

**Mediated Agreement****Parties**

1. The parties to this agreement are:
  - 1.1. Raymond Gordon ("**Raymond**")
  - 1.2. The Accident Compensation Corporation ("**ACC**")

**Introduction**

2. On 13 June 2024 at Lambton Quay Chambers in Wellington, the parties held a mediation to address the matters set out in the annexed Description of Dispute.
3. The Mediation was attended on behalf of Raymond, by:
  - 3.1. Donna Hall
  - 3.2. Felix Geiringer
  - 3.3. Tom Scoles
  - 3.4. Maggie Gordon
  - 3.5. Ferdinand Andi-Lolo (by audio visual link)
  - 3.6. Amber Taare (by audio visual link)
  - 3.7. Donna Williams (by audio visual link)
4. The Mediation was attended on behalf of ACC, by:
  - 4.1. Fenella Becroft
  - 4.2. Luke Hawes-Gandar
  - 4.3. Vickie Rogers (by audio visual link)
  - 4.4. Dan Richards (by audio visual link)
5. Broadly, the mediation was an opportunity for Raymond to share his experience with ACC, issues he has had with the management of his claims, and to identify where he considers that ACC has not made the right decisions.

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Waitangi Tribunal

5 Dec 24

Ministry of Justice  
WELLINGTON

6. ACC sought to better understand Raymond's experience, and to proactively manage concerns in relation to its case management and decision making.
7. Through the mediation and subsequent discussion, the parties have reached agreement on the following.

**The 2006 Accident**

8. Raymond and his whanau expressed concern he has repeatedly been treated with suspicion and that ACC has shown reluctance to accept his accounts as reliable. That concern was particularly evident regarding the 2006 accident but was not limited to it.
9. ACC has heard and acknowledges the above concerns and wishes to make clear that it agrees that Raymond deserves to be treated without suspicion, and with respect at all times.
10. Regarding the 2006 accident:
  - 10.1. Raymond's position is:
    - 10.1.1.1. He was involved in an accident on 27 July 2006 when the truck he was driving for work was struck by a Lakeland Helicopters truck.
    - 10.1.1.2. The truck involved required considerable repairs underscoring that the accident was significant.
    - 10.1.1.3. He struck his head in the accident and lost consciousness for a period.
    - 10.1.1.4. He underwent a marked personality change after the accident as observed by his partner at the time.
    - 10.1.1.5. His abilities at work significantly declined after the accident as observed by his employer at the time.
  - 10.2. ACC has no reason to disbelieve the accuracy of Mr. Gordon's recollection, nor his position regarding the recollection of his ex-partner or former employer. ACC is not challenging his credibility in relation to the 27 July Accident and does not challenge the credibility of Raymond's position as set out.
11. On 20 April 2017, ACC declined Raymond cover for a traumatic brain injury ("TBI") in respect of the 27 July 2006 accident. ACC did not accept that there was sufficient



evidence that Raymond had suffered a TBI in the accident. This decision was upheld at review on 26 November 2017. ACC does not consider that the evidence currently available justifies reconsidering the issue. However, ACC agrees to fund and arrange further investigations as follows:

11.1. Firstly, a neuropsychological assessment to be completed by Dr James Cunningham.

11.2. Secondly, a report from Dr Greg Finucane.,.

12. On completion of the above investigations, ACC agrees to issue a fresh decision as to whether Raymond suffered a TBI because of the accident on 27 July 2006, in light of the existing evidence and the result of the above investigations. ACC agrees that this decision will have fresh review and appeal rights.
13. In recognition of the agreements above, Raymond agrees to discontinue his current appeal to the District Court (ACAR 192/23).

#### **The 1999 Accident**

14. Raymond has cover for various injuries in relation to an incident in 1999 but has been denied weekly compensation because ACC was previously advised and accepted that he was not an earner as at the date of injury.
15. Raymond and his whanau advised that he did work on a casual basis during 1999. They believe his previous advisors may have incorrectly presumed that he did not meet the criteria to be an earner.
16. ACC agrees that that it is willing to reconsider Raymond's earner status at the date of injury if Raymond and his whanau provide new material evidence regarding earnings.

#### **Case Management**

17. ACC committed to all future communication with Raymond being made initially through his whānau advocate. This is currently Maggie Gordon.
18. ACC said that to improve communications between ACC and Raymond's whānau, Vicki Rogers would be available as a liaison to speak with Maggie Gordon (or any future whānau advocate).

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19. As a first step, ACC said that Vicki Rogers would discuss with Maggie Gordon the appointment of a new Recovery Coordinator for Raymond.
20. ACC said it would take on board the feedback it had received about its communication with Raymond and his whānau and, in particular, ACC staff members dismissing requests without explaining the reasons, mixing up Raymond's different claims, and treating Raymond and his whānau in a way that Raymond felt amounted to hostility and suspicion.
21. When ACC does reject requests from Raymond or his whānau for assistance, there was a commitment to the ACC providing help to Raymond and his whānau to understand the processes they could follow, or evidence they could provide, that might enable ACC to accept those requests.
22. ACC committed to considering the feedback that had been provided in relation to future Recovery Coordinator training and handovers.
23. In any case, ACC said further that the new Recovery Coordinator would be appropriately briefed so that they understand the difficulties that Raymond has previously encountered with ACC. That includes a commitment for a note to be left attached to the front of Raymond's file that would set out all of the commitments listed here and other information so that all future people in that role will know Raymond's circumstances.

#### **Social Rehabilitation**

24. In accordance with what is agreed on between Maggie Gordon and Vicki Rogers in the above-mentioned conversation, ACC said that:
  - 24.1. it will arrange for Raymond to have both a support needs and an equipment assessment, to be completed in a single session;
  - 24.2. it will not arrange, or request agreement, to conduct support needs assessments any more frequently than agreed on or as is strictly required to ensure Raymond continues to receive the support and equipment he needs; and
  - 24.3. such support needs assessments will be carried out in accordance with the procedure agreed between Maggie Gordon and Vicki Rogers, with a view to minimizing stress to Raymond and utilizing whānau/support people to assist in the provision of relevant information.

#### **Other Potential Entitlements**

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24.4. ACC acknowledged that servicing Raymond's treatment needs was currently imposing a significant time and financial burden on his whānau because of the need for them to travel to and from Gisborne, and ACC committed to consider providing further financial assistance to cover this.

24.5. ACC acknowledge Raymond's experience of having all payments for non-contracted providers refused. It noted that while it had a preference for clients to use contracted providers there was an ability to approve non-contracted ones. ACC promised to consider Raymond's request for it to cover non-contracted providers and, in particular, to his requests related to a mirimiri provider and to treatment from Dr Newburn.

**We have read, understood, and agree to the terms of this agreement:**



Signed by Fenella Becroft on behalf of ACC

10/10/2024

Date



Signed by Donna Hall on behalf of Mr Gordon

11 Oct 2024

Date

## **Description of the Dispute**

Parties: Raymond Gordon and ACC

Mr Gordon has concerns about 3 ACC claims he has made, which he describes as:

- (a) 1999: Black Power Assault (Claim F2284020010)
- (b) 2006: Motor Vehicle Accident (Claim 10027155875)
- (c) 2009: Police Assault (Claim 100121352038)

Mr Gordon contends that ACC handled his claims bureaucratically, unduly slowly and with suspicion, causing him stress likely to worsen his condition and that has caused ACC to wrongly dismiss his accounts of his injuries and to wrongly deny compensation as a result.

Mr Gordon also contends that ACC has wrongly:

- (a) Required him to undergo repeated Support Needs Assessments
- (b) Refused to support him to move to the BUPA care facility in Gisborne.
- (c) Declined to fund items for his rehabilitation, including a mechanical chair, a trolley, and a referral to a mirmiri specialist.

Mr Gordon also contends that ACC's treatment and response to his claims have been unacceptably bureaucratic and slow.

ACC would like, through mediation to:

- (a) Better understand Mr Gordon's concerns and objectives.
- (b) To agree a plan for how ACC can meet those concerns and objectives within the bounds of the Accident Compensation Act 2001.
- (c) To reach an agreement to resolve Mr Gordon's current District Court Appeal
- (d) To improve its relationship and communication with Mr Gordon.

