

The Treasury

Material Provided to the Public Inquiry into EQC Information Release

August 2021

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- [23] 9(2)(a) - to protect the privacy of natural persons, including deceased people
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- [31] 9(2)(f)(ii) - to maintain the current constitutional conventions protecting collective and individual ministerial responsibility
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- [34] 9(2)(g)(i) - to maintain the effective conduct of public affairs through the free and frank expression of opinions
- [35] 9(2)(g)(ii) - to maintain the effective conduct of public affairs through protecting ministers, members of government organisations, officers and employees from improper pressure or harassment;
- [36] 9(2)(h) - to maintain legal professional privilege
- [37] 9(2)(i) - to enable the Crown to carry out commercial activities without disadvantage or prejudice
- [38] 9(2)(j) - to enable the Crown to negotiate without disadvantage or prejudice
- [39] 9(2)(k) - to prevent the disclosure of official information for improper gain or improper advantage

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Reference: T2014/1210

BM-1-7-323



Date: 25 June 2014

To: Minister of Finance
(Hon Bill English)

Deadline: None

Aide Memoire: EQC: invoicing for excesses in the Canterbury home repair programme

You are meeting with officials and Canterbury Earthquake Recovery Minister Gerry Brownlee on Monday 30 June to discuss the Earthquake Commission's (EQC's) invoicing of excesses in relation to repairs completed through the Canterbury Home Repair Programme (CHRP). This was the topic of a recent EQC note to Ministers that is attached to this report. This report provides Treasury's view on the issue.

Background

Requirements under Earthquake Commission Act and Regulations

Under the Earthquake Commission Act (**the Act**) a person claiming against EQC for natural disaster damage must pay an excess. The Earthquake Commission Regulations set out how the excesses are calculated for different claim categories as follows:

- **Dwelling claim:** \$200 multiplied by the number of dwellings in the building, or 1% of the amount payable whichever is greater,
- **Land claim:** \$500 multiplied by the number of dwellings in the residential building which is situated on the land, or 10% of the amount payable whichever is greater, to a maximum of \$5,000,
- **Contents claim:** \$200, and
- **Combined dwelling and contents claim:** where a claim is made by the same person for a dwelling and contents located in or on that dwelling caused by the same event, the combined excess applicable to the claim is \$200 multiplied by the number of dwellings in the building, or 1% of the amount payable, whichever is greater.

Each excess category applies per earthquake event (up to a total of three earthquake events). Customers with multiple claims that are apportioned across multiple events may incur a higher excess than if the claim was due to just one event (due to the

minimum excess charge). For example, if a customer has a \$30,000 claim for dwelling damage apportioned evenly across three earthquake events, the excess is \$600 (as opposed to \$300 if it was attributable to just one event).

Excess collection and invoicing to date

To date, EQC has been processing excesses differently for cash settlements and CHRP repair settlements. Where EQC elects to settle a claim by cash, the excess is deducted from the payment before settlement. Cash settlement is used for all land and contents claims and is expected to account for around 57% of total dwelling claims (by number).

Where EQC elects to settle a dwelling claim by repair under the CHRP, EQC intends to invoice customers once the repairs are completed and the final repair cost is known. However, EQC has not invoiced any of the 55,000 repairs completed to date. EQC have informed us that they have not had the resource to begin the invoicing process until now as they have been focussed on repair work and other aspects of settlement.

EQC's briefing sets out its intention to send information to CHRP customers in October about expecting excess invoices. Following the information dissemination, invoicing will commence for those repairs that have been completed. We are concerned with the extent of time that will have passed from completion of repairs and when invoices may be issued.

Analysis

Desirability of EQC invoicing for excesses in the Christchurch home repair programme

EQC note that Ministers may want to consider the desirability of EQC invoicing for CHRP excesses. We see four main areas to consider in assessing this, outlined below.

- **Net cost of recovering excesses:** prima facie, the collection of excesses can be seen as an operational matter for EQC to conduct in accordance with the Act. From this point of view, EQC should be collecting excesses where it is economically viable to do so i.e., where the excess collected is expected to exceed the cost of the recovery. In their note EQC sets out that they do not intend to collect CHRP excesses of less than \$50 (this excludes any previous excesses paid for contents claims).
- **Financial hardship considerations:** paying an excess could present an undue financial burden for some customers. EQC have not identified the extent of financial hardship across claims that have an excess due, making this issue difficult to quantify. However, EQC intend to include various payment options for customers when invoicing CHRP excesses which may ease the burden on those facing financial hardship. EQC are also setting up a committee to consider vulnerable customers more generally.
- **Equitable treatment across claim categories:** because the excesses have already been deducted from cash settlements, any decision not to invoice CHRP excesses may lead to different financial outcomes for customers with repair

settlement compared to those with cash settlement. EQC have not quantified the magnitude of this issue yet.

- **Delays in invoicing:** it is reasonable for customers to expect to receive an invoice from EQC in a timely fashion following completion of repairs. However, for many customers it has been a long time since repairs were completed. As shown in the table below, 69% of the completed repairs are more than one year old. Receiving an invoice after October may be unexpected for many customers and may not be received well.

Age of Completed Repairs	Number	% of Repairs Completed
less than 6 months	5,653	10%
6 months to 1 year	11,621	21%
1 to 2 years	22,086	40%
2 to 3 years	15,408	28%
greater than 3 years	794	1%
Total	55,562	100%

Officials consider that EQC should progress with CHRP excess invoicing as planned following the information dissemination in October. Prior to October we expect EQC to provide further information on the nature of their legal obligation to invoice for excesses, the value of excesses by age for the completed repairs, and the financial hardship and inequitable treatment points outlined above.

Quantity and distribution of CHRP excesses

Treasury has sought additional information from EQC on the excesses. EQC has provided preliminary information on the total level of excess that could potentially be collected from the CHRP properties and the distribution of this amount across the different excess bands.

The data includes 72,498 CHRP properties of which approximately 55,000 have already been repaired. The excess values do not include past excesses paid for contents claims (cash settled), and the data has not been adjusted for apportionment across the three earthquake events. The data is summarised in the table below.

Excess Band	Properties	Excess to be invoiced	Cummulative Excess	Ave Excess \$	Total Est. Repair value
\$0	2,853	\$0	\$0		\$91,138,141
\$ 0-50	596	\$14,679	\$14,679	24.63	\$20,973,172
\$ 50-199.9	1,484	\$183,883	\$198,562	123.91	\$64,743,309
\$ 200-400	39,275	\$12,345,351	\$12,543,913	314.33	\$1,217,189,876
\$ 400-600	19,643	\$11,033,829	\$23,577,742	561.72	\$821,359,296
\$ 600-800	4,400	\$3,029,517	\$26,607,259	688.53	\$340,230,699
\$ 800-1,000	1,988	\$1,768,702	\$28,375,961	889.69	\$193,794,367
\$ 1,001+	2,259	\$3,107,289	\$31,483,250	1375.52	\$335,108,836
Total	72,498	31,483,250			3,084,537,696

Key points to note from the table are:

- the fiscal cost incurred (if EQC was not to recover excesses) increases dramatically for excesses of over \$200,
- excesses of below \$200 (approximately 2,100 customers assessed as having a non-zero excess) account for approximately \$198,500 or just 0.63% of the cumulative excess revenue, and
- most dwelling repair claims are also likely to have a contents claim associated with them that has been paid in the past (due to cash settlement of contents claims) which is factored into the CHRP excess calculation – this explains why some properties in the table have a zero excess outstanding.

Crown funding of uncollected excesses

Depending on the efforts EQC put in to recover the excesses under the CHRP, there will be a portion that are not recoverable. In their note EQC stipulate that the Crown will need to fund any excesses that are not recoverable because the cost would exceed EQC's statutory liability and fall outside their mandate.

Officials believe that the costs associated with the unrecoverable excess do fall under EQC's mandate [36] If this is the case, the costs will be incurred through the Natural Disaster Fund (NDF). This will have the effect of depleting the NDF faster over the next financial year. Because the Crown must provide funding to EQC to meet the deficiency in the NDF, the Crown will ultimately fund the cost of unrecoverable excesses indirectly.

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