Let’s start on a positive note. New Zealand has the best accident compensation scheme in the world. It provides 24 hour cover for injuries suffered at work, in the home, in the car, while playing sport, or as a result of any other type of accident.

When New Zealanders are injured, ACC pays for their medical treatment, their rehabilitation, and provides earnings related compensation if they have to take time off work.

ACC does this at a lower cost than overseas because it is a no-fault system run by the government. Its administration costs are the lowest in the world. The very large lawyer’s bills and insurance company profits that have to be paid under a private insurance, fault-based system, are avoided.

This saves hundreds of millions of dollars every year, and it means New Zealander’s ACC levies are lower than in Australia and other comparable countries.

But ACC has come under a sustained and orchestrated attack over the past three years. It’s credibility as an organisation has been drawn into question, and the principles upon which the whole concept of ACC is based have been undermined.

Today I want to do three things.

First, I want to respond to and rebut some of the attacks that have been made on the ACC scheme over the past three years.
Second I’d like to set out the Labour Party’s position on some of the changes currently being introduced or contemplated, most notably the introduction of ‘competition’ into the work account, a move we regard as little short of privatisation, and the introduction of experience rating.

Finally, I want to set out some of the principles that will underpin the Labour Party’s approach to ACC as we move into the future.

In the last three years we’ve seen an unprecedented attack on the credibility of ACC, starting with the immediate scaremongering by the incoming National government following the 2008 general election about the supposed ‘crisis’ in ACC’s finances.

I contend to you very strongly that ACC isn’t, wasn’t, and never has been broke or broken.

So let’s start at the beginning, with the incoming National government’s contention that somehow the outgoing Labour administration deliberately and unlawfully withheld from the public the shortfall in the non-earner account.

As most of you will be aware, the non-earner account is not funded through levies, but is funded through general taxation. Until the 1990s it was funded on a pay-as-you-go basis, as was the rest of the ACC scheme. The ongoing costs of injuries in subsequent years were not pre-funded.

By the time National left office in 1999, it was agreed we should transition to full pre-funding. During the term of the last Labour government we addressed that, and by 2007 the non-earner account was virtually fully-funded.

For a variety of reasons, including a decrease in rates of return on investments, the amount needed to cover the cost of the existing non-earner injuries increased during
2008. The fact that there was a need for a substantial top-up of ACC accounts was public in July 2008, and known to the opposition. Bill English even referred to it in his post-Budget speech that year.

Regrettably, the shortfall was not calculated in time for inclusion in the pre-election fiscal update, and was eventually calculated at around $300 million. A Ministerial Inquiry found that Treasury should have included an estimate of the shortfall, rather than await the finalised figures for actuaries.

Mistakes were made, but it's clear there was no agenda to hide the truth or cover anything up. But it did provide a useful opportunity for the incoming government to attack the credibility of ACC and scaremonger.

It's somewhat ironic that National bemoaned the fact that a proportion of the non-earner account was not fully funded in 2008, because when they last left office in 1999, an even smaller percentage of it was.

Turning back now to the "manufactured" crisis and what the National government have been saying about it.

John Key asserted that “ACC has suffered a very significant blowout in its liabilities”.

Nick Smith stated that ACC was “technically insolvent” and “going down the gurgler”.

Based on Nick Smith's definition of technically insolvent, ACC has been that way since the very first day that it started operating. In other words, it has always had liabilities, or future costs, that exceed its assets.
Full funding was only agreed as a goal in the late 1990s. Up until that time it was always pay as you go, just as social services like health, education and welfare are. Under Nick Smith's definition, they're all insolvent too.

These alarmist claims overlook the significant progress that ACC has made over the past decade. In 1999, when National was last in government, ACC had $2.5 billion of investments. By 2009 it had well over $12 billion, even after the sharp decline in world financial markets.

In 2008 it paid out $2.73 billion from annual levy income of $3.65 billion (excluding investment returns). The balance went towards funding the historic tail.

When National was last in office, the unfunded proportion of the work account was 64%. By 2008 it was only 45%. In other words, National inherited an ACC scheme in much better shape than the one that they left behind.

At the time National took office, Nick Smith claimed that ACC was “massively underfunded” and that “premiums will go up and go up enormously. Mum and Dad will be paying thousands of dollars a year more”.

Interestingly enough, just two years later, he talked up a dramatic turnaround in ACC’s financial position and cut levies. Could it be that there is a general election just around the corner?

So what do we make of the supposed blowout in cost liabilities? First, we need to consider societal and demographic changes. Road fatalities are fewer now than in the past, at least in part because more people survive crashes with serious long-term injuries. More advanced medical treatment is also prolonging lives, and that’s a good thing but it increases costs.
We’re all living longer, and as we live longer we become more brittle and prone to injury. I’m a few years away from middle age, but already I can concede that I don’t bounce like I used to.

Every year we put millions if not billions of extra dollars into the health system just to stand still, just to maintain the level of care and services we currently have now. ACC isn’t immune from the same cost pressures as the health system.

During the term of the last Labour government ACC was also charged with not getting people off ACC and back to work quick enough. I put forward a very strong contention that if we’re pushing people off ACC too soon, we’re not actually solving any problems, we’re just transferring it somewhere else, most notably either to the health or welfare systems.

So why did the National government set out to talk up a crisis in ACC?

Clearly they had an agenda that they knew would be unpalatable unless they had softened the public up for it. New Zealanders are actually quite proud of our ACC system, and they want to know that it will be there if they need it.

Since National took office we’ve seen a steady erosion of entitlement and an increase in costs to those who are injured. In other words, we’re all paying more to get less.

ACC levies have been increased substantially. Costs have been transferred to other parts of the social support system, most notably the health system where an additional financial appropriation has even been required.

Injured workers are deemed vocationally independent at 30 hours a week rather than 35 as previously, this increases the cost to the injury victim and increases the
chance of cost transfer to other parts of the system. Work-ready criteria have changed from requiring that ACC “must” have regard to “may” have regard to someone’s pre-injury earnings when determining whether they are work-ready or not.

Cover for seasonal workers has been reduced, and changes holiday pay calculations have been made so that someone who happens to have used up all their leave before an injury ends up better off than someone who hasn’t.

Entitlement for those who have suffered work-related hearing loss has been eroded and support for victims of sexual assault and sexual abuse has been seriously compromised.

All of these changes have contributed to an erosion of confidence in ACC. I believe that this has been a deliberate act on the part of the current government to soften up public support and build a constituency in favour of the future changes they want to make.

The government still haven’t set out a case in favor of the introduction of competition into the work account.

ACC is cheaper, no case has been put forward that competition will lead to a system that is more efficient, in fact there is compelling evidence to suggest the opposite.

Price Waterhouse Coopers report found that the administrative costs of ACC are lower than any other comparable scheme. Despite all the talk of a crisis, no information has yet been provided to the contrary.

ACC doesn’t make a profit, every dollar it earns over and above what it needs to payout goes towards funding historic claims.
Information provided to the Select Committee considering the first round of National’s changes showed that ACC costs for NZ employers is substantially lower than the costs paid by Australian employers. The Aussie average was $1.74 per $100 of earnings while in New Zealand it was $0.94 (not including residual claims levy).

So if ACC is already among the cheapest to administer in the world, where does the insurance industry see it can make a profit. In June 2008, Merrill Lynch estimated Australian insurance companies expect to make $200 million a year in profit if ACC is opened up to competition. Where is that profit going to come from?

I've yet to hear anyone from the industry set out the case that they can do it cheaper without eroding cover or entitlement.

Labour believes in a comprehensive, universal, 24/7, no fault accident cover scheme. We're concerned that the National government's proposed changes will erode what is, in essence, a world-leader.

Nick Smith has argued that ACC delivered for the victims of Pike River and the Christchurch earthquake. It was an interesting argument for him to make given the government probably wouldn't have been able to intervene in the same way had their new competitive model already been implemented.

The government's decision to instruct ACC to cover the first week of injury, over and above entitlement cover, wouldn't have been welcomed by private insurers and indeed it's an interesting question to ask whether the government could instruct private companies to provide a benefit outside of their contractual obligations.
So let me be unambiguously clear here, in case you haven’t already picked up on what I’m saying. Labour will not support opening the ACC work account to competition, and a future Labour government will reverse any move in that direction.

I want to turn now to the other major change Nick Smith has implemented – the introduction of Experience Rating.

Labour is concerned that Experience Rating could lead to a culture of non-reporting of injury in small workplaces. To understand how that could happen, we need to understand the nature of New Zealand business. 90 percent of our businesses employ fewer than 10 people. They're family businesses, often employing friends and family members. It could be those employees themselves who become reluctant to report injuries if they know that their employer, someone they’re likely to be close to, will suffer a financial penalty.

We’re also concerned that extension of the Accredited Employers Scheme to smaller businesses with lower capital bases could see the State picking up more of the tab if they become unable to meet their commitments.

so what does Labour see as the way forward?

The principles set out in the original Woodhouse Report are a good place to start. We agree that ACC is a social contract, and viewing it in the narrow terms of an insurance scheme misunderstands the trade-off New Zealanders have made in giving up their common law rights in exchange for that social contract assurance that they and their families will be protected in the event of accident and tragedy.

The Woodhouse Report set out five principles that we believe are as true to day as they were in the 1970s.
1. ACC should be based on community responsibility

2. ACC should provide comprehensive entitlement

3. ACC should provide complete rehabilitation

4. ACC should provide real compensation

5. ACC should be administratively efficient

We believe that departure from these principles erodes the foundations of the scheme.

Do we think there is room for ACC to improve? Of course.

We need to examine very carefully the big increase in elective surgery cases that have been declined in recent years. The stats almost doubled between 2008 and 2009.

We also need to look closely at the specialist assessment process to ensure that those determining who gets what entitlement are actually practicing professionals in the relevant medical field.

We need to address some of the imbalances in the review and appeals processes. I ask for example how equitable it is for ACC to be hiring QCs to defend their case when there is very little legal support available to victims, and how can we address that imbalance without departing from the non-litigious principle the scheme was built upon.

To conclude, Labour strongly asserts that ACC is a social contract, not an insurance scheme. New Zealanders have given up something to be part of it, their rights under common law. If the entitlement and cover provided by ACC is allowed to erode to the
point it is substantially below that someone might be able to obtain if their common law rights were restored, the whole basis of the schemes undermined, and that would be a tragedy.