

Claimant Reference Group Minutes**Date: Monday 27 January 2020****Time: 9 am -4 pm****Location: Ministry of Business, Innovation and Employment, 161 Cashel Street, Christchurch**Attendees

CRG Members:
Tom McBrearty (Chair)
Dean Lester (DL)
Phillipa Moore (PM)
David Townshend (DT)
Jo Petrie (JT)
Ali Jones (AJ)
Linda Ngata (LN)

Minute Taker: Niki Craddock**Guests:** - Olivia Payne and Pip Andrews**Apologies:** -Agenda Items

#	Item	Time	Notes
1.	Welcome & housekeeping		
1.1	Confirm today's agenda	9.00am	Any additions from Members
1.2	Opening comments Chair		
1.3	Confirmation of Minutes		
1.4	<ul style="list-style-type: none"> ○ SRES claims transfer – Olivia Payne, Manager Claims ○ Positive comments on customer experience – Olivia Payne, Manager Claims ○ On Solds policy – Pip Andrews, Manager On Solds 	10.00am Onward	Allowing 45mins to hour from each section 1.4 Present Q and A Post discussion points to follow-up if any
	Morning Break	10.30am	
1.4	Continued	11am	
	Lunch	1pm	
2.0	Engineers /LBP comment	1.30pm	Alterations and Ali comments
2.1	Cartwright Report and EQC, personnel changes departures	2.30pm	Tom
2.2	Meeting with Jo Horrocks	2.45	Phillipa Moore, Jo Petrie
2.3	Judge Somerville Summary	3.00	Supplied
2.4	Future prep letters contents if req	3.05pm	
2.5	EQC Manual	3.10	Dean (may be earlier)
2.6	Actions to follow-up	3.40	
	Meeting closure	4pm	

Minutes 27 January 2020

1. Welcome and housekeeping

- Niki welcomed as minute taker

1.1 Confirm today's agenda

- The Chair requested any additional agenda items from the members. Noted as follows:
 - AJ asked to add an item to be added around LBP/PS3 sign off without checking properties – need to challenge EQC on this to find out what they are doing on auditing properties.
 - DT referred to the email circulated last night to the CRG and the issue with claimants being transferred from EQC to SR and back to EQC. The CRG agreed to discuss this prior to Olivia Payne joining the meeting so they could articulate the issues to raise with her.

1.2 Opening comments from Chair

- Chair met with Judge Somerville recently. Chair to provide a confidential update later in the meeting.
- Chair commented that there are two more meetings scheduled and a lot of ground to cover. He apologised for any detail missing from the agenda today.

1.3 Confirmation of Minutes

- Chair advised that the 24 October 2019 minutes were sent to the Group for review but EQC wants to ensure CRG have approved them prior to uploading them to the internet.
- The October and November minutes to be updated for correct spelling of Pou and Mel's names. The Chair undertook to action this.
- The Chair confirmed to the best of his knowledge there were no further changes. AJ confirmed ample time was provided for review and no changes were needed.
- With the exception of the corrections to names mentioned AJ moved and LN seconded the minutes of the 24 October, 25 November and 28 November 2019 meetings as a true and accurate record.

Matters Arising from CRG

- DT apologised for the last-minute nature of this item, however he said it was good for CRG to discuss what is being seen in lots of claims in that they are being sent from EQC to Southern Response (SR) and now back to EQC.
- DT noted that on receipt of this particular claim back from SR, EQC are now taking a completely fresh approach and engaging a new engineer. Previously EQC had put this claim over cap and engaged their own engineer and advised what the damage was. DT asked why tax payer money is being spent to frustrate the process and start again as nothing different is happening. He noted it was the same claim manager from SR, now under the EQC umbrella, handling this claim and that EQC had been unable to articulate why a new engineer was now being engaged.
- DL commented on the behavioural and cultural challenges dealing with EQC and SR and said that when challenged there is the inability by the staff to explain their actions other than being told "that's the way we do it".
- The length of this claim sitting with EQC and SR was discussed along with the vulnerable position of the family.
- The MOU between EQC and SR was referenced.
- The Chair noted that this particular family had a lot of claims with their first claim in 2010, they then had

six claims in 2011 and a further claim in 2017.

- PM explained that people were advised to put a new claim in after each aftershock
- The Chair asked the CRG to summarise the main points to be raised when OP joined the meeting. These were noted as follows:
 - If someone at EQC has been handling a claim and it has only just been passed over to SR why can the same claims handler not be reinstated if the client/claims handler are getting along? It must cost more money to bring another claims handler up to speed. Conversely, if SR have had a claim for a number of years why can the claimant not request a new handler if they are dissatisfied? In summary, why can't they keep a handler in some cases and in others why can't they request a new one?
 - Why are EQC and SR not accepting each other's positions on engineering reports?
 - Until there is an insurance pathway and you know who is going to be doing the reinstatement.
 - Why is the EQC manual not being followed? Quality control/ standards need to be implemented.
 - Request an update on the status of MOU between EQC and SR.
 - The Chair asked about the claim transfer between SR and EQC and ultimately who is the key decision maker? DL referenced Renee's statement on radio last week that EQC is looking at everything with "fresh eyes". The CRG agreed they needed to understand who the people with "fresh eyes" are and how could they meet them or escalate matters to them.
 - Find out how many claims EQC are dealing with that are SR claims.
 - What is the auditing process? To give peace of mind we need to know when the claims are going back to Casey to look at. Need to know the "Fresh eyes" are making a difference.

Detailed conversation was held around the particular claim that was circulated via email by DT to CRG last night. Due to the confidential matter of the claim specific discussion was not recorded however DL noted a significant failing with this particular matter was that there wasn't a clear insurance pathway.

1.4 SRES Claims Transfer - Olivia Payne, Manager Claims & On Solds Policy - Pip Andrews, Manager On Solds

Olivia Payne (OP) and Pip Andrews (PA) joined the meeting at 955am.

- OP and PA gave a brief overview of their roles and employment history at, and prior to, EQC. OP gave a detailed explanation around the decision to merge SR and EQC and the process of winding down SR Operations and bringing claimants across to EQC. She referenced the MOU signed in October 2019 and the 12 members of staff from SR that were brought over to EQC, 11 of whom are now onboard.
- OP said those 12 staff will be maintaining the SR system which is where they manage their claims from and that as per Renee's recent comments they will be looking at claims with "fresh eyes".
- OP said lawyers and advocates had asked for some claims to move and there have been some good closures already this year but where there is specific concern identified EQC are open to have a claims clinic or to move a claim to a EQC person to review.
- OP explained that Casey Hurren, Southern Response, General Manager is required to sign off anything \$50k over EQC liability e.g. \$50k into SR liability, however getting it to that point will be for the settlement specialists on the claim. If EQC have the claim it will stay with the settlement specialist and they need to get it to a "full and final" for the EQC liability and SR liability. DT asked for clarification around "full and final". OP explained that SR claims will go through to have a Settlement Discharge Agreement so the EQC person will need to get a Settlement Discharge Agreement completed on behalf of SR . All liability from SR and EQC will be signed off.

- DT asked about reinstatements the homeowner is doing that SR is paying where payment is not yet determined. OP undertook to come back to the group.
- DT asked with SR having elected as per 1Dii how does bringing in a “full and final” sit with that, particularly if that is the driver. He wanted to understand how it fits? OP undertook to come back to the group with this.
- OP clarified that Renee wants to bring a customer centric focus to SR claims and that EQC are at the very early stages of this. She said that a lot of the questions that DL was asking she can’t speak to as she doesn’t have that level of detail but she can get the answer or arrange for someone to come to a future meeting. She understands that claimants that have been brought over from SR are under distress and that matters can’t continue to go on like this.
- DL said that in many cases it is just a matter of following the insurance principles – now that you have elected as per 1Dii you are required to meet repair costs. SR have ignored costs that have been presented as repair costs.
- DL said It is confusing for a homeowner when the pathway from an insurance point of view is not continually represented.
- DL referenced a specific confidential claim that is 13 months along and has been now backtracked and reviewed again. AJ asked why this is being reviewed so far along the process and why this can occur. DL said the value of the “full and final” cost had impacted the decision to review the case. DT noted there was the opportunity for EQC to say this had been settled and not to revisit it.
- DL noted there needs to be recognition that a settlement pathway is a settlement in itself. Additional claims will be needed when the actual amounts are known.
- PM said it could be argued that passing on the liability to the claimant as a “full and final” can add to distress as you may uncover something unknown once works start that you won’t be covered for. Full and final protects SR but doesn’t protect the claimant.
 - DL explained that variations can be presented and agreed to knowing that an additional payment isn’t needed right away as the initial payment is still available to cover immediate expenses. Explanation of EQC payments (these must be exhausted before insurer has to pay) and how these can be used for mortgage payment was discussed.

The Group had a break at 10.34 am and reconvened at 10.54 am.

- OP referred to AJ’s report on the news and said there are other SR claims sitting in the EQC. Of the claims coming back across 182 are over cap, 36 under cap and 32 yet to be determined. The 36 and 32 are the remaining MOU claims. OP is currently reviewing these and there may be more resources and a quicker response if they are moved back to other EQC teams. If they are well under way and look like they are going over cap they will remain but if they are definitely under cap and there hasn’t been enough work done they will be moved to a new team to get resolved. She clarified that nothing would be moved if there was a relationship developed with the claim handler.
- OP said that David, Renee and herself are considering moving claim handlers if requested by the client.
- OP explained the change in process that has been developed to dealing with claims and referred to the

claims workshop that will be held by EQC tomorrow to explain new processes and improve the current approach to dealing with claims. She further explained the process required for SR to sign off claims.

- The CRG asked how EQC will progress any disputes that arise between SR and EQC. OP advised the ultimate decision for SR claims stays with SR while the day to day claim management will be undertaken through EQC as SR agents. It was noted this was referenced in the media release issued last year.
- DL referred to the questions the group discussed prior to OPs arrival and in particular where are the “fresh eyes” and what is changing. Cultural and behavioural issues at SR and EQC were discussed. Members of the CRG had concerns about the 12 people that had been brought over from SR given the issues that had been identified. OP explained the recruitment process and reiterated that change was needed and that a customer centric mentality was being established. This would be discussed at the workshop tomorrow with a focus on what is the best outcome for the customer. She acknowledged this would be hard and would take time. The CRG suggested that the insurance response should form part of the training also.
- The CRG advised OP of comments from EQC staff such as “you are lucky to be given that” or just difficult staff in general to deal with and asked OP to give consideration how she will address this. OP wasn’t sure as yet but said she will feed these comments back.
- The Chair summarised that EQC had a lot of work to do to develop the cultural side of the business and asked if there is anything the CRG can do to influence the attitude of the difficult people. He asked if there was something that the CRG can write to send to the EQC to support their approach. The inability of EQC staff to articulate the insurance response and the settlement pathway was also noted. It was suggested that DT and/or DL, as representatives of CRG, attend a future workshop like the one OP had scheduled with staff tomorrow to share their knowledge. CRG reps to be invited to a future meeting.
- OP informed the group that she is considering bringing together SR, EQC and builders/experts for those claims that are not progressing. Privacy issues would need to be managed or addressed first. The CRG asked to ensure that insurance experts were involved also.
- The Chair noted the value of the EQC manual was underutilised.
- AJ noted that there was some concern about the emphasis that EQC/SR had put on getting jobs closed or a certain amount progressed before Christmas. OP reassured her that the focus was now on the open jobs and re-opens and how there is reporting now at a settlement specialist level on how many of their claims are reopen.
- AJ noted her concerns around the different versions of the engagement letter – the most recent one signed by EQC rep. A hard copy of the version which documents the differences between the letter on the Engineering NZ website and the one signed by EQC rep. was provided to OP.
- PM asked if there was a system to show which claims handlers are causing problems. OP explained there is a way for issues to be raised. The CRG asked what quality management system is in place to see if similar things same issues or problems arise, particularly with the same staff. PA to raise this at their next management meeting to discuss how performance is monitored and recorded. DT noted that as part of the quality system there should be reference to why a claim has changed position.
- The CRG suggested in-progress or exit interviews with claimants, or the possibility of providing feedback

throughout the process. OP referenced surveys that are being undertaken currently but that this area could be improved as per the CRG's advice. OP noted that the Chair asked her to present positive feedback which she has sourced from team leaders. This would be provided later in the meeting.

On Solds

- PA explained the Government's announcement in August 2019 with regard to having a proactive solution for people who had purchased properties that were under cap at the time of purchase but are now over cap and they don't have access to the full value of the private insurance the previous owner would have had. PA's team was established in September and have been working with Treasury to get a Services Deed signed – this Deed was signed in October. If a property was purchased or the offer was unconditional before 14 August 2019 an EOI could be submitted before 15 August 2020 for an ex gratia payment from government.
- Clarified the difference between application and claim – it is not an insurance payment it is an ex gratia payment from the government. Exclusions and deductions included:
 - No entitlement for "as is where is".
 - Reasons for a property being able to be purchased for less than market value needed to be considered.
 - If it was known that there was significant EQ damage at the time of purchase, there may be a deduction under the policy.
 - Top up over and above any insurance liability – where there is indemnity cover through the insurer the government support package is there to cover the shortfall.
- PA offered to send out information to the CRG that was sent out to homeowners however CRG said they are familiar with the material.
- PA provided an update on the numbers of On Solds:
 - 23 claims have been settled and paid with On Sold funds and settled as part of the current policy.
 - Resolved a further 14 EOIs without having to use the ex-gratia funds – in these cases people lodged an EOI in case it went over cap but they have remained under cap.
 - 30 people have been ineligible, and they have been advised– the vast majority of these were over the cap at the time of purchase.
 - 5 cases where the homeowner has withdrawn their application because they have sold the property.
- PA said the EOI is not transferable to the purchaser. She explained they have held some road shows with real estate agents, lawyers and met with MPs office to explain the On Sold process.
- PA acknowledged the issue of having a fixed price settlement. Originally Treasury wanted certainty and to sign off liability however it was discussed that claimants currently end up in a scenario where there is a shortfall or a windfall and there should be a neutral financial impact. PA agreed and she wants to alter settlement agreements to allow for variations – both negative and positive - and would discuss this further at her meeting with Treasury on 5 February.
- AJ asked what happened when a home is uneconomic to repair. PA explained for clarity, there are two scenarios where we would consider the repair to be uneconomical; the first being it would be more cost effective to rebuild the home, but the cost of both the rebuild or repair is less than 1.5 times the capital value, the second is where the repair and or rebuild exceed 1.5 times the capital value of the property and we are required to discuss alternative solutions with Treasury. PA advised this situation has not yet

arisen however that was refuted by AJ who was aware of three circumstances where this had occurred and declared her own personal interest in this situation. Following conversation AP said these are the exception not the rule and that a pathway was needed for these.

- It was noted that the 1.5 x capital value did not include things like alternative accommodation.
- DL noted that he has seen a lack of awareness from EQC staff in general that the On Sold ex gratia payment EOI is time bound. He is aware of people that have not been told of the 15 August 2020 deadline to submit an EOI. PA acknowledged this has been an issue and that knowledge within the business is inconsistent. She noted this is a driver for the workshop tomorrow and the process around when and how to submit EOIs for On Sold payments will be covered at the workshop. She has prepared material to help staff understand the trigger points for submitting an EOI.
- DL asked if PA was aware of any circumstances where it wouldn't be in the best interests to register an EOI, just as a backstop. PA agreed it would be best to register as a backup. She has a list of 667 On Solds that her team will be contacting to make sure they are aware of the options available to them. Proactively triaging and contacting these. Will report back to Treasury on progress.
- DL sought clarification as to whether those people should register their interest through EQC as an On Sold also or should they be directed to get a response through AMI. PA suggested both and that in those circumstances if you lodge an EOI it will be flagged as a SR expression and it will be put to one side if it is considered there is full insurer liability available to them. That means a claimant continues on the journey with SR but if the situation changed and they needed to call on the Crown ex gratia fund an EOI would have already been entered and there won't be issues because of being timebound.
- DL has had legal commentary that showed concern that by registering an EOI you might be indicating you think you don't have rights under an insurance policy and you may be exposing yourself. PA clarified that an EOI does not prohibit anyone going through the insurance process but she clarified they cannot be in proceedings to get payment.
- A list sent out by EQC staff with nine builders that can provide a fixed price offer was referred to and PA said this should not be happening and asked for examples of this so she can address it. DL agreed to provide details to PA.
- AJ commented on a recent conversation with David Ashe as Head of EQC Claims regarding the Treasury document and the need for a builder's price as opposed to a QS price. It was noted this was OP's Manager and should be escalated directly by the Group if a response was needed.
- DL summarised that the application of the Treasury document has become confused.
- AJ asked what the timeframe between the conversation with Treasury on 5 Feb and when the outcomes would be known. PA advised she wasn't sure
- DL noted that if the Treasury don't agree to a variation the CRG will probably escalate this to try other avenues to have ministerial oversight of that. It was clarified that by referring to Treasury PA is referring to her contacts are Craig Fookes in Policy and Lee on the Financial side.
- PM asked for clarification around the process for those that had indemnity insurance.
- PA advised the Shine case is back on target to settle.
- Chair thanked PA and OP. He said that if they thought there was value in the CRG highlighting the issue

around On Solds and the fixed costs CRG can get that to you before the 5th of February. This should be addressed to PA and David. Action item.

- OP provided verbatim feedback received from claimants that had completed a feedback survey which outlined the improvements claimants have experienced in EQC now compared to previously.
- PM asked what provision there is for access to the property to maintain the property over the rebuild/repair process. OP to report back on that.
- OP concluded by saying it would be good to have SR back on the agenda for the next meeting for the questions she wasn't able to answer.

110pm meeting break for lunch. OP and PA left the meeting

Meeting reconvened at 1.48pm.

2.0 Engineers/LBP comment

Ali introduced this item and referred to the differing versions of EQC letters of engagement circulating. CRG will write to Sid or Renee at EQC to bring to their attention the differing letters of engagement in circulation and asked why it has been changed. Chair to action this letter.

2.1 Cartwright Report an EQC, personnel changes departures

The Chair requested this section was not minuted however at the conclusion of the item the Chair asked for it to be noted that he would write to Dame Silvia Cartwright to request an embargoed report be sent to CRG members.

2.2 Meeting with Jo Horrocks (Record 5/104)

- JP and PM summarised their 6 December 2019 meeting with Dr Jo Horrocks, Head of Resilience, Strategy and Research at the EQ Commission. PM and JP summarised the meeting as follows:
 - JH was keen to meet with the CRG and to discuss her work and have input into research areas.
 - She brought up building standards and compliance issues in the construction industry.
 - There is a place for EQC to be vocal on this issue despite the fact they haven't in the past.
- Conversation held around emergency preparation and education for people eg people should take photographs of their house now so that in the occurrence of another event there would be evidence of how a home looked before.
- Dr Jo Horrocks to be invited to a future meeting. Chair will arrange a meeting date.
- AJ – can we resolve to write to EQC with regard to LLB finding (2016 case). Chair will write to EQC.

2.3 Judge Somerville Summary

Chair advised he was in this building and heard that Judge Chris Summerville was here to address staff and asked if he could listen. He summarised the points from the briefing he listened to and said the main point of interest were the following numbers:

- In six months there have been 91 applications

- 11 settled and 29 transferred back to the high court
- 48% of the cases cover foundations
- 25% cover managed repairs
- 15% land claims
- 12% other bits and pieces

2.5 EQC Manual

- The Group discussed the EQC Manual and the old versus the new manual being used/applied. DL said he met with EQC on Friday and had no objection about using and relying on the Manual. The Group asked the Chair to write to Renee and ask/request that all staff work from the same manual on an ongoing basis. Chair to write an action letter.
- Movements of staff from EQC discussed.

The meeting closed at 4.10pm.