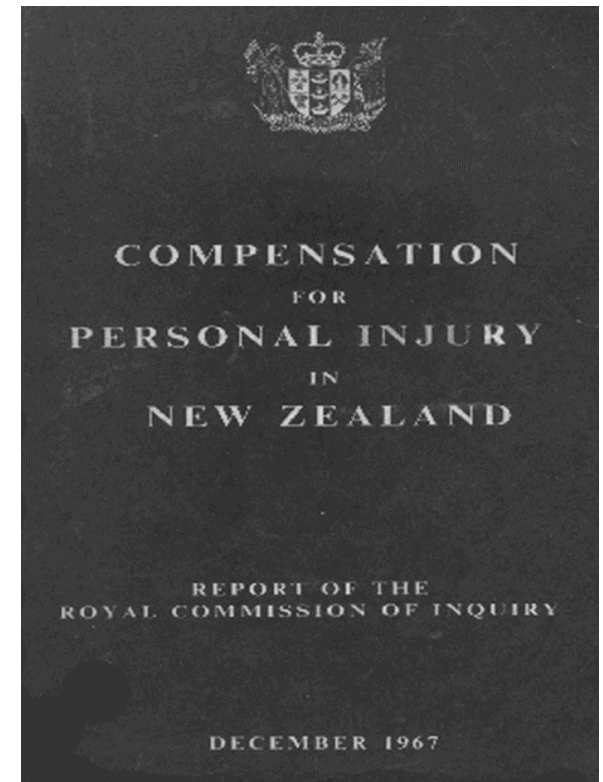


# Reflections on the Woodhouse legacy for the 21st century

The 2019 Sir Owen Woodhouse  
Memorial Lecture  
22nd October 2019  
Auckland  
Susan St John

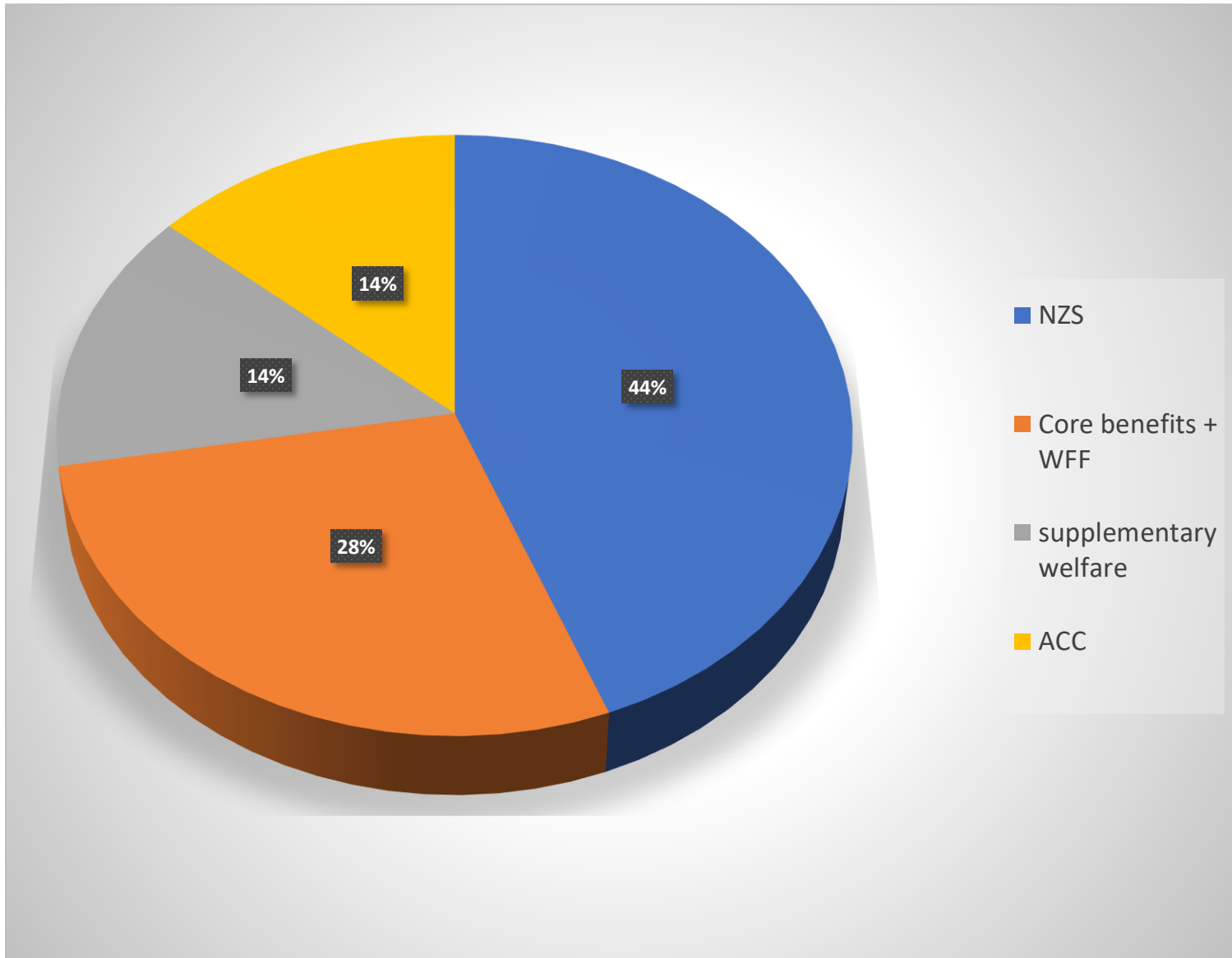


*“This beautifully crafted Report is the work of a man with a deep-rooted social conscience fully aware of the needs and aspirations of the common man and woman.”* High Court Judge Ted Thomas 1969

# **NZ's incoherent income maintenance system**

- **ACC 1967**
- **New Zealand Superannuation 1976**
- **Welfare and Working for Families 1991**

# Total expenditure of \$33 billion



# Pre ACC *“The Forensic Lottery”*

- **Workers compensation.** Very limited no fault earnings-related payments.

If fault proven claimant may or not hit the jackpot.

- **Non-work accidents:** compensation only if fault proven under common law.
- Backstop of miserable welfare benefits.

# **The paradigm shift: ACC was to meet five principles**

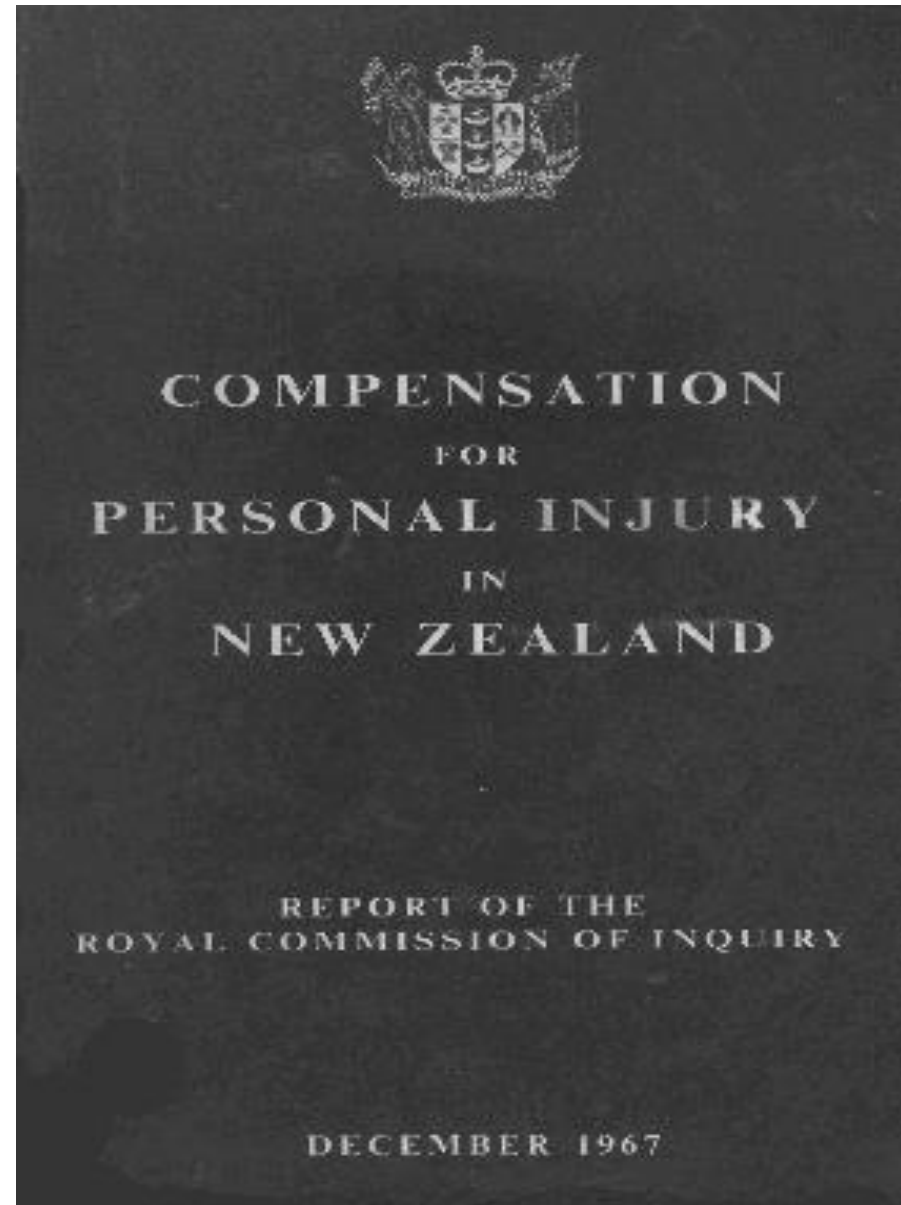
- Community responsibility
- Comprehensive entitlement
- Complete rehabilitation
- Real compensation
- Administrative efficiency

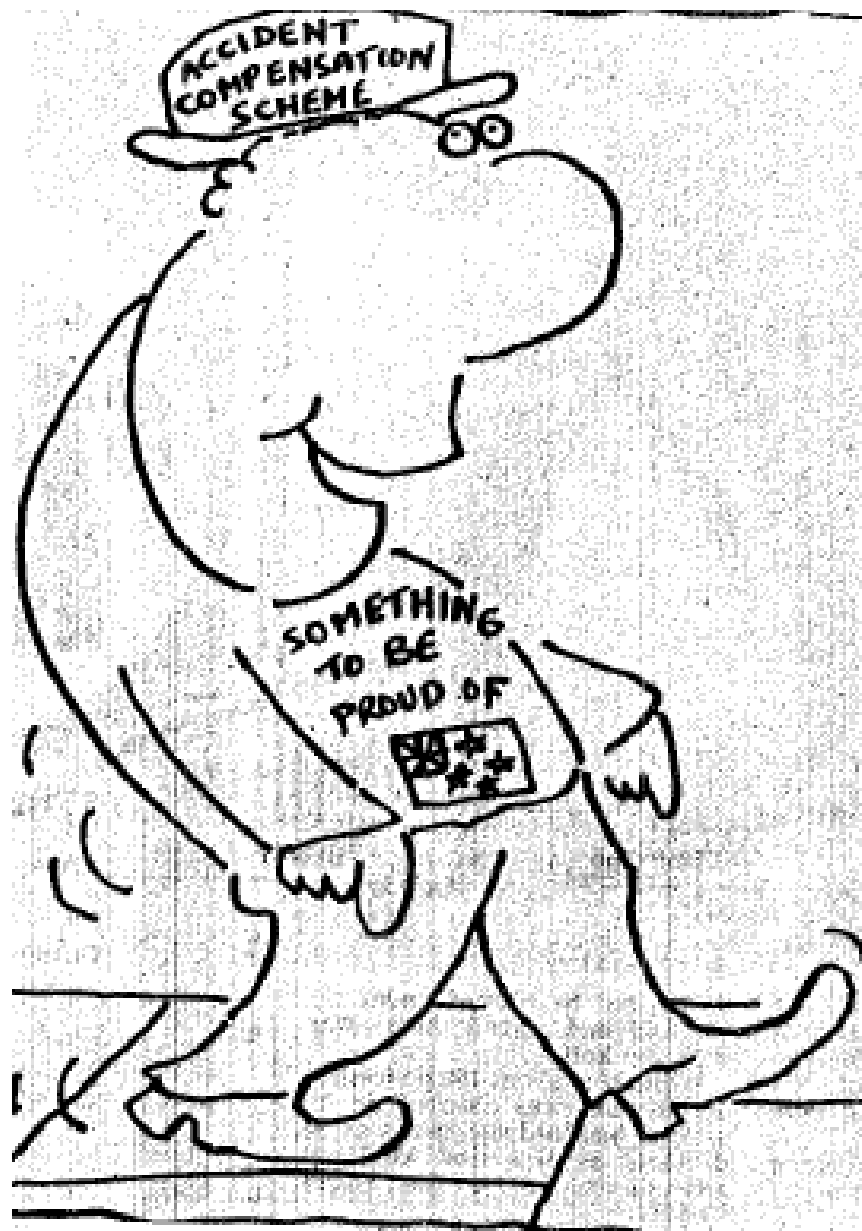
It should not matter if the accident :

- is work-related
- if the injured is employed
- if there is fault,
- when it happens

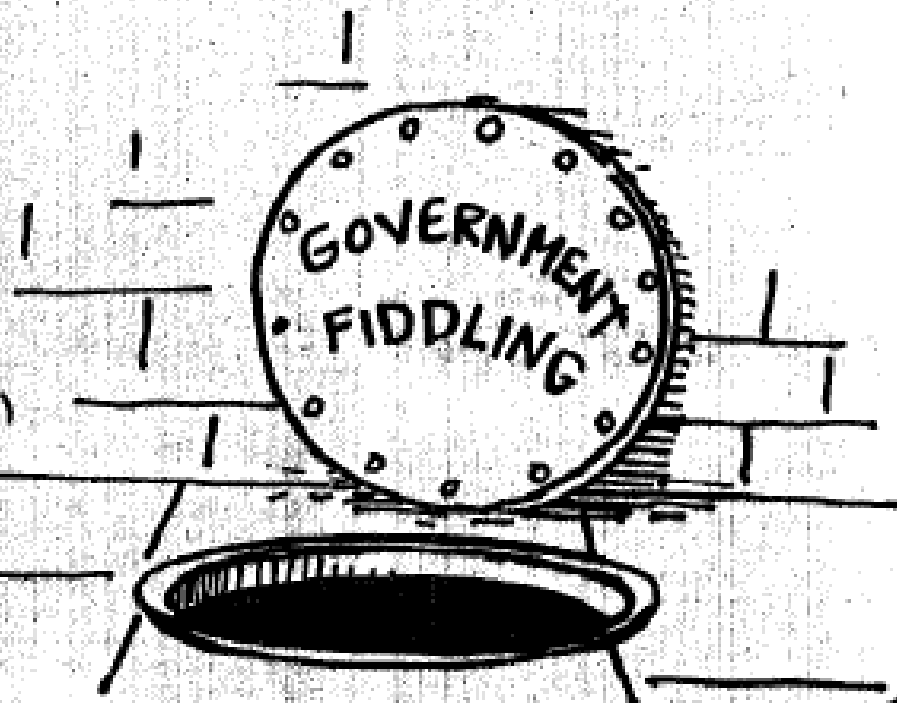
**ACC as Social insurance:**

- Flat rate levies
- Fund as a buffer
- Safety separate issue
- Admin efficiency
- Chance to evolve





BROMHEAD





# Onslaughts to the new paradigm

- Language
- Corporate structure
- Differential levies based on risk
- Experience rating
- Full funding

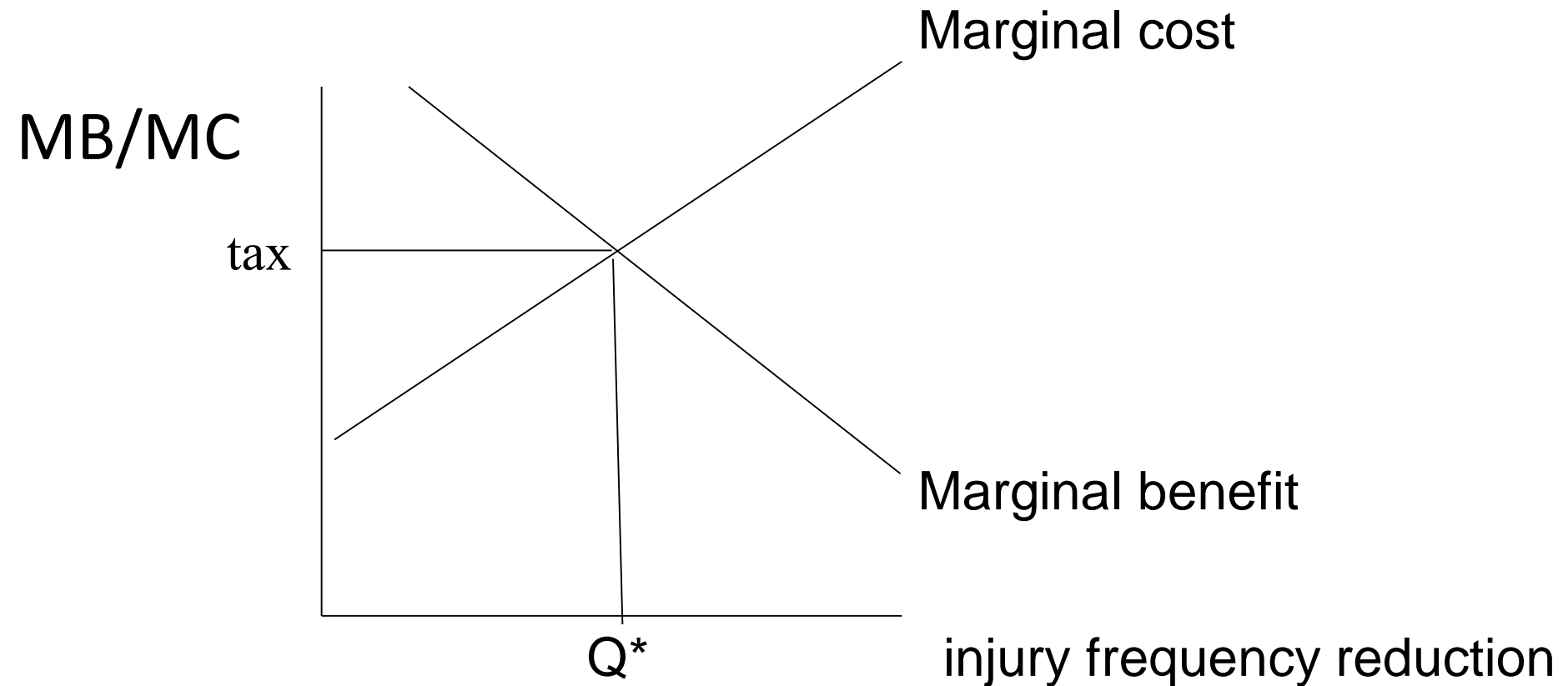
# The freezing industry late 1970s



Study of how the proposed rebate and penalty system could apply

**If it didn't make sense in the freezing industry then it did not make sense anywhere**

# Experience rating follows from the insurance/neoliberal paradigm



# Experience rating statistical basis

- Accidents are random- approximate to a Poisson distribution

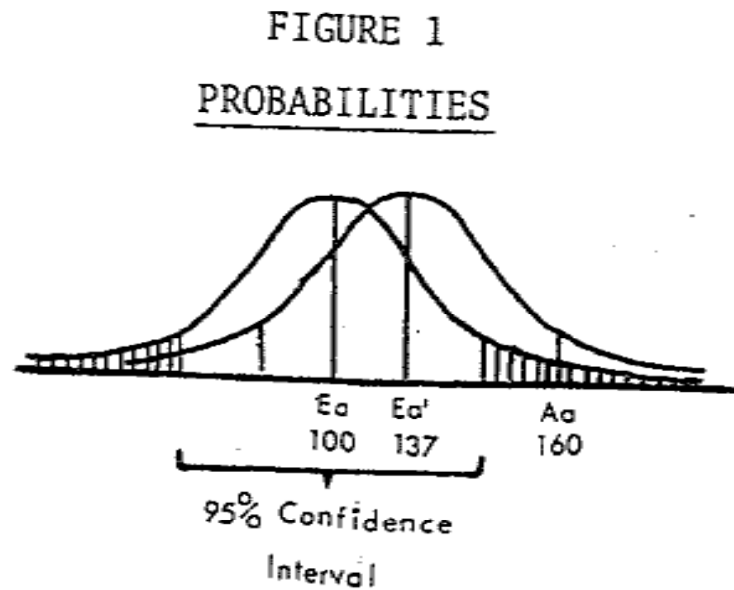


TABLE 2  
REBATES AND PENALTIES FOR FIRMS IN THE FREEZING INDUSTRY  
USING TWO FREQUENCIES BASES  $F_1$  AND  $F_2$  FOR THE YEAR MARCH 1976 TO MARCH 1977

Works No.	Estimated Levy Paid	Adjusted Levy <sup>1</sup>	Rebate (+) or Penalty (-) $F_1$ Data <sup>2</sup>	Rebate (+) or Penalty (-) $F_2$ Data <sup>3</sup>
1	58,000	44,000		
2	116,500	88,500	+ 29,000*	+ 29,000*
3	86,000	65,500	+ 58,000*	+ 53,000
4	164,000	124,500	+ 40,500	+ 35,500
5	91,500	69,500	+ 71,000	+ 82,000*
6	60,000	45,500	+ 37,000	+ 45,500*
7	97,500	74,500	+ 19,000	+ 13,500
8	41,000	31,000	+ 32,000	+ 17,000
9	141,500	107,500	+ 11,000	+ 10,500
10	43,000	32,500	+ 36,000	+ 66,500
11	182,500	138,500	+ 7,500	-
12	31,000	23,500	+ 40,000	-
13	131,000	99,500	+ 4,000	-
14	51,000	38,500	+ 22,000	+ 6,000
15	71,000	54,000	+ 6,000	-
16	126,000	96,000	+ 5,500	-
17	38,000	29,000	+ 10,500	+ 11,500
18	90,500	69,000	+ 1,500	-
19	266,500	202,500	+ 4,000	-
20	82,500	62,500	+ 2,000	+129,500
21	224,000	170,000	-	- 27,500
22	39,000	29,500	-	+ 18,500
23	135,000	102,500	-	-
24	163,000	123,500	-	+ 3,000
25	111,000	84,500	-	+ 27,000
26	126,500	96,000	-	+ 5,000
27	207,000	157,500	- 2,000	- 7,500
28	101,500	77,000	- 17,500	-111,500
29	55,000	41,500	+ 7,500	-
30	103,000	78,000	- 8,500	- 24,000
31	36,000	27,500	- 19,500	- 79,000
32	183,000	139,000	- 6,000	- 11,500
33	230,000	174,500	- 65,500	- 57,000
34	198,500	151,000	- 97,500	-202,500
35	91,000	69,000	-115,000	+ 44,000
36	34,000	26,000	- 60,500	- 91,000*
			- 34,000*	- 12,500

NOTES:

COST ALLOCATION IN THE NEW ZEALAND  
ACCIDENT COMPENSATION SCHEME - SUSAN ST JOHN

While the Government continues to review the Accident Compensation Act, Auckland economist Susan St John asks . . .

# WHERE'S THE LOGIC IN THE LEVIES?



Are policemen at a rate of 75c per \$100 of w

Contradictory results dependent on which measure of accident frequency used.

Were these companies comparable?

Was experience rating more about wrong classification?

## The 1980s bonus scheme

- Timid experiment November 1980
- \$1 million paid in bonuses
- flat 12.5% work levy rebate
- Statistical basis was ACC claims record for 1 April 1976- 31 March 1979.
- Reward was well-divorced from experience.
- Air New Zealand rewarded in spite of the worst aviation disaster in New Zealand's history in November 1979



# ACC Levy Guidebook

**536 classification units**  
**130 risk groups**



The ACC Classification Unit for Sam's business is 42440 Painting and decorating services.

For example, in Sam's group you will find:  
Plastering and ceiling services



# 2011-2014 ACC Statement of intent

Three key objectives for experience rating:

- provide employers with financial incentives to prevent injuries
- encourage appropriate return-to-work programmes
- make levies fairer for businesses

# How could it be done in practice?

weighting is the result of—

$$5\% \times \sqrt{\text{liable earnings} / \$2,000,000}$$

(b) if the liable earnings of the levy payer in the experience period are over \$2,000,000 and equal to or under \$5,000,000, the weighting is the result of—

$$5\% + \{5\% \times \sqrt{\text{liable earnings} - \$2,000,000 / \$3,000,000}\}$$

(c) if the liable earnings of the levy payer in the experience period are over \$5,000,000 and equal to or under \$10,000,000, the weighting is the result of—

$$10\% + \{5\% \times \sqrt{(\text{liable earnings} - \$5,000,000) / \$5,000,000}\}$$

(d) if the liable earnings of the levy payer in the experience period are over \$10,000,000 and equal to or under \$20,000,000, the weighting is the result of—

$$15\% + \{5\% \times \sqrt{(\text{liable earnings} - \$10,000,000) / \$10,000,000}\}$$

(e) if the liable earnings of the levy payer in the experience period are over \$20,000,000 and equal to or under \$50,000,000, the weighting is the result of—

$$20\% + \{10\% \times \sqrt{(\text{liable earnings} - \$20,000,000) / \$30,000,000}\}$$

(f) if the liable earnings of the levy payer in the experience period are over \$50,000,000 and equal to or under \$100,000,000, the weighting is the result of—

$$30\% + \{10\% \times \sqrt{(\text{liable earnings} - \$50,000,000) / \$50,000,000}\}$$

(g) if the liable earnings of the levy payer in the experience period are over \$100,000,000 and equal to or under \$200,000,000, the weighting is the result of—

$$40\% + \{10\% \times \sqrt{(\text{liable earnings} - \$100,000,000) / \$100,000,000}\}$$

(h) if the liable earnings of the levy payer in the experience period are over \$200,000,000 and equal to or under \$1,350,000,000, the weighting is the result of—

$$50\% + \{50\% \times \sqrt{(\text{liable earnings} - \$200,000,000) / \$1,150,000,000}\}$$

(i) if the liable earnings of the levy payer in the experience period are over \$1,350,000,000, the weighting is 100%.

Rehabilitation component

(4) The Corporation must calculate the rehabilitation component using the following formula:

$$(\text{payer's rate} - \text{payers' rate}) / \text{payers' rate} \times \text{weighting}$$

(5) In the formula in subclause (4),—

(a) payer's rate means the experience rate of the levy payer for the applicable levy risk group calculated using the formula in subclauses (6) and (7):

(b) payer's rate means the experience rate of the levy payers in the applicable industry peer group calculated using the formula in subclauses (8) and (9):

(c) weighting means the weighting provided by subclause (3).

(6) The Corporation must calculate the experience rate of the levy payer for the applicable levy risk group using the following formula:

$$\text{compensation days} / \text{earnings}.$$

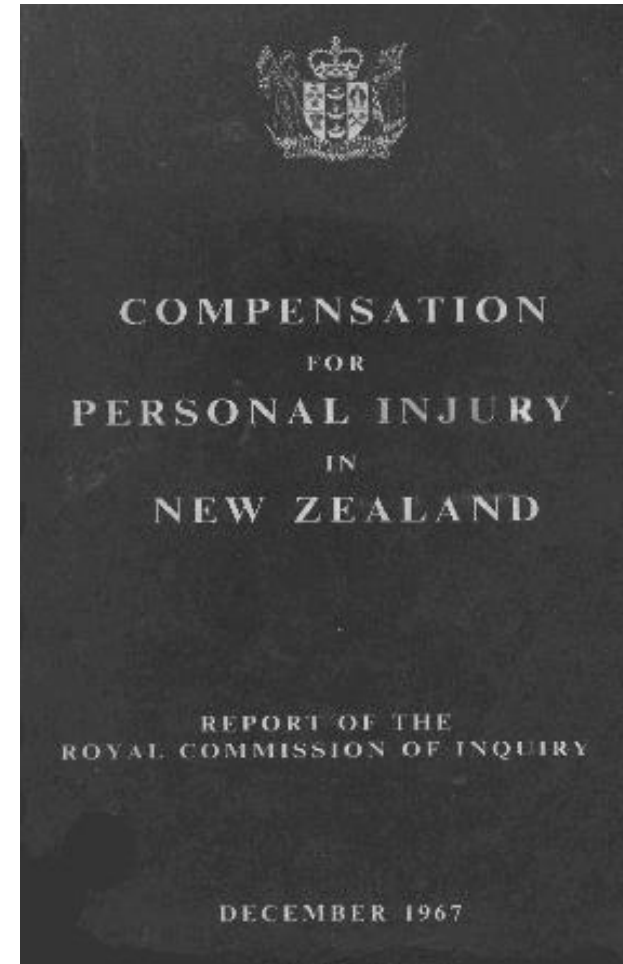
# 2019 Here we go again

Any changes a company makes to its health and safety which result in a discount will show up in **their 2022 levy**, and subsequent levies. So there's plenty of time to take positive action on your workplace health and safety.

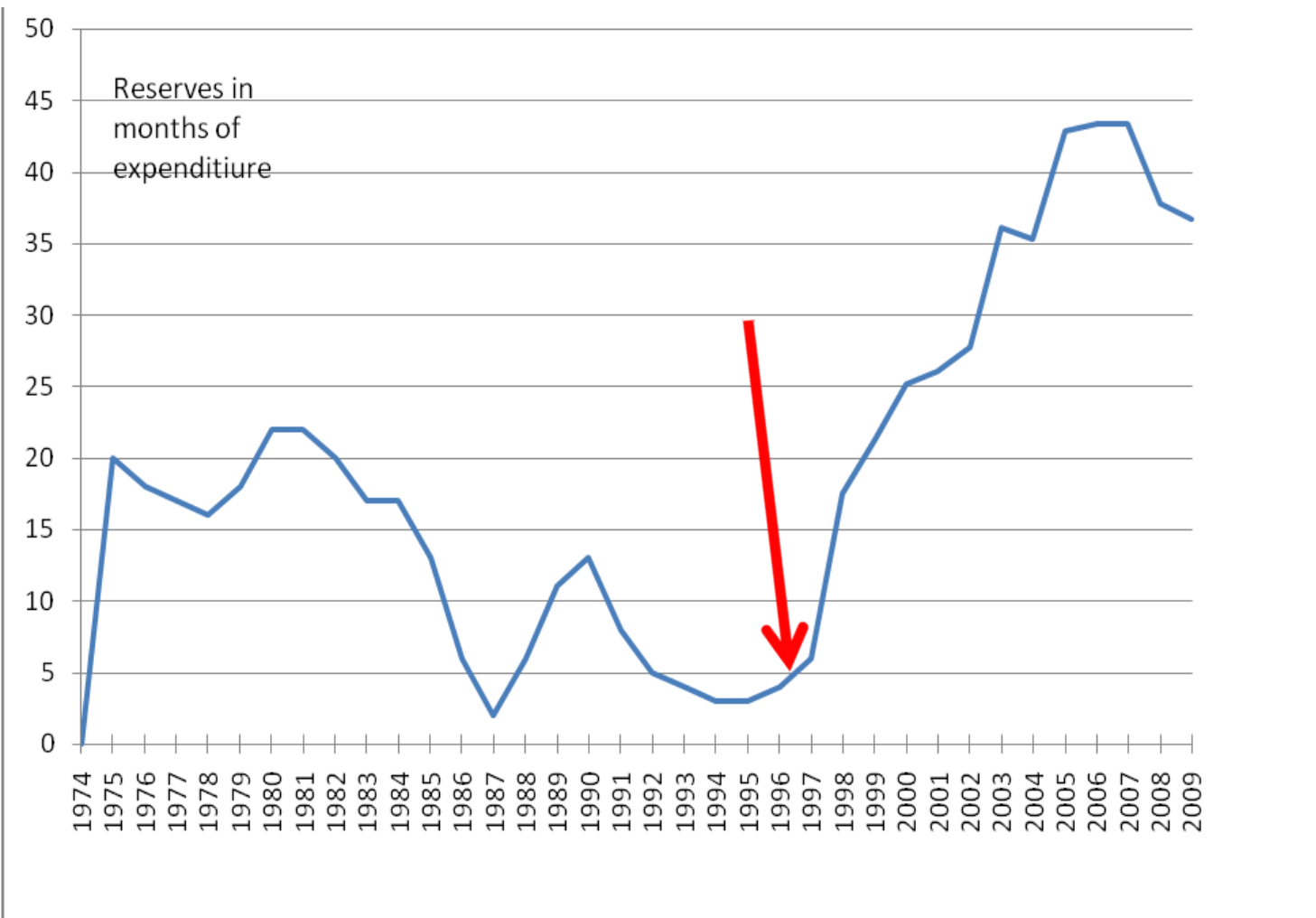
**Accident Compensation (Experience Rating)  
Regulations 2019- 89 pages**

# Actuarial Funding- **another insurance concept?**

- 1% levy to replace worker's compensation premiums
- Scheme's income would be greater than outgoings for first years
- Surplus invested
  - Useful contingency reserve
  - Beneficial side effect
- **Never to be on a fully-funded actuarial basis**



“Any move to introduce competition would almost certainly require full funding for future claim liability.” (Bolger 1997)



# Labour 2000

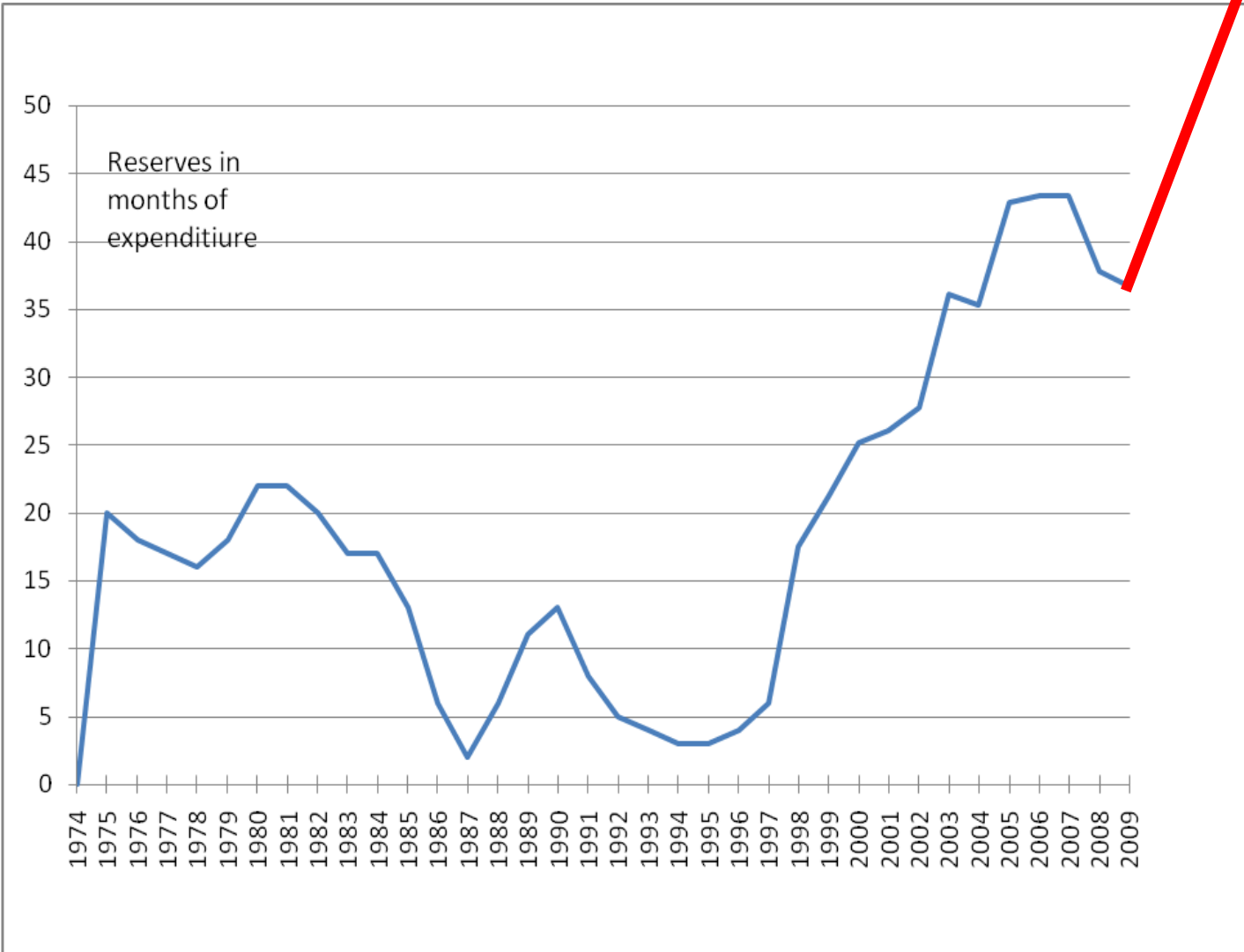
- Injury Prevention, Rehabilitation, Compensation Act 2001
  - “to reinforce the social contract represented by the first accident compensation scheme.”



**Reversed privatisation experiment**

**BUT Retained full actuarial funding**

# Today the fund is huge



Annual Expenditure \$4.6 billion

Fund \$42 billion



**Now the curious implications of plenty of money.... but never enough**

**ECONOMY**

# **ACC levies likely to rise as fund hits deficit**

*Although ACC ran a \$570 million operating surplus this year, the future is murky as interest rates push its liability to \$53 billion, leaving a record-high accounting deficit. Marc Daalder reports.*

“[Actuarial projections] as a scientific exercise almost as pointless as the debate in mediaeval scholasticisms as to the number of angels that can dance on the end of a pin.”

Alan Clayton, 2003

# Has ACC lost its way?

The client must have a continuous maxillary and mandibular dentition, with no other un-filled edentulous spaces from first molar to first molar (an existing fixed bridge; missing 7's and 8's; teeth extracted as part of comprehensive orthodontic treatment; or congenitally missing teeth are acceptable). If the client does have a pre-existing edentulous space but the rest of their mouth meets this criterion, they can choose to have an implant before seeking an ACC-funded implant. Please note that ACC will only consider funding an implant for a 7s if all other second molars are present and in good condition.

**The review process is stacked against the individual  
ACC usually wins.**

# ACC or welfare? **It really, really matters**

Annual net maximums

rate	ACC	NZS	SLP	JS
	up to			
single living alone	78,000	21,380	14,232	11,387
single sharing	78,000	19,735	14,232	11,387
married person	78,000	16,446	11,860	9,488
<b>married person</b>	<b>100%</b>	<b>21%</b>	<b>15%</b>	<b>12%</b>

# And what of unconscious bias in ACC?

- Privileging of paid work as measure of value
- Privileging of injuries to earners
- 1960s view of women's work

If ACC had evolved as social insurance instead of dressed up private insurance, inclusion to reflect new thinking about these things might have occurred.

# The Superannuation paradigm shift

- ✓ Community responsibility
- ✓ Comprehensive entitlement
- ✓ Complete rehabilitation
- ✓ Real compensation
- ✓ Administrative efficiency



# Spousal deduction for those married to people with overseas pensions

## Nelson retiree takes overseas pension case to Human Rights Review Tribunal



- Years of protest
- 2015 Labour agrees it is a human rights abuse
- \$2m pa to fix
- April 2018 Three superannuitants take a case to HRRT
- October 2019.. expect to wait another two years? 31

# The welfare paradigm

---

*The inspiration for the **Social Security Act 1938** was the determination to end poverty in New Zealand. –MSD website*



## Social Security Act 1964

“An Act to provide for ...Superannuation Benefits and of other Benefits designed to **safeguard** the People of New Zealand from Disabilities arising from Age, Sickness, Widowhood, Orphanhood, Unemployment, or other Exceptional Conditions; . . . and, further to provide such other Benefits as may be necessary to **maintain** and **promote the Health and General Welfare of the Community**”

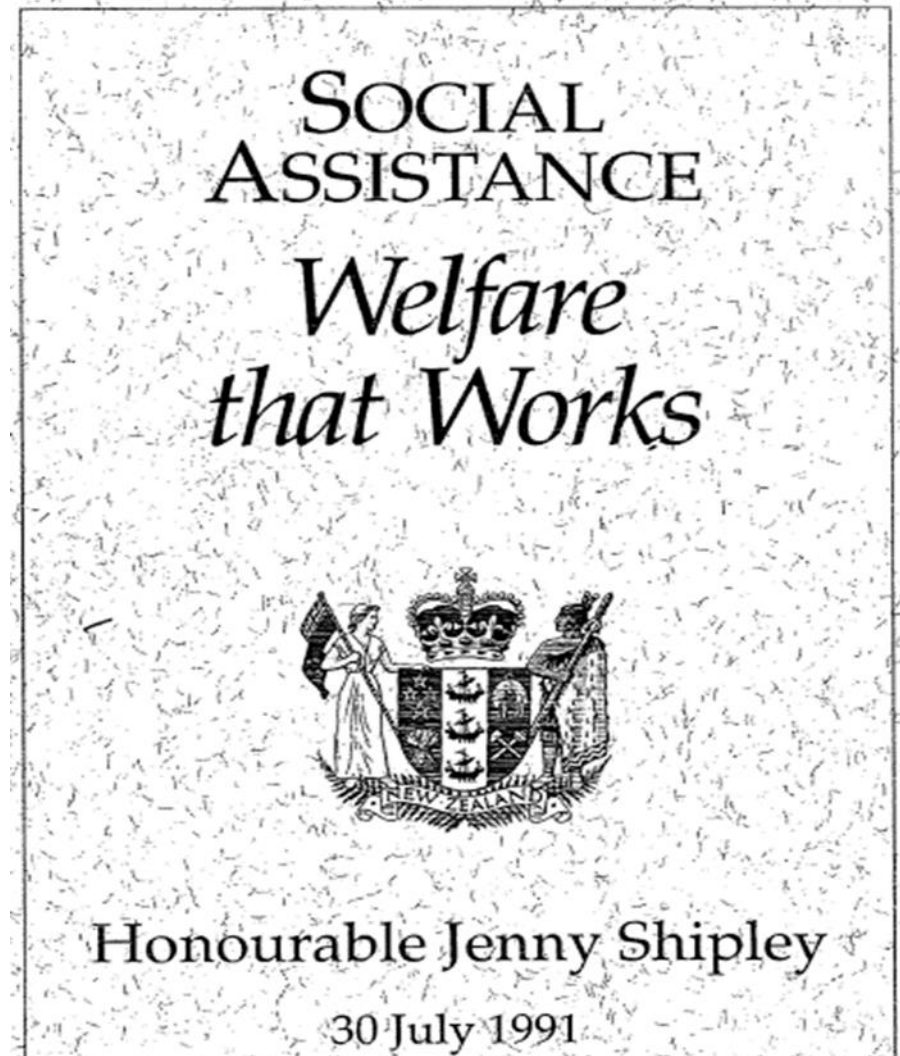


# Undermining the welfare paradigm: Neoliberal and trickle-down theories: 1990s

## 1991 budget

- **Benefit cuts**
- User pays/low tax
- Welfare confined to the poor

Tightly targeted assistance  
for those in “genuine need”



# Purpose and principles of the Social Security Act (2007)

- to help people to support themselves and their dependents while not in **paid employment**;
- to help people to find or retain **paid employment**;
- to help people for whom **work** may not currently be appropriate because of sickness, injury, disability, or caring responsibilities, to support themselves and their dependents.

- **Work in paid employment** offers **the best opportunity for people to achieve social and economic well-being**;
- the priority for people of working age should be to find and retain **work**;
- people for whom **work** may not currently be an appropriate outcome should be assisted to plan for work in the future and develop employment-focused skills; and
- people for whom **work** is not appropriate should be supported in accordance with this Act.

- to enable in certain circumstances the provision of financial support to people to **help alleviate hardship**:
- to ensure that the financial support takes into account— **that where appropriate they should use the resources available to them before seeking financial support under this Act;**
- to impose **administrative** and, where appropriate, **work-related requirements** on people seeking or receiving financial support under this Act.

# 2008-2017 No holds barred reforms

- Relentless focus on work
- Work work work- any work so long as paid
- Tighter and tighter targeting of assistance
- Sanctions for non compliance
  - Poverty as a weapon
- **Ugly culture in WINZ**
  - **Power to decide what is a relationship**
  - **To decide what is income**
  - **Appeals process stacked in MSD's favour**
  - **Benefit fraud and disputed overpayments conflated**
  - **Incarceration of women with children**

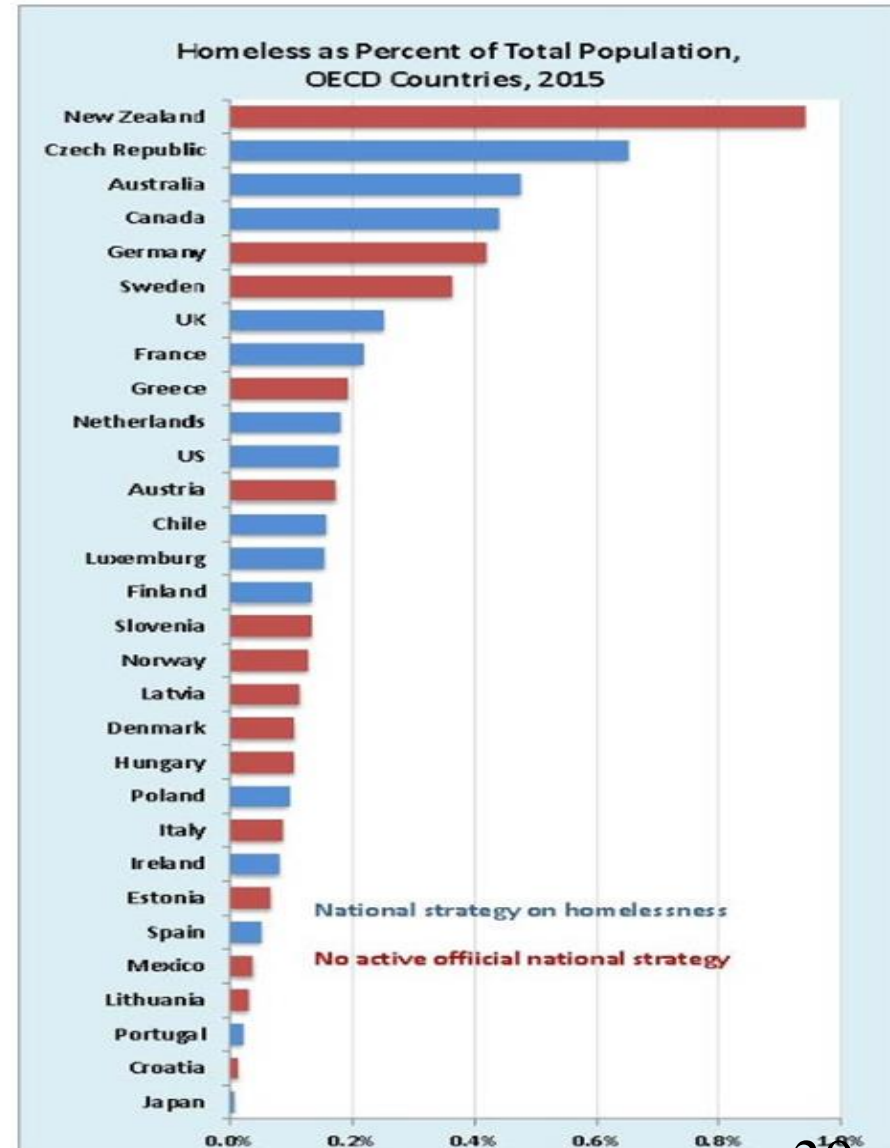
# Indicators of social disaster

- Deprivation
- Child poverty
- Third world diseases
- Alienated youth
- Mental health crisis
- Suicide rates
- Homelessness
- Foodbanks normalized
- Private charities overwhelmed

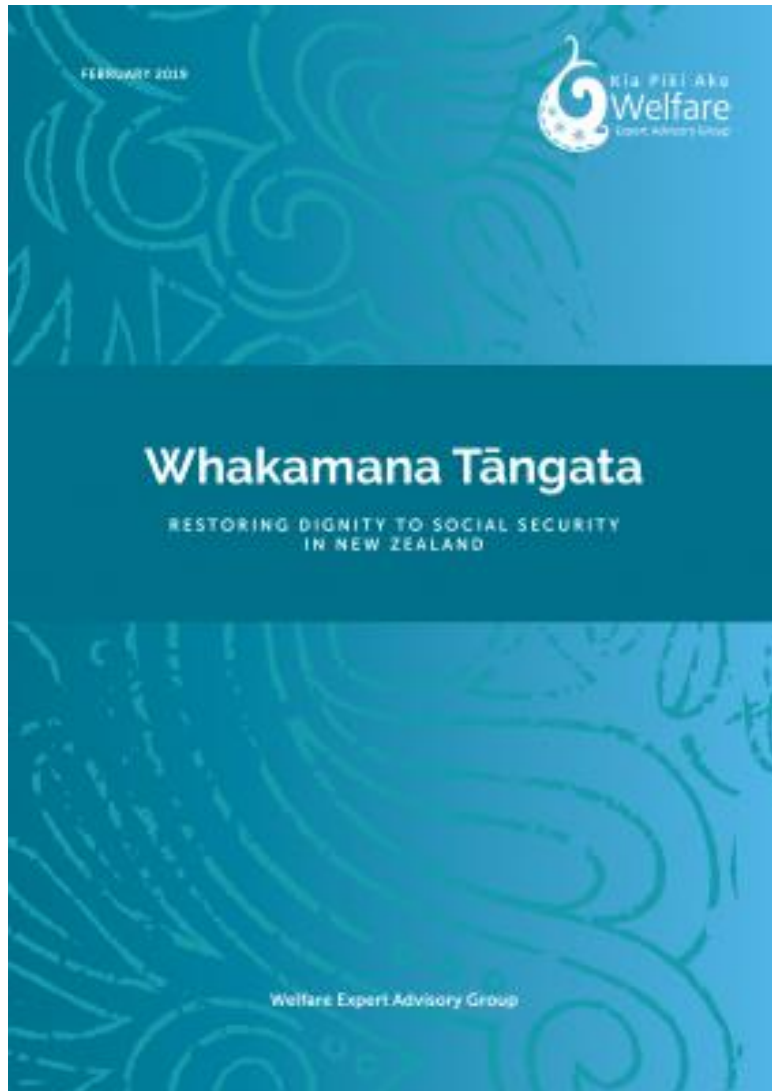


# 2000s The enormity of the social deficit

- Growing property/wealth divide
- Growing household debt
- Growing homelessness
- Growing poverty
- Negative indicators
  - Suicide rates
  - Hospitalisations
  - Family violence
  - Incarceration
  - **FOOD HUNGER**



# The Welfare Expert Advisory Group 2019- broken system



“we were shocked and saddened by the extent of the suffering and deprivation that is occurring.”



# Can children look to the law to protect them?

CHiLD  
POVERTY  
ACTION  
GROUP



**UNCROC ratified 1993**

**Children have specific human rights that recognise their special need for protection.**

**1. Provision rights include **the right to an adequate standard of living**, free education, adequate health resources, and legal and social services**



CHiLD  
POVERTY  
ACTION  
GROUP

**Ms F case**  
**“Loans treated as income”**



**2005- dobbed in by  
vindictive ex  
partner**

**2008 \$120,000 to  
repay**

**8+ years fighting in  
the courts**

**High Court 2017**

**2018 Decision**

**2019 partial  
resolution**

# Tribunal declares MSD's ACC law discriminatory

4 Feb, 2019 4:12pm

🕒 4 minutes to read



- Accident 2002 while a sole parent working part time
- 2010 accepted claim
- She only received \$576 of her ACC \$89,000 for eight years work.
- 2018 HRRT declaration of discrimination. MSD did not appeal
- What next?

# Kathryn's Story

The full story [here](#)

How the Government spent well over \$100,000 and 15 years pursuing a chronically-ill beneficiary mother for a debt she should not have.

By Catriona MacLennan



- 2001 convicted of “relationship fraud”
- Prison 6 months  
Debt \$120,000
- 2001-2016 fights in the courts against this debt
- 2016 sent back to SSAA
- Appeal to Supreme court disallowed
- 2019 sick and old she awaited MSD's pleasure

# The next paradigm shift.

It was the **simple coherence and attractiveness** of the Woodhouse **concept** which in the end muted the criticism of its opponents. The scheme which no one asked for had an impetus of its own. Peter McKenzie QC\* 2003

# Income Maintenance and Wellbeing Commission: Woodhouse for the 21<sup>st</sup> century

**Goals: Prevention, Full Rehabilitation, and Adequacy of Income for all**

- Look to the Australian National Disability scheme
- Challenge traditional thinking
  - **Remove influence of insurance concepts and welfare economics.**
  - **Don't use the courts to get changes in policy**
- Move the three schemes of income maintenance closer together: challenge sacred cows:
  - Earnings related compensation
  - Paid work focus
  - Universality
  - Unconscious bias against women