

Guidelines for Case Management in the Canterbury Earthquake Insurance Tribunal (CEIT)

These guidelines are to assist parties to prepare for case management conferences (CMC) in the CEIT and to assist understanding of the CEIT case management process.

The CEIT uses a case management system which differs from the District and High Courts. The CEIT Member appointed to your application will handle every aspect of the application. This ensures that your application will be closely managed. Decisions will be made to ensure that the pathway to resolution is as speedy, flexible and cost-effective as possible.

First CMC

In the CEIT the first CMC serves three purposes:

1. Allowing the parties to come together to be heard;
2. Defining and clarifying the issues to be resolved; and
3. Setting the procedural base and timeframe for the application.

Coming together

The first purpose recognises that most claims in the CEIT involve homeowners. The significance of a person's home is analogous with the Maori concept of *turangawaewae*; the home is a person's place to stand, where they are empowered and how they connect with community and place. When a person's home has been damaged, they live with the damage, waking to it every day. The first CMC is an opportunity for the homeowner to express what the claim means to them, and for the CEIT to recognise the importance and significance of that meaning. Homeowners and their insurers can see and talk to each other in a neutral environment, often for the first time. For these reasons, there is a strong presumption that first CMC's will be held with all participants present. Under some conditions this may be waived, at the discretion of the presiding Member.

It is the experience of the CEIT that the interactions that occur during the first case management conference influence the next steps taken. Roughly 15 percent of applications settle immediately after or during a case management conference.

Issues

The issues that need to be addressed by the parties and ultimately by the Tribunal will be identified at the conference, where possible. This helps to focus the parties on what must be addressed and the evidence that is needed to enable this to occur. This does not mean other issues cannot be raised later.

This requires that the parties and Tribunal member are well prepared for the discussions. To do this we ask that participants think carefully about the most important aspects of their claim. Often the openly disputed aspects of a claim can mean that over time other significant issues can be overlooked. An important part of the conference is the discussion of the damage and the response to it. Discussions will be led by the presiding Member, so preparation does not require the drafting of long detailed submissions and does not need to take the form of legal pleadings or arguments. All CEIT members are skilled and experienced lawyers who will guide the parties in the discussion.

Procedure

The third aspect of the first CMC is to set down the procedural steps and timeframes for the application. This will involve the Member making orders about what steps are to happen and when they will happen. The usual steps to be considered are:

- Exchange of documents. It is important that parties provide each other with all documents which they have which are relevant to the case. This will include documents which assist the other side. Electronic documents are preferred by the Tribunal.
- The appointment of experts. The Member will lead discussions about what expert evidence is needed, whether experts will be appointed by the Tribunal and the type of expertise required.
- Whether other parties may need to be joined to the claim. It may be necessary for repairers, EQC, or an insurer to be added to an application. While this can occur at any stage of the process, it is best that parties are joined as early as possible to avoid delay.

Subsequent CMC

The CEIT practice is for applications to be closely managed, with updates or CMC scheduled on timeframes no longer than 2 months. Closely managed matters are more likely to be resolved. Follow up CMC's are usually teleconferences. These are an opportunity for the Member to check on progress and to issue or update directions as the case develops.

Before the CMC it is often useful to talk to the other party(s) and understand what steps they have taken. It may be that there are areas where agreement is reached, or issues which arise as the process is followed. It may be useful for the parties to produce joint memoranda which record steps the parties agree the Tribunal should take.

CMC's are your opportunity to discuss any developments with the Tribunal.