing fees	Injuries that involve motor vehicles on public roads	\$444 M
Non-Earners' Account	Government appropriations, reviewed as part of the Budget process	Injuries to people not in employment (e.g. children, retired people), excluding Motor Vehicle Account injuries.	\$1,278 M
Treatment Injury Account	Contributions from the Earners' and Non-Earners' Accounts	Medical treatment related injuries	\$267 M

**Funding the levied accounts**

24. Since 1999, the levied Accounts have been operated on a fully funded basis. This means that ACC aims to collect enough money during each levy year to cover the full lifetime costs of every claim that occurs in that year.
25. Previously, levies have been reviewed every two years. The 2019/20 and 2020/21 levies were based on the expected lifetime cost of claims in the coming levy period and adjusted to return the funding position for each account to 105 per cent of reported liabilities over a ten-year period. This was consistent with the Funding Policy Statement at the time.
26. The Funding Policy provides a framework that allows for greater certainty, stability and transparency of ACC's funding and the levy-setting process. It attempts to balance levy



stability (i.e. limiting the amount that levy rates can fluctuate) with financial stability (i.e. ensuring that the Scheme has sufficient funds). The Funding Policy provides:

- a. a target level or band for the funding of each Account;
  - b. an approach to managing deviations from the target level or band for the funding of each Account over a period of time
  - c. limits (if any) on any annual levy changes for all or any of the Accounts, and
  - d. the circumstances (if any) in which levy changes are not required.
27. While ACC is required to give effect to the Funding Policy when it makes levy recommendations (after carrying out public consultation), responsibility for setting levy rates to achieve fully-funded Accounts lies with Government. Government has discretion as to whether to adopt the rates recommended by ACC in accordance with the Funding Policy, provided that its decision accords with the requirements of fully funded Accounts and has regard to the principles of financial responsibility.
28. The latest Government funding policy statement was gazetted on 9 July 2020 and sets a funding target for the levied Accounts of 100 per cent of reported liabilities over a 10 year period.
29. MBIE's role as your policy advisor on the Scheme includes providing you with independent advice on funding policy and ACC's proposed levy rates and levy-related policy proposals. MBIE reviews ACC's application of the funding policy and considers whether the recommended rates are consistent with it. MBIE also seeks independent actuarial advice on the assumptions underlying ACC's costings and application of the funding policy.
30. As Minister for ACC, you must consider ACC's levy rate recommendations but you have discretion to recommend levy rates for Cabinet's consideration that balance other matters of public interest. Responsibility for setting levy rates to achieve fully funded Accounts lies with the government of the day.
31. Given COVID-19 and the uncertain pricing environment, in July 2020 current 2020/21 levy rates were rolled over so that they apply for a further year (1 April 2021 to 31 March 2022 for the work and earners' levies, and 1 July 2021 to 30 June 2022 for motor vehicle levies). The process for advising on levy rates beyond 2021/22 will begin later this year.

**Non-Earners' Account appropriation and funding policy**

32. The Non-Earners' appropriations provide legislated entitlements for people who are not working that are injured (i.e. children, retirees and unemployed claimants). The appropriations also fund a portion of the ACC Treatment Injury Account to cover injury costs for non-earners arising from medical treatment (e.g. newborns injured during delivery). Appropriations were approximately \$1.3 billion in 2019-20.
33. Unlike the levied Accounts, the Non-Earners' Account (NEA) is not required to be fully funded under the AC Act, but successive governments, through cabinet decisions, have agreed to fully funding the NEA. Doing so makes visible the true cost of services for

injuries that extend over multiple years, ensuring costs are funded at the time they occur rather than by future generations (offsetting cost pressures from an aging population), and signals Government commitment to the Scheme.

34. For consistency, the presentation of the funding ratios for the Non-Earners' and Non-Earners' portion of the Treatment Injury Accounts have been converted to compare to a target of 100 per cent. Non-Earners' funding targets were already reported excluding risk margin.
35. A target of 100 per cent represents holding assets equal to the value of the Non-Earners' outstanding liability excluding the risk margin. The Non-Earners' target has in the past been referred to as 88 per cent. This is a target where assets held would equal 88 per cent of the outstanding claims liability including risk margin.
36. The absolute value of the funding gap under both methods is the same. Representing the funding target as 100 per cent for the Non-Earners' Account aligns with the funding target and calculations for the levied Accounts under the recently approved funding policy.
37. The new Funding Policy addresses funding cost pressures in the NEA via a forecast adjustments (like welfare benefits), rather than as a bid in the Budget process. To control year-on-year increases, the Funding Policy also implements a cap of 7.5 per cent on funding increases for the Non-Earners' Account to control costs.

9 2 (f) (iv) Confidential Advice to the Government

38. NEA cost pressures are treated as a forecast budget adjustment.

## **Scheme trends**

39. This section provides a high level overview of Scheme trends over time.

### **Claim rates and entitlement claims trends**

40. In 2019/20, there were 1,863,092 new claims, compared to 2,027,789 in 2018/19.
41. Like many organisations, the effects of the COVID-19 pandemic on ACC have been pervasive and are expected to continue into the 2020/21 financial year. One of the most immediate impacts experienced from COVID-19 was the sharp decline in new claims volumes experienced during Alert levels 3 and 4 (approximately 50 per cent decline in new claims volumes during this period).
42. There was also a change in the mix of new claims, with fewer straight-forward claims lodged, while clients with more significant injuries continued to lodge new claims.

**Figure 1: 12-month claims registered (million claims)****Return to work trends**

43. Supporting timely, safe and durable return to work outcomes is a central objective of the Scheme. ACC do this by providing appropriate medical treatment, social rehabilitation services, and compensation to enable them to work, independence, and everyday life.
44. Early return to work is a key factor in longer-term positive outcomes. Return to work post injury is influenced by a range of factors including, injury type and severity, age, pre-injury health and employment, as well as the state of the broader labour market. A positive return to work process involves all systems working well together.
45. Currently, there are two ways in which we measure the effectiveness of both ACC and the Scheme. These include:

*1. Rehabilitation rate*

The rehabilitation rate is the rate at which ACC claimants are leaving weekly compensation. As at June 2020, the proportion of claimants leaving within 70 days was 66.5 per cent, significantly lower than 67.4 per cent in June 2018.

*2. Return-to-work rates*

Return-to-work rates are another way of measuring rehabilitation performance. Although return-to-work rates were expected to decline as a result of COVID-19, rehabilitation performance has been declining for some time. Return-to-work rates are influenced by a number of personal factors including, for example, type and severity of injury, age pre-injury health, employment history as well as the state of

the job market. It is also influenced by firm characteristics such as size or capacity of a firm.

46. Rehabilitation performance has also been impacted by the change in claims mix. With fewer straight-forward claims lodged, the average duration that claimants required weekly compensation has lengthened. In addition, lockdown restrictions has also impacted rehabilitation performance, with fewer claimants able to return to work during this period.

**Table 2: Return-to-work measures**

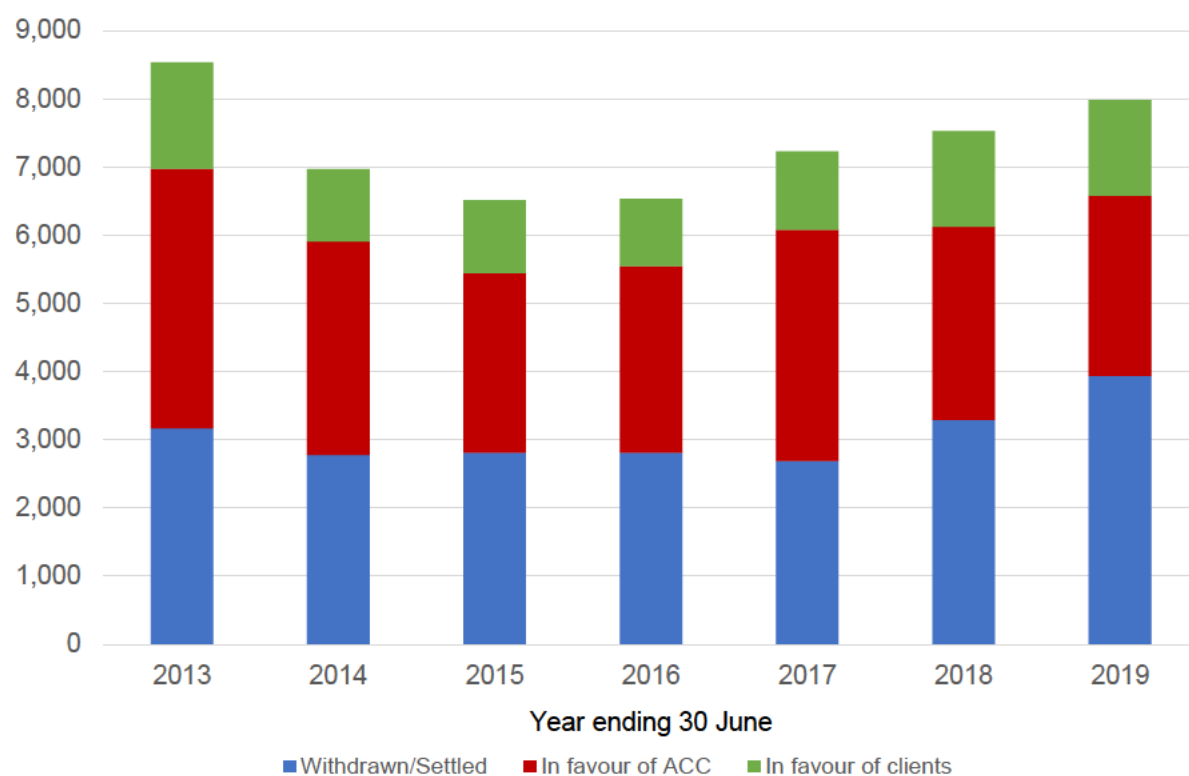
	2017/18 Actual	2018/19 Actual	2019/20 Target	2019/20 Actual	2020/21 Target
Return to work within 10 weeks	67.4%	66.8%	65.0%	66.5%	62.5%
Growth rate of the Long-Term Claims Pool <sup>2</sup>	+5.1%	+6.5%	+6.2%	+12.6%	+12.5%

47. One of the key predictors of a faster return to work is retaining a connection to pre-injury employment. Trends in the wider labour market, such as deteriorating labour market conditions and fluctuations in job security, will likely be reflected in return-to-work rehabilitation performance of the Scheme.

#### Dispute resolution trends

48. It is important that people who wish to challenge ACC decisions have access to fair, effective and timely processes. ACC has put significant effort into early dispute resolution with the introduction of programmes aimed at resolving disputes before they go to a review hearing.
49. As illustrated in Figure 1 below, there has been a moderate increase in review volumes over the past 5 years. This increase in the number of reviews has taken place despite ACC placing greater emphasis on Alternative Dispute Resolution (ADR) processes and after centralising a specialist service (Resolution Services) to better manage complaints and reviews.

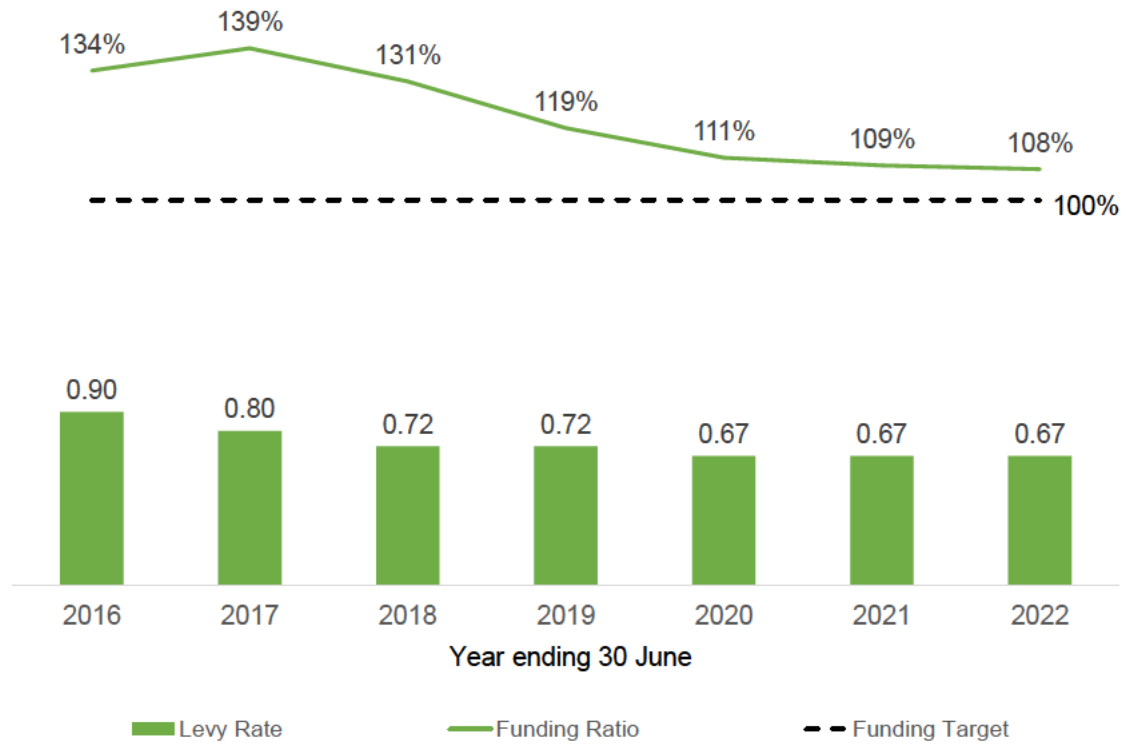
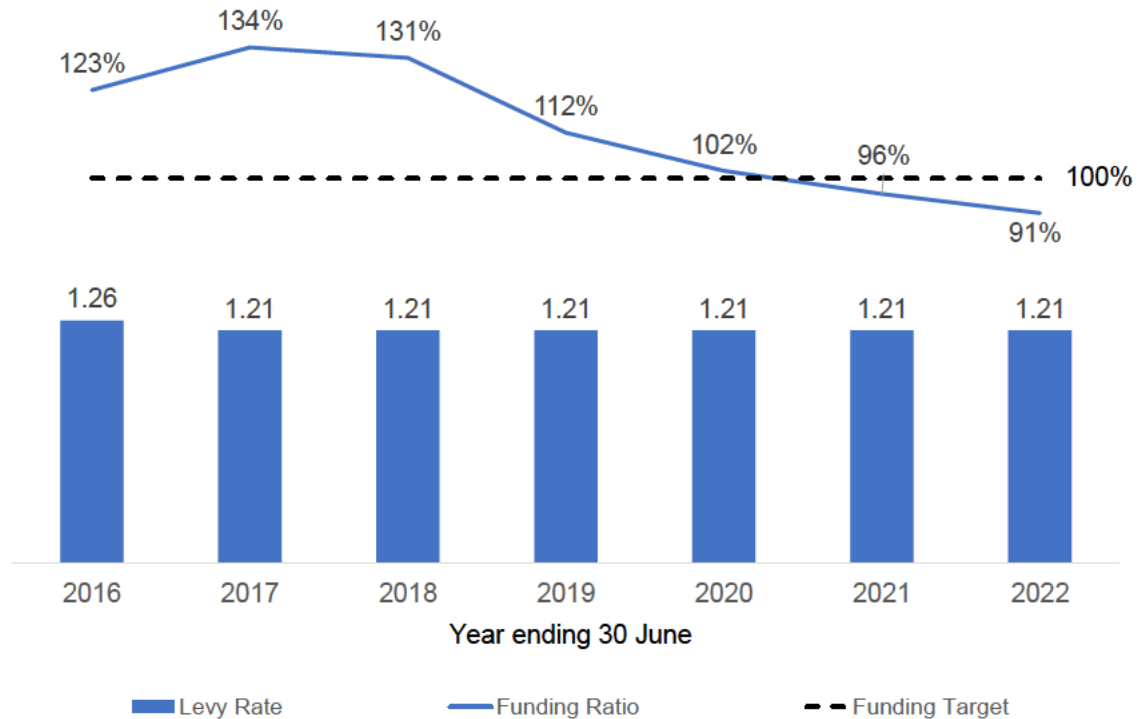
<sup>2</sup> The number of claimants entering the long-term claims pool is higher than the number of claimants returning to independence

**Figure 2: Dispute resolution trends**

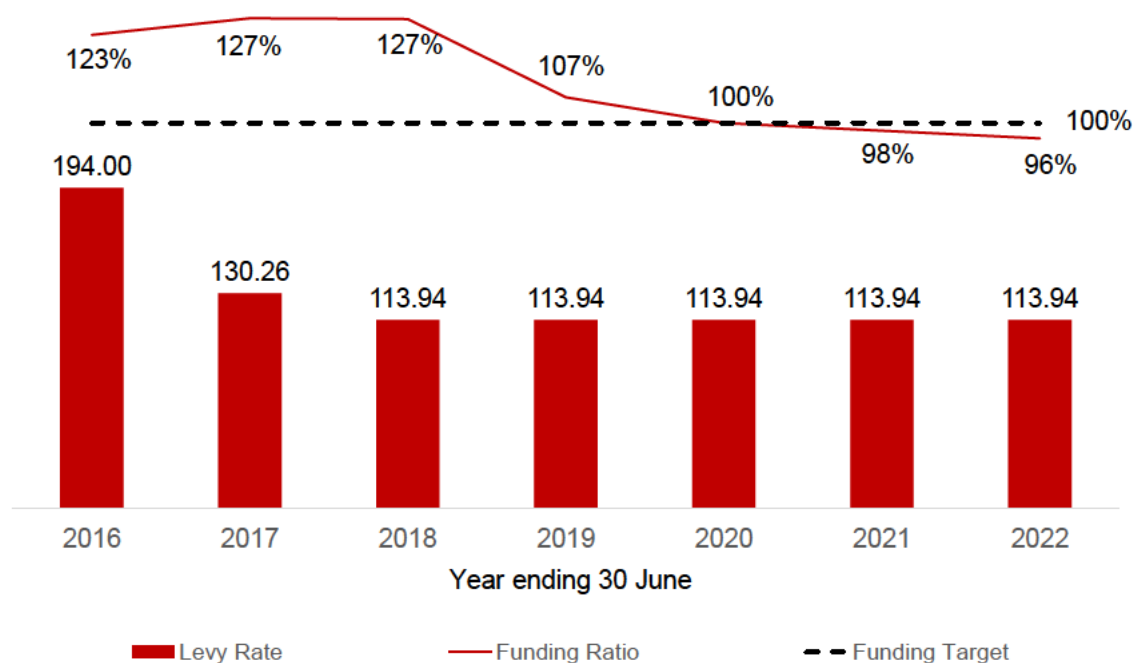
50. MBIE is currently working to implement the last of the recommendations from the independent review by Miriam Dean, QC, of the report by Acclaim Otago (Inc) about the barriers that some people face when challenging ACC decisions, and ACC continues to make operational and process changes to improve claimant experience and promote early resolution of disputes.

### Scheme funding

51. Over time the Scheme's liability has tended to increase. This is partly driven by population increases, inflation, cost of claims increases and also claims management performance. Figures 3-5 below illustrate the current and predicted levy rates in the levied Accounts

**Figure 3: Work Account – current levy rates and current and projected funding ratios****Figure 4: Earners' Account – current levy rates and current and projected funding ratios**

**Figure 5: Motor Vehicle Account – current levy rates and current and projected funding ratios**



### Non-Earners' Account funding

52. The liability for the Non-Earners' Account has also increased over time due to similar factors as the levied Accounts. It is expected to come under increased funding pressure over time, as the impacts of wider labour market trends become evident as a result of COVID-19 and an aging population.
53. In order to address the cost pressures and falling funding levels of the NEA, the previous Government approved funding increases to cover new-year costs [DEV-19-MIN-0348 refers], to restore the NEA to appropriate funding levels. A breakdown of the Vote Labour Market appropriations for the Non-Earners' Account is provided in Table 2 below.

**Table 2: Breakdown of Vote Labour Market Appropriations for Non-Earners' Account**

	Post 2001 fully funded claims	Pre 2001 pay-as-you-go claims	Treatment injury claims	Total
	[\$M]	[\$M]	[\$M]	[\$M]
2020/21	1,125	148	191	1,464
9.2 (f) (iv) Confidential Advice to the Government				

## 2. Portfolio responsibilities

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54. The Minister for ACC is responsible for the strategic policy framework, legislation and regulations which give shape to the Scheme.
55. Specific responsibilities of the Minister for ACC include:
- developing proposals to improve the policy framework of the Scheme, as set out in the AC Act and related regulations. MBIE assists in administering the AC Act and is the lead adviser on policy, legislative and regulatory change
  - undertaking consultation with the public or specific stakeholders before making regulations, depending on the nature of the regulations being considered. In most cases, MBIE is the appropriate agency to undertake this consultation on behalf of the Minister (e.g. on the levy framework). In some instances, the legislation requires ACC to consult (e.g. levy rates)
  - considering recommendations on levy rates to fund the Work, Earners' and Motor Vehicle Accounts, and making recommendations to Cabinet for their implementation by regulation
  - monitoring of ACC's performance with the Minister of Finance
  - reviewing appropriations to fund the Non-Earners' Account, which are implemented through the annual Budget processes. MBIE is responsible for administering the appropriations, and advising the Minister for ACC on the appropriateness of ACC's estimation of required appropriations and on funding and Budget options.

### The role of the Associate Minister for ACC

56. An Associate Minister for ACC may be appointed to assist you in carrying out tasks related to the ACC portfolio. Should an Associate Minister for ACC be appointed, you must provide a formal letter clearly setting out the role of the Associate Minister, and delegated responsibilities, and the relevant working arrangements.
57. Previously, the Associate Minister of ACC held the following delegations:
- all matters in respect of ACC operations relating to individual client and levy payer matters
  - matters in respect of ACC's work to achieve improved experiences and outcomes for Māori and other groups that can face difficulties in accessing ACC services when and where they need to
  - matters in respect of ACC's operations relating to injury prevention activity relevant to the road safety portfolio, including the Motorcycle Safety Advisory Council
  - replying to Ministerial correspondence and Parliamentary Questions on issues relating to the above



- other initiatives as agreed from time to time by the Minister and Associate Minister.

## **Ministerial responsibilities under the Crown Entities Act 2004 and Public Finance Act 1989**

58. ACC is a Crown Agent, governed by the AC Act and the Crown Entities Act 2004<sup>3</sup>. The Minister for ACC has responsibilities under the Crown Entities Act 2004 for the overall performance of ACC. The Minister for ACC exercises this responsibility through the relationship with the ACC Board and, in particular, the Chair of the Board.
59. Specific Ministerial responsibilities include such functions as providing the Letter of Expectations to the Board, monitoring ACC's financial and non-financial performance against key performance measures and targets set out in the Statement of Intent and the Service Agreement, and making appointments to the ACC Board.

### **Accountability Processes**

60. Statutory Crown entities work to three sets of expectations. The Treasury, with input from MBIE, assists you in preparing the second and third:
- the Enduring Letter of Expectations from the Ministers of Finance and State Services
  - Ministerial expectations set forth in an annual letter to the ACC Board Chair, to inform entities' strategic direction and priorities for the coming year
  - operating expectations, which guide engagement between the statutory entity, its responsible Minister and the monitoring department.
61. The ACC Board responds to the setting of expectations through its Statement of Intent (setting out the strategic direction for up to four years) and its annual Statement of Performance Expectations (Referred to as the Service Agreement for ACC). The next letter of Expectations is required to be sent to the ACC Board chair in November 2020. ACC is required to produce an updated Statement of Intent this financial year, due prior to May 2021.
62. You may wish to:
- meet with the Board chair to discuss performance and strategic direction on a regular basis
  - invite the Board to provide advice on its proposed strategy and priorities before these are included in a draft Statement of Intent or Service Agreement, and/or
  - provide written comments, or enter into discussions with the Board, on draft Statement of Intent or Service Agreements prior to being finalised.
63. ACC reports to you on performance on a quarterly basis against the targets set in the annual Service Agreement. This year, ACC received a three month extension to submit

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<sup>3</sup> Other relevant legislation includes the *Public Finance Act 1989*, and the *State Sector Act 1988*.

## **BRIEFING FOR INCOMING MINISTER FOR ACC**

the 2020/21 Service Agreement due to uncertainty caused by COVID-19. ACC submitted its performance agreement on 31 July 2020.

### 3. Major links with other portfolios

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64. As a key labour market institution, assisting workers displaced from the labour market to get back to work, ACC has links with many other ministerial portfolios. As such, it is important to consider the impact of the Scheme and how it works in the broader context of the economy and the government's finances. The Scheme has a number of boundary interactions with the health and welfare systems, and some of ACC's clients will cross and overlap with these boundaries at the same time as, or following access to, services and entitlements under the Scheme.

#### Interface with the health and disability sector

65. ACC shares a large number of clients and also has a number of boundary interactions with the health and disability sector as well as the wider welfare system. As New Zealand experiences demographic change (for example, as the population ages and the incidence of diseases such as diabetes rise), co-morbidities are likely to put further pressure on the interface between health and ACC requiring a system-wide approach to managing care and cost allocation.
66. ACC and health sector agencies are working together to reduce the incidence and severity of patients injuries, such as injuries from falls while in care and treatment. These initiatives should improve patient outcomes and reduce costs over the medium-long term. MBIE also advises on funding choices and high level policy settings and objectives such as treatment service purchasing and ambulance funding.
67. An important consideration for the Scheme is how decisions made in the health portfolio may also impact on ACC (and vice versa given ACC's significant purchasing power in the market).

#### Workplace relations and safety

68. ACC is an important participant in the Health and Safety system through its injury prevention work. Good work health and safety legislation and practices support labour market participation and productivity by ensuring work is healthy and safe. This reduces the personal and social costs of harm arising from work, and means that businesses can access the skills and talent they need to grow.
69. Other links are set out in the following diagram.

Figure 6: ACC Portfolio links with other systems






## 4. How MBIE assists you

### The role of MBIE


70. Responsibility for providing advice on the Scheme sits within MBIE's Workplace, Relations and Safety Policy Branch. MBIE is responsible for advising the Minister for ACC on matters relating to the Scheme including broader Scheme direction and performance as well as the legislation and regulations governing the Scheme. MBIE also administers the appropriation for the Crown funded Non-Earners' Account and provides you with advice on the setting of levy rates including the engagement of independent actuarial review of the levy proposals.

71. Key contacts are set out in the Table 3 below.

**Table 3: Key MBIE Officials**

Contact	Role	Priority Area	Contact details
Carolyn Tremain 	Chief Executive, Ministry of Business, Innovation and Employment	All	9 (2) (a) Privacy of Natural Persons [Redacted] [Redacted]
Paul Stocks 	Deputy Chief Executive, Labour Science and Enterprise	The Labour, Science and Enterprise Group works with people, businesses, regions, and the science, innovation and education systems to help the country and New Zealanders to be successful.	9 (2) (a) Privacy of Natural Persons [Redacted]
George Mason 	General Manager, Workplace Relations and Safety Policy, Labour Science and Enterprise	The Workplace Relations and Safety Policy Branch provides policy and regulatory advice in relation to employment relations and standards, health and safety, international labour, and accident compensation.	9 (2) (a) Privacy of Natural Persons [Redacted] [Redacted]

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Contact	Role	Priority Area	Contact details
Hayden Fenwick 	Manager, Accident Compensation Policy	The Accident Compensation Policy Team provides policy advice on the Scheme Settings	9 (2) (a) Privacy of Natural Persons [Redacted] [Redacted]

### MBIE's regulatory stewardship role

72. MBIE is the steward of a number of regulatory systems, including the accident compensation regulatory system, and other systems in Vote Labour Market (immigration, employment relations and standards, and health and safety at work).
73. MBIE has developed a programme of work to meet its regulatory stewardship obligations. The work includes periodic assessments of each MBIE regulatory system, to help ensure that MBIE has a good understanding of its fitness for purpose even where a majority policy review hasn't recently been undertaken. It also includes the development of regulatory charters for many MBIE systems, so that the role and responsibilities of the various participants in each system are clear.

### The role of ACC

74. ACC is responsible for operating the Scheme, focusing on effective delivery of injury prevention initiatives and no-fault personal injury cover for everyone in New Zealand, including overseas visitors.
75. The division of responsibility between MBIE and ACC reflects ACC's status as a Crown Agency and allows ACC to focus on the effective and efficient delivery of the Scheme. ACC has also prepared a briefing for you that provides further information on their role and how they support you as Minister for ACC.
76. MBIE and ACC have a close working relationship in order to ensure the Scheme operates effectively.

### The role of Treasury

77. Treasury is the Crown's monitor on ACC performance. Treasury provides support to the Minister for ACC through Governance and Performance advice on ACC as well as supporting the Board appointment and evaluation process. Treasury also supports the Minister of Finance directly with advice for Crown Financial Institutions, of which ACC's investment function is one, and policy and fiscal advice.
78. The ACC Board is the primary monitor of ACC performance and Treasury employs the 'It Takes Three' operating expectations for statutory crown entities in delivering its monitoring responsibility. There are multiple Treasury roles concerning ACC, and

## **BRIEFING FOR INCOMING MINISTER FOR ACC**

through the Health and ACC Team who are the relationship coordinators, Treasury aims to provide a consistent presence to Ministers.

79. The Minister of Finance has tended to have a strong interest in ACC from both a performance and financial perspective. ACC has a significant impact on the Crown balance sheet and it is often commented on at Economic and Fiscal Updates and has the potential to affect fiscal targets.

## 5. Upcoming key decisions and appointments

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80. This section provides key dates and immediate priorities for the ACC Portfolio. Officials are available to brief you should you require further information.
81. You will receive further information and advice on policy priorities for the ACC Portfolio to inform decisions about your accident compensation policy work programme, including:

### 9 2 (f) (iv) Confidential Advice to the Government

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## Manifesto commitments

82. 2020 Manifesto commitments in relation to ACC include:

- considering the range of conditions ACC covers and take an evidence-based approach to updating the list of chronic illnesses caused through workplace exposure to harmful environments
- addressing changes made by National in 2010
- examining inequities in support levels through ACC and the welfare system as part of the welfare overhaul.

83. Over the coming weeks, MBIE will be providing further briefings on these issues.

### Key decisions and priorities

84. The following items are things that need to happen immediately following the election.

#### Table 4: Things that need to happen

Topic	Description	Driver	Timing
<i>Things that need to happen</i>			
9.2 (f) (iv) Confidential Advice to the Government	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> <li>[REDACTED]</li> </ul> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	[REDACTED]	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

# BRIEFING FOR INCOMING MINISTER FOR ACC

Topic	Description	Driver	Timing
	<p>9 2 (f) (iv) Confidential Advice to the Government</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>		

Topic	Description	Driver	Timing
<i>Treasury responsibilities</i>			
<p>9 2 (f) (iv) Confidential Advice to the Government</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>

## 6. Longer-term issues for consideration

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85. Overall we consider the Scheme to be generally performing well for those people it covers.
86. Key challenges for the Scheme include increasing claim volumes and a reduction in return to work rates, as well as the interface with the health and welfare systems. Moreover, the low interest rate environment and economic impacts of COVID-19 have led to an increasing outstanding claims liability (OCL) and a projected deficit for ACC (discussed further in paragraphs 93-98 below). ACC and Treasury will provide a further overview of the operating and fiscal environments.
87. It is also important to consider how the Scheme works in the broader context of the economy and the Government's finances, how it delivers alongside the health system, and its contribution to the Government's wider injury prevention objectives. ACC has a significant impact on the economy through its investment portfolio, levies, and its contribution to preventing injury and returning injured people to work.

### Relationships between systems

88. At present, there are boundary issues between ACC and the health system, and between ACC and the welfare system. The complexity of the relationship between the Scheme, health, and welfare systems has been previously acknowledged.
89. The health and welfare systems are needs-based. Trade-offs in the health and welfare systems are made to best meet the needs of the population, as opposed to ACC's entitlement Scheme, where individual loss is compensated irrespective of need.
90. The significance of the distinction is not largely felt in primary health treatment, where both systems are aligned in pursuing health outcomes. However, in secondary health treatment, differences are more significant; demonstrated by differences in elective surgery prioritisation between the systems and different standards of equipment provided to clients (i.e. housing modifications provided by ACC).
91. The difference is more significant in other entitlements, such as comparing the levels of weekly compensation from ACC with income support provided by MSD. The coordinated approach of ACC support (across health treatment, social and vocational rehabilitation, compensation, and educational support) for some New Zealanders can be contrasted with the experiences of New Zealanders not covered by the Scheme who must navigate multiple support systems independently.
92. People excluded from ACC coverage are supported by MoH for health needs, and if they cannot work due to this condition MSD may provide income support. MSD income support is based on need but access is determined through income-testing.

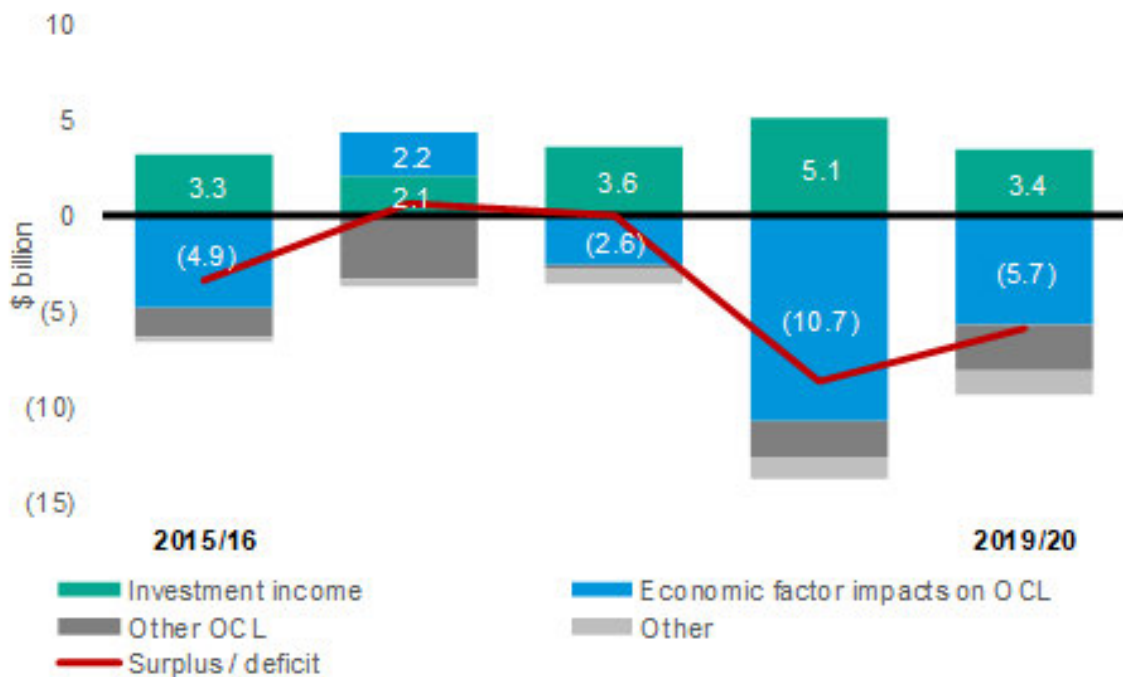
### Funding policy and OCL balance

93. The OCL represents the estimated present-day value of all claim costs (the lifetime cost) for injuries that have already occurred. Given its future-focus, it is highly sensitive to changes to long-term interest rates, and a lower interest rate increases

the OCL (and a higher interest rate lowers the OCL). Before COVID-19, the low interest rate economic environment had caused the OCL to increase, and as we enter a global recession interest rates could potentially drop further and are expected to remain low for some time. A negative Official Cash Rate (OCR) is also possible. As such, it is expected that the OCL will continue to increase.

94. Currently, the funding policy requires that the Scheme is fully-funded to cover the future cost of claims that have already occurred as well as the future cost of new claims that arise each year. This is achieved through a combination of investment returns and through the collection of levies.
95. With subdued global equity markets, historically low interest rates, fewer levy payers (as unemployment rises), and an increasing OCL, the Scheme may face rising cost pressures. If cover and entitlements are maintained or increased, or injuries continue to increase, the OCL rises. If cover or entitlements decrease, to create more alignment with other systems (i.e. MSD, MoH), Scheme sustainability would increase.
96. Changes to the funding model may give rise to intergenerational equity issues. The current funding model ensures that the Scheme can continue to fund past claims without placing any burden for the cost of these injuries on future generation of levy payers. Further consideration would be needed to fully understand this issue.
97. The Scheme's financial position is included in the Crown accounts. Given the impact of recent economic events the Scheme recorded a deficit of \$5.95 billion at 30 June 2020. While this does not reflect a cash loss, nor does it impact on ACC's ability to pay for injury treatment, rehabilitation and compensation costs, it does however impact on the funding ratio of the levy and Non-Earners' Accounts which in turn impact levy and appropriation requirements.

**Figure 7:** Economic factors affecting financial performance of the Scheme



9.2 (f) (iv) Confidential Advice to the Government

Government	Percentage
Current government	85%
Previous government	15%

MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT

## BRIEFING FOR INCOMING MINISTER FOR ACC

9.2 (f) (iv) Confidential Advice to the Government		
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p>
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>

### Mental health and psychosocial risks

100. Mental health is one area of wellbeing that the Government has identified as needing attention. Work has already started in Budget 2019 and through He Ara Oranga Government Inquiry into Mental Health and Addiction.
101. However, mental health injuries are not well covered by the Scheme, and there has been pressure to make changes (including after the Christchurch earthquakes and the Terrorist Attacks).
102. There has also been a strong international focus on psychosocial risks at work. Work has commenced on options to address to bullying and harassment but further work could be undertaken on work-related psychosocial risks.

## Annex 1: Relevant legislation and regulations

### Accident Compensation Act 2001

The purpose of the AC Act is to enhance the public good and reinforce the social contract represented by providing a fair and sustainable Scheme for managing personal injury that seeks to minimise both the overall incidence of injury in the community and the impact of injury on the community (including economic, social, and personal costs) through:

- establishing as a primary function of the Corporation the promotion of measures to reduce the incidence and severity of personal injury
- providing for a framework for the collection, co-ordination and analysis of injury-related information
- ensuring that, where injuries occur, the Corporation's primary focus should be on rehabilitation with the goal of achieving an appropriate quality of life through the provision of entitlements that restores to the maximum practicable extent a claimant's health, independence, and participation
- ensuring that during their rehabilitation claimants receive fair compensation for loss from injury, including fair determination of weekly compensation and, where appropriate, lump sums for permanent impairment
- ensuring positive claimant interactions with the Corporation through the development and operation of a Code of ACC Claimant's Rights
- ensuring the persons who suffered personal injuries before the commencement of the AC Act continue to receive entitlements where appropriate.

Under section 166B of the AC Act the Minister must issue a Funding Policy statement.

**Table 6: Regulations made under the Accident Compensation Act 2001**

Regulation	Description
Accident Compensation (Apportioning Entitlements for Hearing Loss) Regulation 2010	Sets out ACC payments to claimants for hearing devices, assessments, repairs and fittings.
Accident Compensation (Earners' Levy) Regulations 2014	Details the ACC levy to be paid by workers.
Accident Compensation (Experience Rating) Regulations 2014	Provides for an experience rating system for businesses based on ACC claims made by a business, which may result in an increase or decrease in the Work Account levy paid by that business.
Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003	Sets out payments to be made for treatment to health providers such as GPs and physiotherapists on behalf of claimants.

# BRIEFING FOR INCOMING MINISTER FOR ACC

Regulation	Description
Accident Compensation (Motor Vehicle Account Levies Regulations 2013)	Details ACC levy to be paid by motorists including motorcyclists.
Accident Compensation (Work Account Levies) Regulations 2014	Details the ACC levy to be paid by businesses.
Accident Compensation (Ancillary Services) Regulations 2002	Sets out payments and payment conditions for services ancillary to treatment such as transport and pharmaceuticals.
IPRC (Applications to Determine Previous and Subsequent Injury Entitlements) Regulations 2003	Provides for disputes between ACC and a private insurer over who is liable for payment of entitlements for a subsequent injury (an injury that occurs as a result of a previous injury) to be heard in the District Court. These regulations remain from the period where the Scheme was open to competition.
IPRC (Code of ACC Claimants' Rights) Notice 2002	Approves the ACC Code of Claimant's Rights. The Code sets out the service level a claimant should expect from ACC.
IPRC (Indexation) Regulations 2002	Details a method of calculating inflation increases for a range of entitlements.
IPRC (Interest Rate for Late Payment of Levies) Regulations 2002	Provides for a method of calculating interest for the late payment of any levy.
IPRC (Lump Sum and Independence Allowance) Regulations 2002	Details a method for assessing eligibility for a lump sum or independence allowance. Also includes a scale for the payment of lump sums.
IPRC (Occupational Diseases) Order 2007	Adds additional diseases to Schedule 2 of the AC Act. Schedule 2 sets out the diseases that are considered to be likely to be work-related and therefore eligible for accident compensation entitlement as a work-related gradual process disease or infection.
IPRC (Public Health Acute Services) Regulations 2002	Defines public health acute services for the purpose of calculating the payment to be made to the Crown by ACC for treatment of claimants in the public health system.
IPRC (Refund of Fuel Levy) Regulations 2003	Sets out a process for claiming a refund on payment of the ACC levy on petrol where the petrol is used for specified purposes. A refund rate is specified.



Regulation	Description
IPRC (Review Costs and Appeals) Regulations 2002	Provides for the award to the applicant of legal costs and other expenses on review and the rules for appeal to the District Court.
Accident Insurance ('Counsellor') Regulations 1999	Prescribes the organisations a 'counsellor' must belong to before ACC will pay for treatment of a claimant by that counsellor.
Accident Compensation (Insurer Returns) Regulations 1999	Provide for private insurers to make statistical returns for the period of accident compensation competition.
Accident Insurance (Interest on Crown Advances) Regulations 1999	Prescribes the way interest is to be paid on Crown advances to the Insolvent Insurers Fund and the Non-Compliers Fund under the Accident Insurance Act 1998.
Accident Insurance (Prescribed Rate of Interest) Regulations 1999	Prescribes the rate of interest applicable to debts due under various sections of the Accident Insurance Act 1998.
Framework for Accredited Employers Programme	Sets out the provisions required to be met to be part of the Accredited Employers Programme. There are a range of programmes offered from full self-cover to partial self-cover.

## Crown Entities Act 2004

The purpose of the Crown Entities Act 2004 is to provide a consistent framework for the establishment, governance and operation of Crown entities and to clarify accountability relationships between Crown entities, their board members, their responsible Ministers on behalf of the Crown, and the House of Representatives.

**Table 7:** Relevant sections of the *Crown Entities Act 2004*

Relevant Sections	Description
Sections 25-28 and 86-88	Outline the roles and responsibilities of the Board, Minister and Monitor as well as the Board appointment process.
Sections 49-51 and 138-156	Set expectations of Board accountability (referenced by section 271-278 of AC Act).

## Annex 2: Crown entities, institutions and statutory bodies, and international bodies

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The institutions and statutory and advisory bodies associated with the portfolio are:

- Accident Compensation Corporation (ACC)

The Treasury is your performance monitor for ACC. More detailed information about how ACC operates will be provided in its briefing to you.

The ACC Board has up to eight non-executive members, each appointed by the Minister for ACC for three years. The Minister can re-appoint a Board member, or shorten their term.

The Board has authority to exercise ACC's statutory powers and perform its functions, and may only act for those purposes, which include:

- maintaining appropriate relationships with the Minister, the House of Representatives and the public
- ensuring ACC's compliance with the law, ACC's accountability documents and relevant Crown expectations
- ensuring that ACC is a good employer and creates a supportive environment that promotes the highest standards of safety and wellbeing, both for its staff and for the communities it serves
- setting strategic direction and developing policy on the operation and implementation of the legislation
- maintaining the financial viability and security of ACC and its investments
- appointing the Chief Executive of ACC
- monitoring the performance of ACC and of its Chief Executive

All decisions relating to the operation of ACC must be made by, or under the authority of, the Board. The Board delegates responsibility to the Chief Executive for the day-to-day management and leadership of ACC, which includes matters relating to ACC's responsibilities as an employer.

The current members of the ACC Board are provided in Table 8.

**Table 8:** Members of the ACC Board

<b>Board Member</b>	<b>Date of appointment</b>	<b>Expiry date of present term</b>
Dame Paula Rebstock	September 2012	Following 2020 election
James Miller	March 2013	Following 2020 election
Dr Tracey Batten	February 2019	February 2020
John Brabazon	February 2019	February 2020
David May	January 2018	January 2021
Anita Mazzoleni	July 2014	Following 2020 election
Kristy McDonald	September 2012	Following 2020 election
Vacant	N/A	Following 2020 election

## Annex 3: Key Stakeholders

Crown Entities and Other Related Bodies	
ACC	Chair: Dame Paula Rebstock
	Chief Executive: Scott Pickering
WorkSafe NZ	Chair: Ross Wilson
	Deputy Chair: Paula Rose QSO
	Chief Executive: Phil Parkes
Worker/Union	
Council of Trade Unions	President: Richard Wagstaff
Other Business Stakeholders	
New Zealand Law Society Accident Compensation Committee	Convenor: Peter Sara
Business Leader's Health and Safety Forum	Chair: George Adams
	Executive Director: Francois Barton
Business New Zealand	Chief Executive: Kirk Hope
New Zealand Association of Accredited Employers	Chair: Michelle Cooper

## Key Treasury Officials

Role	Treasury Team	Responsible Minister	Comment
Performance Monitoring	Sebastian Doelle, Team Leader Health & ACC	Minister for ACC	Primary contact at the Treasury. Advice is copied to the Minister of Finance
Board Appointments	Gael Webster Manager Governance and Appointments	Minister for ACC	Advice is copied to the Minister of Finance
Performance of Crown Financial Institutions	Joseph Sant, Manager Financial Institutions	Minister of Finance	Advice is copied to the Minister for ACC where relevant.

## Annex 4: Funds and Appropriations

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### Vote Labour Market: Budget Structure

Five Ministers are responsible for appropriations in Vote Labour Market. For 2020/21:

1. the Minister for ACC is responsible for appropriations totalling \$2.4 billion, primarily to cover the estimated cost of injury prevention, claims processing, medical services and social rehabilitation for claims on the Non-Earners' Account
2. the Minister for Immigration is responsible for appropriations totalling \$446.7 million, primarily for the provision of immigration services, including assessment and processing services, settlement and integration of refugees and integrity and security of the New Zealand immigration system
3. the Minister for Employment has been responsible for an appropriation of \$20.1 million for the provision of employment information and facilitation services
4. the Minister for Workplace Relations and Safety is responsible for appropriations totalling \$165.5 million, primarily for the provision of employment relations services and health and safety services.

A decision is needed on who the lead Minister for vote labour market will be. The lead minister for Vote Labour Market has overall responsibility for a multi-class appropriation of \$22.95m to provide policy advice and related services to the Minister for ACC, the Minister of Social Development and Employment, the Minister of Immigration, and the Minister for Workplace Relations and Safety. The diagram on page 39 attributes a portion of the policy advice appropriation to each of the constituent portfolios. The total figures in the diagram are therefore higher than the figures above.

MBIE is the department responsible for administering the Vote Labour Market.

For administrative simplicity, the lead Minister typically takes overall responsibility for Vote Labour Market budget processes. The lead Minister for Vote Labour Market receives the final estimates documentation for approval, covering ACC, Workplace Relations and Safety, Immigration and Employment. During the course of the financial year, the lead Minister also receives:

- March and October Baseline Updates
- estimates and Supplementary Estimates
- late In-Principle Expense Transfers in June
- select Committee Estimates Examination material as the main point of contact for Vote Labour Market.

The diagram on page 40 sets out the total 2020/21 appropriations for the ACC portfolio. This captures both departmental funding (funding received by MBIE to provide services directly)

and non-departmental funding (Funding provided via MBIE to other agencies for them to provide services).

## **MBIE's Financial Viability**

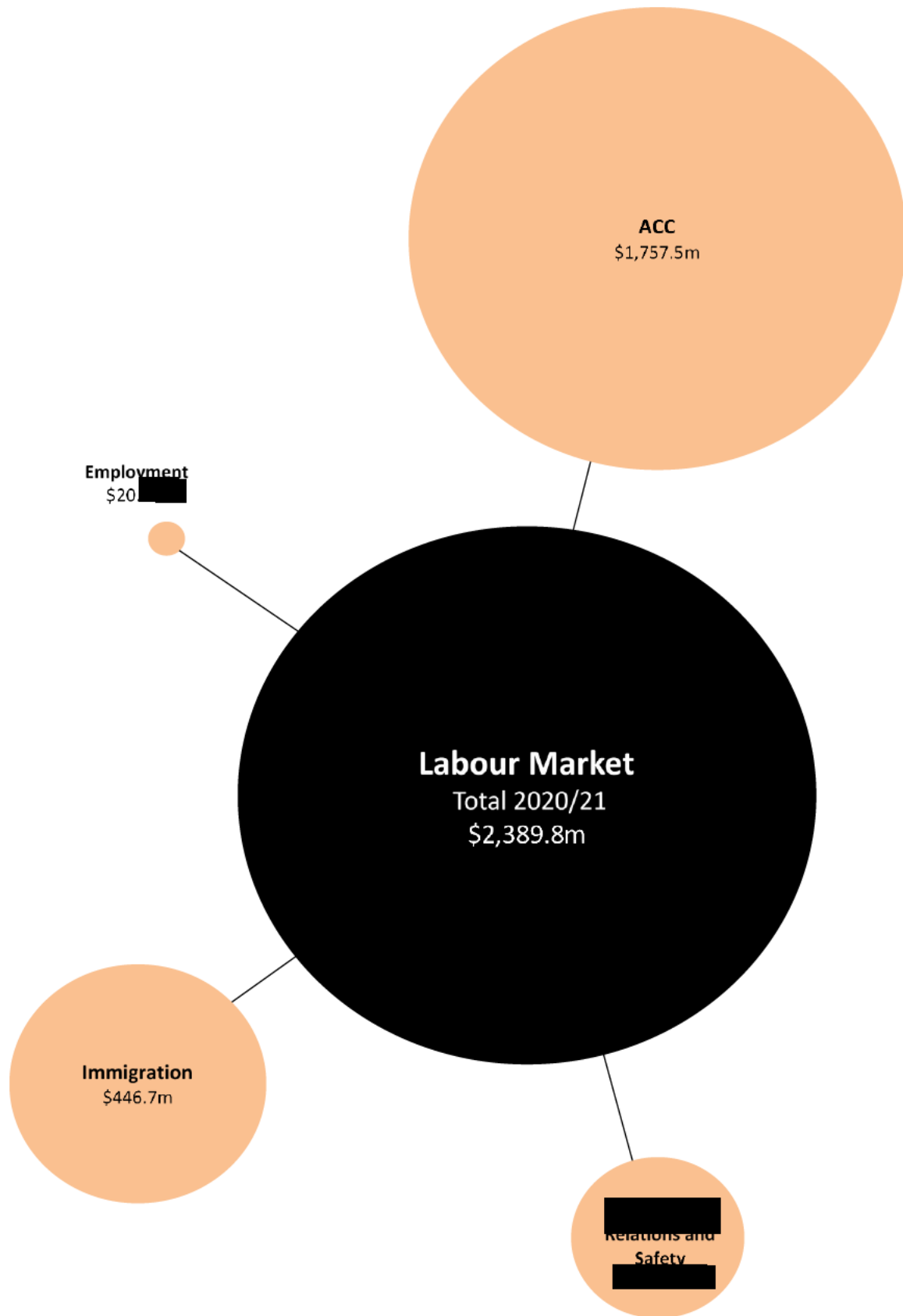
Pre-COVID, 50% of MBIE's departmental revenue was from third-party sources. The remainder is Crown revenue. Third-party revenue has dropped to 37% this year, principally as a result of a significant fall in revenue from immigration fees. While revenue has decreased, our workload has remained at similar levels due to regulatory requirements and new activity (border exemptions process for example). In the absence of new Crown funding, the current shortfall will need to be funded through changes in service levels or investment across MBIE.

COVID has had a structural impact on MBIE's funding. 9 2 (f) (iv) Confidential Advice to the Government

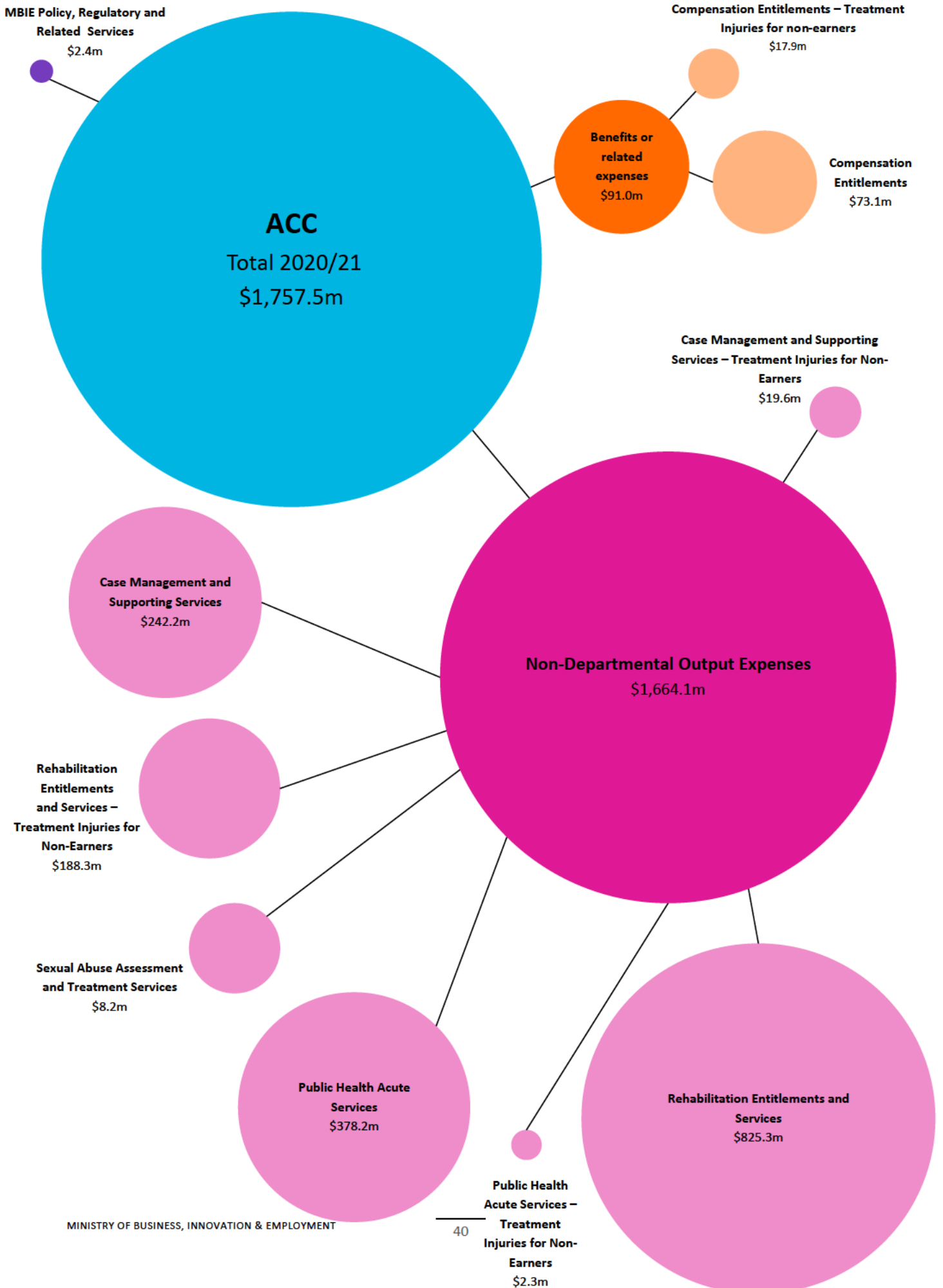
Departmental funding covers a number of portfolios, making a cross-portfolio approach to prioritisation essential. However, there are limits to our ability to re-prioritise as third party funding can only be used for the purpose that it was collected – for example revenue from the building levy can only be used to fund activities under the Building Act.

Uncertainty around our third-party revenue is forecast to remain for the next few years. Looking ahead, a more sustainable funding model, which facilitates greater cross-portfolio prioritisation, will be required to maintain existing services and ensure that MBIE can continue to contribute effectively to the COVID response and recovery.

## 2020/21 Vote Labour Market appropriations



## BRIEFING FOR INCOMING MINISTER FOR ACC





## Annex 5: Schedule of Standard Monitoring Advice

Accountability	Timing	Notes
Letter of Expectations	November	s27(1)(f) Crown Entities Act (CEA) ACC's Board strategy day is at the end of November
Statement of Intent	April/May (as required)	ACC will produce a new Statement of Intent in 2021/22
Service Agreement	April/May	AC Act (s271) and CEA (s49 and s419 refer) <sup>4</sup>
<b>Performance Reports</b>		
Quarterly Reports	November February May August	Briefings based on ACC's quarterly reporting schedule
Valuation Reports	December June	ACC timings noted, Treasury receives the reports approximately 2 months afterwards and takes a long-term view of this information to prepare advice on strategic issues relating to Scheme performance
Financial Condition Report	November (expected)	AC Act (s278A refer) Treasury takes a long-term view of this information to prepare advice on strategic issues relating to Scheme performance
Major Projects Monitoring	TBD	Advises Investment Ministers and Cabinet (SEC) on the status of all high risk or high value programmes and projects including Shaping our Future.  The Report is subsequently published on the Treasury's website.
<b>Other</b>		
CFI Half Yearly Reports	September March	Summarises performance of CFIs and investment markets, and discusses any CFI operational issues.

<sup>4</sup> The 2021/22 Service Agreement was delayed due to COVID-19 (a three month extension was granted).