

ACC in NZ

**Vasu Pai, Gisborne,
New Zealand**

Demographic

- NZ Population 4.36 million
- Welcomed > 2 million overseas visitors last year.

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History

- **1967** **Sir Owen Woodhouse** ,
 Royal Commission report ACC
scheme was born.
- **1974** Became law

Injury 3 fronts.

Prevention.
Rehabilitation .
Compensation

ACC

Covers all injuries: whether they happen at work,
 on the road,
 in the home or anywhere else.

Whether the injured person is A citizen,
 A resident,
 A visitor

‘No-fault’ approach to compensation.

Similar to Denmark, Sweden

NZ 1992

The criteria for a finding of Medical Misadventure were:

- **Medical error** – which required proving fault on the part of the health professional
- **Medical mishap** – which required the event to be both rare and severe (less than 1%). ‘Severe’ equalled being in hospital for more than 14 days or death.

- In practice, the need to prove fault caused delays in claimants' obtaining cover.
- It also created an adversarial environment between claimants, health professionals and ACC.
- In 2005, changes to the legislation came into effect, removing the need to prove either that the health professional was at fault.
- "TREATMENT INJURY"

Treatment injury

2005 “Treatment injury compensation legislation “ is an unique accident compensation scheme.

In exchange for comprehensive cover, people do not have the right to sue for personal injury covered by the scheme

(Exception: Exemplary damages like doctor death).

Old Vs

- Less reported. Try to cover complications
- Confusing criteria
- 40% Accepted
- Look for fault [No “no fault”]
- Length of time: longer
- legal issue/payment +++++
- Less useful for our patients

New [Treatment injury]

- More reporting by Med personnel
- Clearer criteria
- 70% Accepted
- No fault
- Quicker
- ++
- Fairer, Faster, Simpler

Lawyers in compensation

By contrast, in the UK legal costs consume a mean of 40% of all claims and 80% of low-cost claims.

Solicitors are often paid more than the compensation received by the

- injured patient.

Medical experts are remunerated for opining that patients with symptoms after three months are likely to recover within two years when this lacks any base in scientific evidence.

All of this has to be funded by enhanced car-insurance premiums.

- Bannister. *J Bone Joint Surg [Br]* 2009;91-B:845-50.

Treatment injury

A treatment injury : caused as a result of treatment from a registered health professional: [a chiropractor, medical practitioner (doctor, surgeon, anaesthetist, etc), nurse etc

The definition of “treatment” includes:

- Injury related to the treatment [infection, allergy etc]
- Delays or failures to diagnose
- Failing to obtain informed consent
- The failure of any equipment, device, or tool

Not a treatment injury

- 1.Related to a Pre-existing health condition
- 2.An ordinary consequence of treatment. Eg : scar following surgery
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- 3.Caused by a decision made when allocating health resources. [THR and waiting list] /Resource decision by the hospital, can sue the health provider
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- 4.Caused because of refused to give consent for treatment.
- 5. The fact that the treatment did not achieve the desired result does not, of itself, constitute treatment injury.

Funding for the scheme

- 1. A system of levies on payroll [extract_itex]1.7/100 up to 95,000]
- 2. Levies on self-employed income, [extract_itex]2/100]
- 3. Petrol sales 9.9 cents/litre
Motor vehicle licences 198.46/license
- 4. A government contribution for people who are not in the paid workforce.
[50% to accommodate non-earners]

Funding

The net levy income for the Treatment Injury Account for the 2008/2009 fiscal year was \$315 million

The claims liability (the expected lifetime costs) was \$2.1 billion.

The claims process

- Necessary ACC claim forms with a registered health professional.
- Approximately **50% of claims** are completed by general practitioners.
- ACC may seek **external clinical advice**
- Claims may be decided in under a **few weeks[3 wks]**
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- If the claim is declined, clients may apply for an independent review

ACC Assistance

- 1. Treatment costs
- 2. Weekly compensation for salary [80% of the salary by ACC]
 - Maximum: 1341.31/week
- 3. Personal help such as home help
- 4. Travel costs
- 5. Equipment such as crutches, wheelchairs and visual aids

Claim lodgement

Before 2005

- **Medical adventure**
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- 3000/Yr
- 40% acceptance
- The median timeframe for making cover decisions is 5 months

After 2005

- **Treatment injury**
- 2005 - 30 June 2010
31,103
- 70% acceptance rate
- The median timeframe for making cover decisions is 16 days

Declining a claim

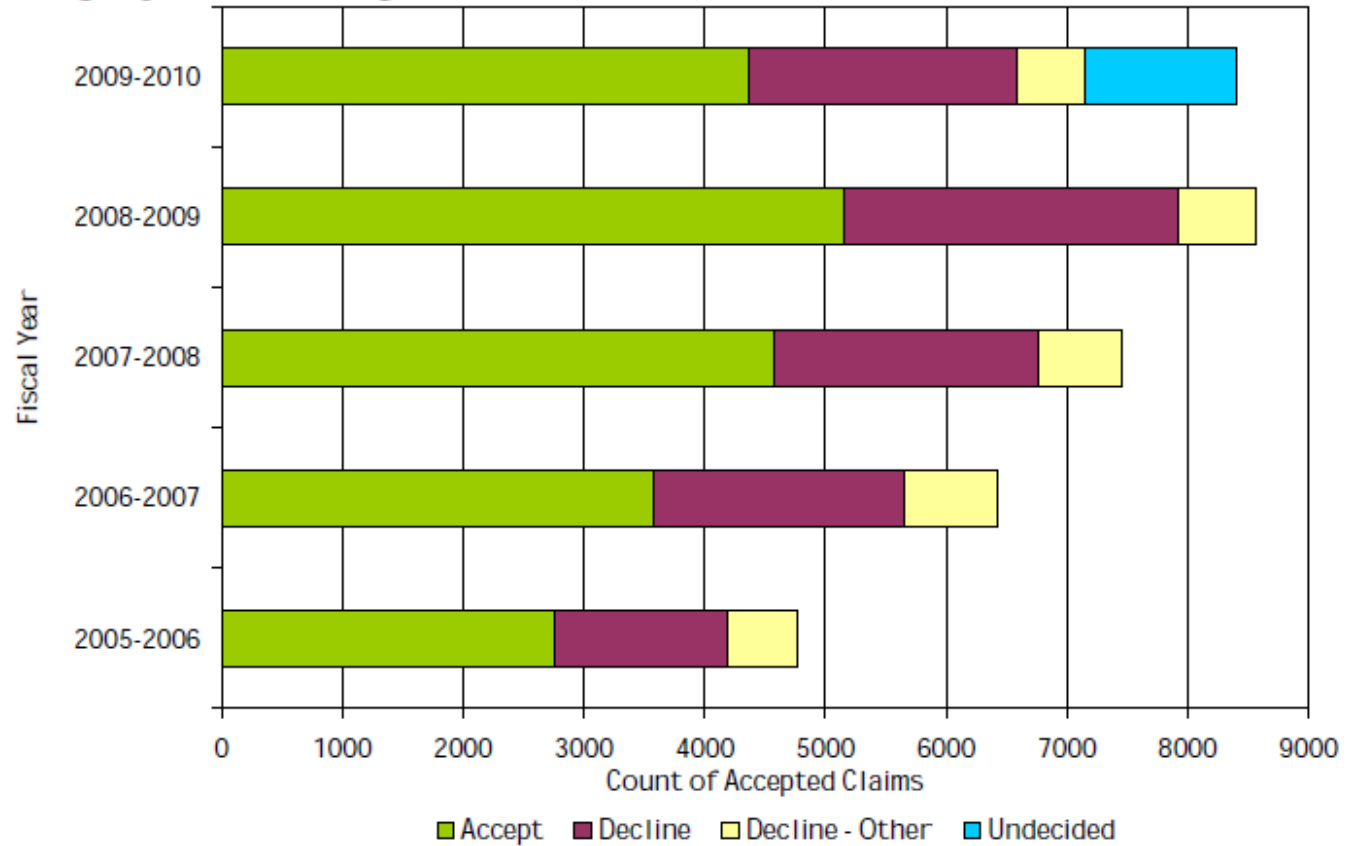
- No physical injury could be identified 16%
- No causal link between treatment and the injury 9%
- An ordinary consequence of treatment 4%
- Substantially caused by the underlying health condition 4%

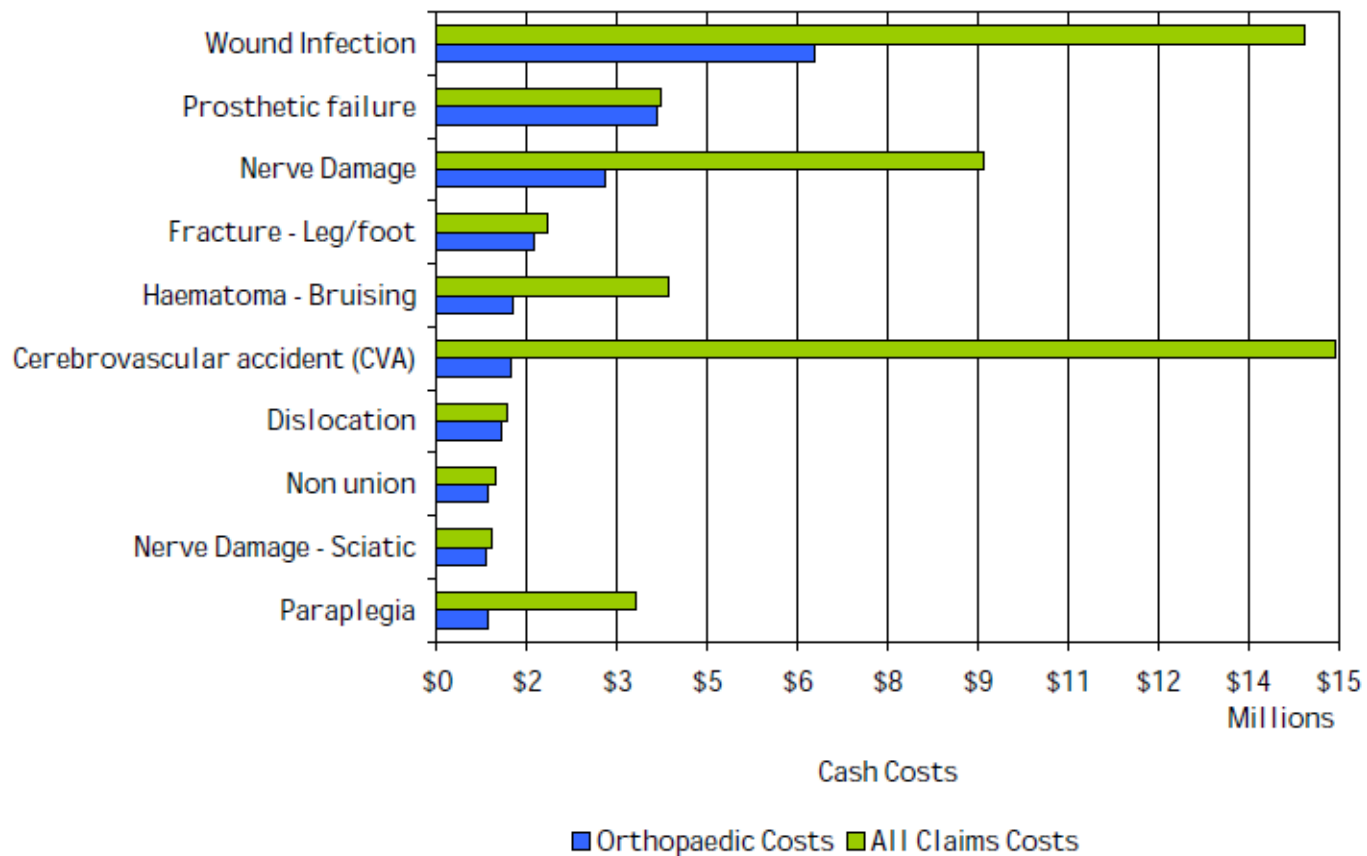
Lodgement patterns

- GPs 50%
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- DHB (public hospitals) 30%
- Private hospitals 15%
- Physiotherapists, dentists 9%

CLAIMS

Treatment Injury Claim Lodgement: Jul 2005 – Jun 2010

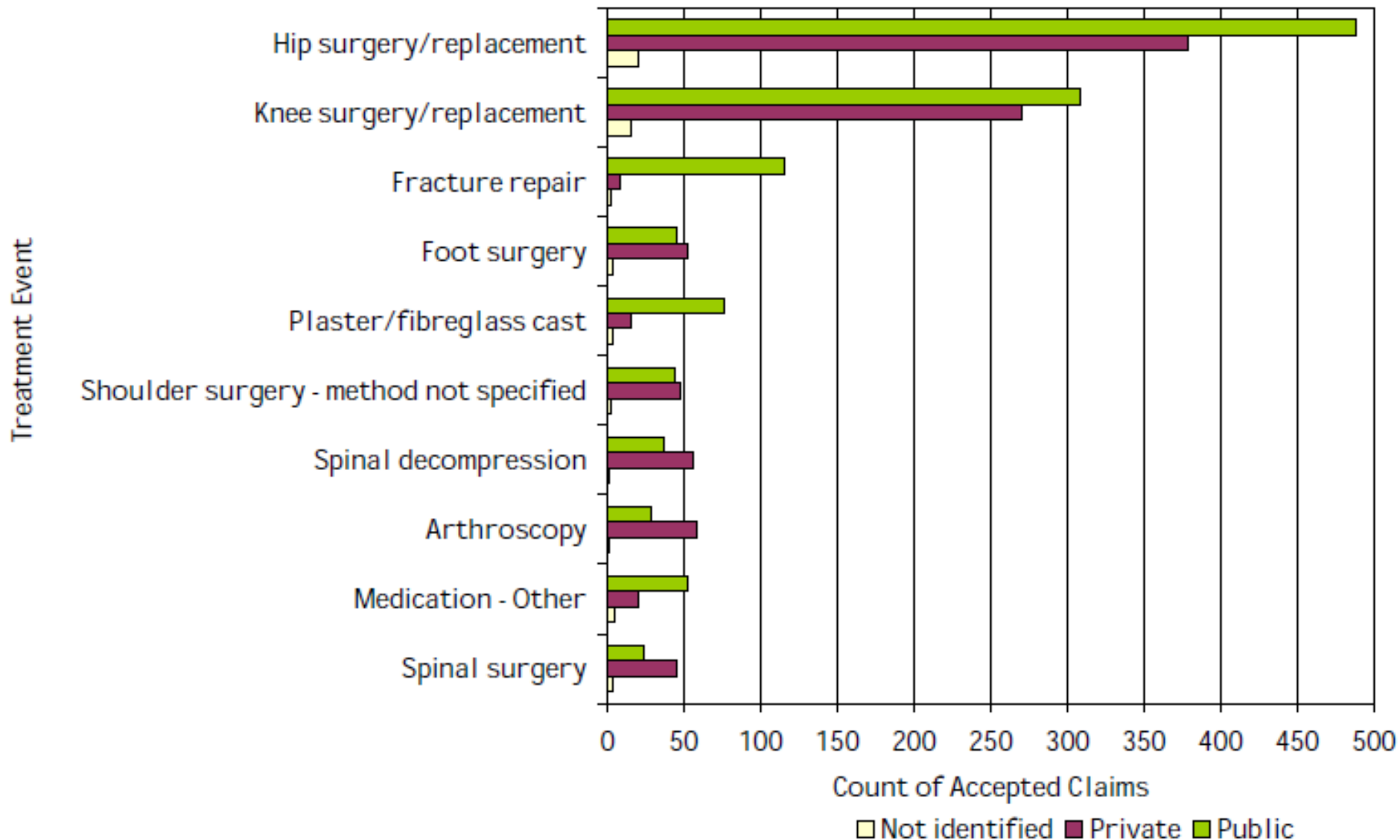




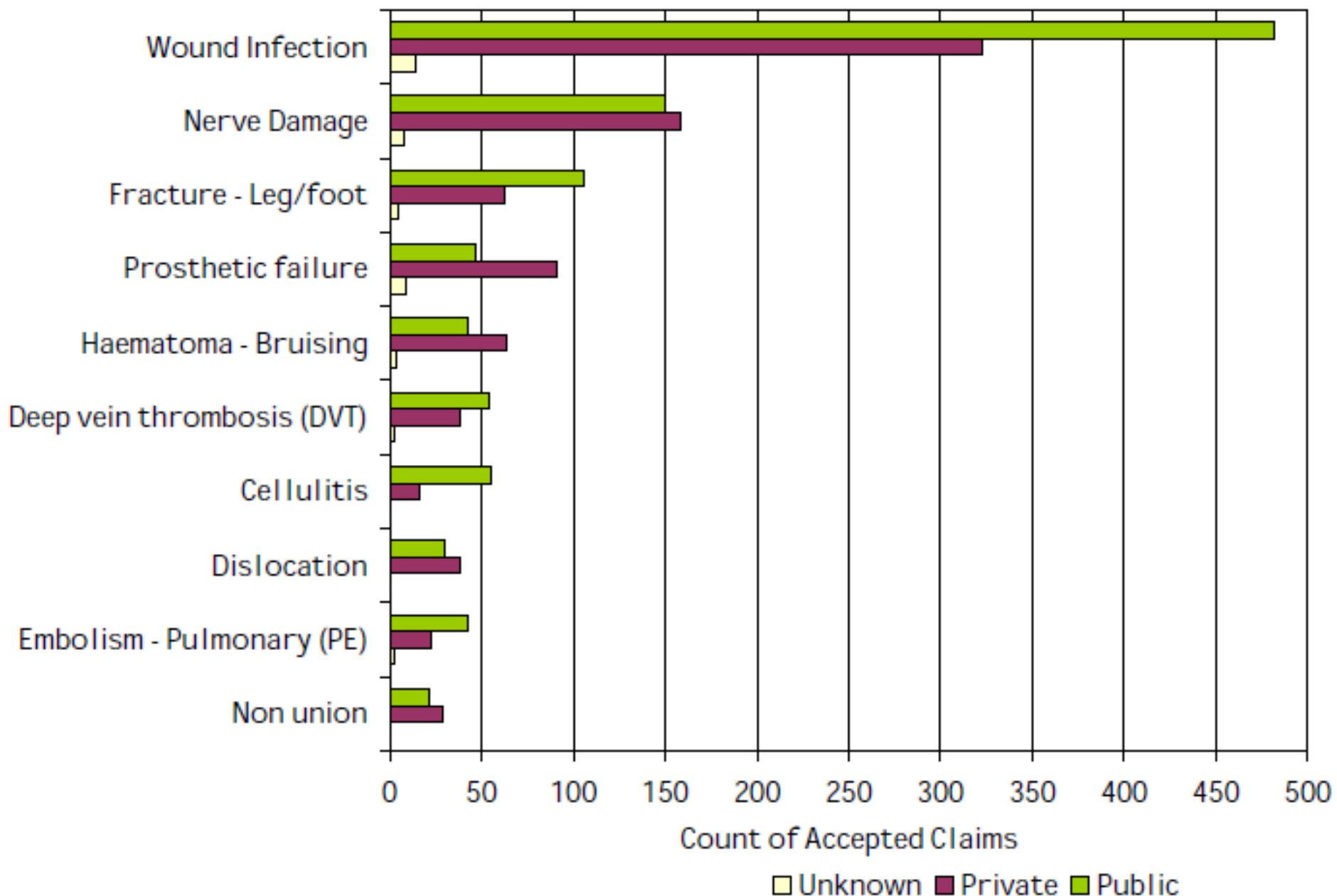
Orthopaedic Treatment Injury Data

- Total claim 31,103
- Orthopaedic **4,536 claims (15%)**
- Accepted claim 3,359 claims (74%)

Ortho Surgeries claimed



Complications



Orthopaedics: Common Events

INFECTION

- I. Infection was knee surgery/replacement (220 accepted claims).
- II Wound infection was hip surgery/replacement (185 accepted claims).
- III Foot surgery events (43 accepted claims).

Haematoma and bruising

was most common event in this category is knee surgery/replacement (29 accepted claims).

Dislocations

were mostly related to hip surgery/replacement (60 accepted claims).

Non union was most commonly related to the event category osteotomy (14 accepted claims).

The next most common event category related to non union was arthrodesis

Orthopaedic Event Notifications Ministry of Health [N =124]

- 46 Sentinel {death/loss of limb};
78 Serious
- Hip replacement (32)
- Knee replacement (20)
- Arthroplasty (5)
- Spinal decompression (6)
- Spinal surgery (5)
- Spinal fusion (4)
- Arthrodesis (3)
- Lumbar discectomy (3)
- Shoulder surgery (3)
- Foot surgery (3)
- Prosthetic failure (13)
- DVT (13)
- Wound infection (12)
- Nerve injury (10)
- Fracture leg/foot (6)
- Amputation (4)
- Equipment retained (3)
- Medication - other (18)
- Medication prescribing (3)

Case Studies

- A 50 year old woman ; THJR in 2009
- Developed loosening in 12 months requiring revision.
- Size mis-match of the acetabular component [Birmingham].
- [46mm Vs a 44mm Birmingham acetabular component]
- A Treatment Injury claim → ACCEPT.

Case 2

- A 53 year old man ; CTR
- The needle was inserted into the left wrist for anaesthesia, but before the contents were injected, it was realised that the needle was unsterile and had been used on a previous patient, so was withdrawn. A Treatment Injury claim was lodged.
- Subsequent testing for HIV and hepatitis was negative, so ACC determined that there was no evidence of physical injury and the claim was declined.

Case 3

- A 78 year old woman underwent a THJR after fracturing her right neck of femur.
- Her medical history included asthma, hypertension and osteoarthritis. Postoperatively she was confused, drowsy and dysphasic with a dense right-sided paralysis.
- A CT scan showed an infarct of the left middle cerebral artery territory.
- Her neurological status continued to deteriorate over the following days and she subsequently died four days postoperatively.
- A Treatment Injury claim was lodged for the stroke leading to death. Funeral covered/hospital care cost: foer the complication

SUMMARY

- 1. Their research showed that ACC **offered quicker compensation** to a greater number of injured patients
- 2. **More effective processes** for complaint resolution and provider accountability.
- 3. The ACC system is **one of the simplest** in the world for patients to claim through.

- 4. More reporting as there is “No blame” or No fault.
- 5. Bad negligence: NZMC/Commissioner/
Rarely ACC can refer to NZMC for safety reason

Limitations of the Scheme

- The move from Medical Misadventure to Treatment Injury was also associated with **an increase in claim liability** due to the increased number of claims