



**He Kaupare. He Manaaki.
He Whakaora.**
prevention. care. recovery.

Trust Arrangements

Information Sheet

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The Integrated Care Pathways Musculoskeletal (ICPMSK) service model includes payments by ACC to suppliers in advance of services being delivered to each ACC Kiritaki and the ACC Kiritaki's outcomes being achieved. The ICPMSK Service Schedule establishes trust arrangements between ACC and the supplier for these upfront payments. The supplier must hold upfront payments in trust in accordance with the trust arrangements.

This information sheet is to clarify what the trust arrangements are, and why they are required.

The key sections of the ICPMSK Service Schedule relating to the trust arrangements are in Part B: Section 8 (Trust Arrangement), Section 13 (Additional Terms and Conditions) and Section 15 (Definitions).

Disclaimer: This is intended as guidance only and should not be used as a substitute for legal or any other professional advice. Any prospective supplier should ensure that they understand their contractual and legal obligations, and seek professional advice as required. ACC does not accept any liability for any reliance on this information sheet.

What are the trust arrangements established by the ICPMSK Service Schedule?

Amounts paid to the supplier by ACC in advance of services being delivered to ACC Kiritaki and the ACC Kiritaki's outcomes being achieved are referred to as Trust Funds. The trust arrangements establish the supplier's obligations and requirements in relation to the management and use of the Trust Funds.

The trust arrangements are intended to be "specified commercial trusts" for the purposes of the Trusts Act 2019. The key requirements for the supplier in relation to the trust arrangements are to:

- Establish and maintain a bank account that is only for the purpose of holding and managing the Trust Funds. The Service Schedule refers to this as the Trust Funds Bank Account. This bank account must not be the supplier's ordinary trading account.
- Only draw on the Trust Funds to meet the costs of delivering the Services to the ACC Kiritaki, and subject to the following parameters:
 - The supplier must not draw down from the Trust Funds in the first 14 days of the ACC Kiritaki entering the services.
 - The supplier must not draw more than 60% of the Trust Funds between 14 and 61 days of the ACC Kiritaki entering the services.

- If the ACC Kiritaki exits the services early, the supplier must calculate and repay any unallocated amounts of Trust Funds, in accordance with the Service Schedule (refer to Section 8 and the Unallocated Funds requirements in Section 13).
- If there is any overpayment made by ACC, the supplier must repay the overpaid amount to ACC in accordance with the Service Schedule (refer to section 8 and the overpayment requirements in Section 13).
- If at any time after the ACC Kiritaki enters the services they achieve their outcomes and their services are completed prior to 61 days, the supplier may draw down any remaining Trust Funds in full and the trust arrangement for that ACC Kiritaki will come to an end.
- Provide information on request from ACC to demonstrate compliance with the trust arrangements.
- Confirm to ACC each quarter that the supplier is complying with the trust arrangements.
- Comply with its obligations under Service Schedule including specifically in relation to the trust arrangements and unallocated funds, and the related legislative requirements of the Trusts Act 2019 (as modified by the Service Schedule).

Does the trust arrangement require suppliers to establish or register a trust entity?

No, a supplier does not need to be a trust entity or have a related trust entity. The trust arrangement focuses on how the supplier uses and manages the Trust Funds. The trust arrangement does not include any requirement for the supplier to be a trust entity or to register a separate trust entity.

Why is ACC requiring trust arrangements?

The ICPMSK service is based on a value-based healthcare model. This includes upfront payments to suppliers to deliver integrated services to injured ACC Kiritaki to achieve their recovery outcomes. The upfront payments relate to certain ACC cover entitlements the ACC Kiritaki has for treatment and rehabilitation under the Accident Compensation Act 2001.

The trust arrangement aligns with the principles of value-based healthcare model and the nature of ACC's upfront payments to the supplier. Upfront payments should only be used for their purpose until the ACC Kiritaki achieves their outcomes or exits the services early. If the ACC Kiritaki exits the services early, before they achieve their outcomes, unallocated amounts of Trust Funds must be repaid by the supplier to ACC.

The trust arrangement is also intended to mitigate the risks related to a supplier suffering an insolvency event, including for payments to subcontractors for services they have delivered to the ACC Kiritaki, and to unallocated amounts of Trust Funds.

The trust arrangements reflect ACC's trust and confidence in suppliers to comply with their obligations relating to trust arrangements. The trust arrangements do not require suppliers to seek ACC permission to draw from the Trust Funds. ACC has attempted to establish reasonable obligations on suppliers, including by modifying certain requirements under the Trusts Act 2019 so that they do not apply for suppliers.

What do the trust arrangements mean in practice?

A supplier needs to establish and maintain a Trust Funds Bank Account. This is a bank account that will be used for the **sole purpose** of holding the Trust Funds. This account can be with the supplier's usual bank. There is no requirement for the bank account to be interest bearing. But it can be. If interest is accrued, it is for the benefit of the supplier.

When ACC pays Trust Funds to the supplier (upfront payments for a Service Bundle or Service Bundle Transfer), the supplier must immediately transfer the amount into its Trust Funds Bank Account.

The supplier may take amounts out of the Trust Funds Bank Account to meet the costs of delivering services to the ACC Kiritaki subject to Section 8 of the Service Schedule.

Why are suppliers not able to draw on any Trust Funds within the first 14 days of ACC Kiritaki entering the service?

The reasons for requiring Trust Funds arrangements are noted above and these reasons apply to the first 14 days following completion of the ACC Kiritaki's Triage Assessment being completed.

To clarify, no drawdowns from the Trust Funds are permitted on or before the first 14 days of the ACC Kiritaki's Triage Assessment being completed as opposed to entry to the service.

Questions

Any further questions relating to trust arrangements can be submitted to integratedcarepathways@acc.co.nz