



Independent Oversight Committee

Independent Oversight Committee information release

May 2022

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Independent Oversight Committee
REPORT to the Crown
February 2022

Report of the Committee providing independent oversight in relation to the implementation and delivery of the Southern Response Earthquake Services Limited Pre-October 2014 Payment Package

A. Introduction

The Independent Oversight Committee (the Committee) was established to ensure that the Package (as that term is defined in the Committee Terms of Reference) is implemented and delivered in accordance with the principles and processes for the Package agreed between Southern Response Earthquake Services Limited (SRES) and the Crown; and with due consideration being given to the interests of affected policyholders.

It is the view of the Committee that SRES is meeting this objective. Implementation of the Package in 2021 was delayed by the *Ross* class action proceeding in the High Court. Leave to discontinue that proceeding has now been granted, and the Committee expects that this will result in greater progress in 2022.

B. Reports, advice and recommendations

The Committee refers to its previous Reports to the Crown.

The Committee provided a Report to the SRES Board in December 2021.

The Committee has drafted its first Report to policyholders. As required by the Terms of Reference, this report will be sent to SRES and the Crown prior to publication. The report will be made available to policyholders on the Committee webpage which is currently being established in conjunction with Treasury.

The Committee has provided the following **advice and/or recommendations** to SRES in this reporting period.

1. The Committee recommended that SRES make reference to the Package Review Process in its settlement documentation to ensure that policyholders are aware that this process will be available to them.
2. The Committee provided advice as to a suitable person to head the Package Review Process and has recommended that any proposed appointee be approved by the Committee prior to appointment.
3. The Committee provided advice as to proposed changes to the Package Review Process.
4. The Committee recommended that it fulfil its reporting obligations under the *Ross* discontinuance judgment by filing each Crown Report directly with the High Court once approval has been received from the Court as to the procedure for this.
5. The Committee recommended that when SRES is resource constrained, focus should be given to the timely processing and settlement of existing applications, rather than attracting new applications.
6. The Committee confirmed that where procedures are being streamlined to create efficiencies, the proposed changes are discussed with KPMG as internal auditor to check possible changes to risk profile.

The Committee acknowledges the responsiveness of SRES to the Committee's **recommendations and advice**.

The Committee provides SRES Management with other minor **recommendations and advice** at each monthly meeting. These are summarised in the meeting Minutes.

C. Summary of work performed

The Committee met formally in January (by Circular Resolution) and February 2022 as required by the Terms of Reference.

During the February meeting the Committee also met informally with the SRES Board to facilitate introductions to new Board members.

At each meeting the Committee received operational reports from the SRES General Manager and Project and/or Unit Manager as to the steps SRES is taking in implementing the Package now that the *Ross* proceedings have been discontinued. With the number of claims increasing rapidly, the Committee has requested additional data be provided each month to better monitor timeliness of Package settlements.

SRES provides updates on the following issues at each meeting as these are matters of particular interest to the Committee and are permanent Agenda items:

- the development and implementation of the Package Review Process;
- current legal issues and discretionary decisions in relation to the Package;
- how the Package will respond to “out of scope” only claims; (We note that the *Sneesby* application for leave to bring a representative proceeding in respect of “out of scope” claims was heard by the High Court on 14 February 2022. The High Court declined that application by judgment dated 23 February 2022: *Sneesby v Southern Response Earthquake Services Ltd* [2022] NZHC 262. We expect to discuss the implications of this for processing these types of claims at our next meeting.)

SRES continues to increase its staff levels in all areas necessary to meet the demands of applications and settlements, legal matters, reporting obligations and other work. The Committee actively monitors human resourcing.

The Committee monitors the documentation of business processes and adherence to the same, and receives regular updates on progress and compliance, including quarterly reviews completed by KPMG as internal auditor. SRES will now provide the Committee with its in-house compliance reports in addition to the KPMG reviews. This remains a work in progress for SRES and the Committee has requested that timely deadlines be set for the completion of the business process documentation.

The Committee receives from SRES and reviews a Register of Discretionary Decisions and a Register of Live Legal Issues prior to each meeting.

The Committee continues to receive direct communications from policyholders, or their representatives, and the Communications Policy is being followed.

The High Court granted leave to discontinue the *Ross* class action proceedings in December, while imposing some reporting requirements on the Committee. The Committee considers it appropriate to file its regular Crown reports with the court directly in order to meet its reporting requirements under the judgment. The IOC is cooperating with the Crown and SRES to establish a procedure for this. This will include a process for protecting sensitive information.

The Committee continues to work with Treasury to establish the Committee website. It is intended that the website will publish the Committee Minutes, Reports to the Crown and general information that will assist policyholders to understand and follow the work of the Committee. This is progressing well, and the website is expected to be operational by early March.

The Committee continues to note its appreciation for the quality of reports provided by SRES and its legal advisers and the level of cooperation shown so far.

D. Recommendation for changes to Terms of Reference

The Committee notes that the judgment of Osbourne J in *Ross v Southern Response Earthquake Services Limited* [2021] NZHC 3497 suggests at paragraph 78, that the Committee's Terms of Reference be amended "to include oversight of, and monthly reporting from, the head of the Package review process".

The Committee is open to such an amendment should the Crown determine that it is necessary, but it is the view of the Committee that it is able to oversee the Package Review Process under its current Terms of Reference.

Signed by

Committee Chair, David Ayers

Date: 2 March 2022

