

# 2,557 Days Living with the EQC

One homeowner's perspective

"On behalf of the Government, let me be clear that no one will be left to walk this journey alone.

New Zealand will walk this journey with you. We will be there every step of the way.

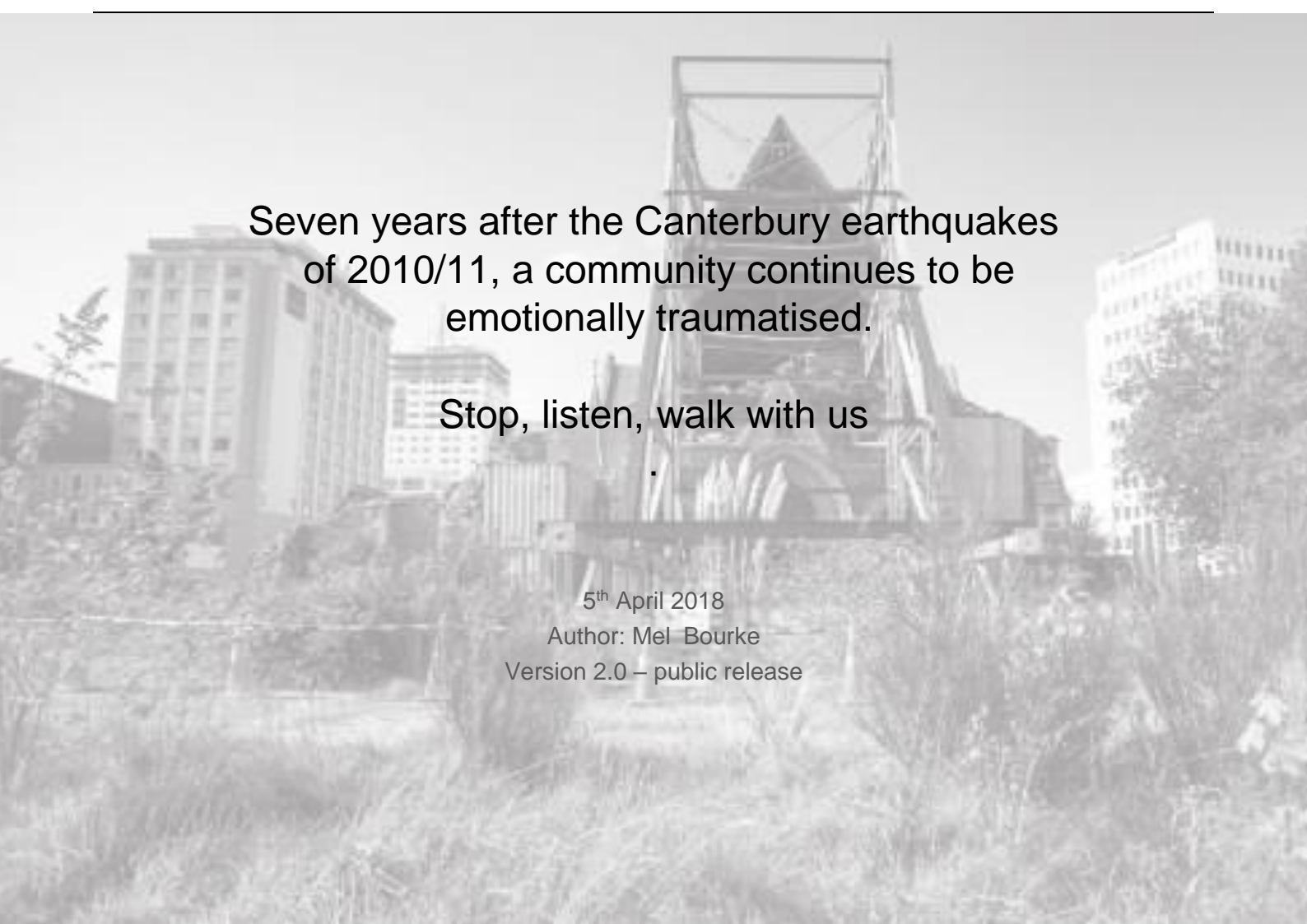
Christchurch; this is not your test, this is New Zealand's test.

I promise we will meet this test."

---

Compiled for: Hon Dr Megan Woods, Dame Annette King & Christine Stevenson  
cc: Rt Hon Jacinda Ardern

---



Seven years after the Canterbury earthquakes of 2010/11, a community continues to be emotionally traumatised.

Stop, listen, walk with us

.

5<sup>th</sup> April 2018

Author: Mel Bourke

Version 2.0 – public release

## Table of Contents

Introduction .....	1
Recommendation .....	3
Background.....	5
<i>Reinstatement Standard</i> .....	8
<i>Failed Assessments vs Failed Repair</i> .....	9
<i>Foundations</i> .....	10
<i>Land Claims</i> .....	11
<i>Drainage</i> .....	12
<i>Multiple Assessments   Denying Homeowner Reports</i> .....	15
<i>Assignment of Claims</i> .....	16
<i>Limitation</i> .....	19
<i>The Disenfranchising of Community</i> .....	20
<i>Trauma Impact</i> .....	23
<i>Balancing the Equation</i> .....	24
The Problem.....	25
Discussion.....	27
Southern Response.....	30
Politics and Natural Disasters Do Not Mix .....	30
Future Risk.....	32
Summing Up .....	32
About the Author .....	34
References.....	35
Appendix Items .....	1
<i>Listen and Learn My Story – Elissa Urquhart</i> .....	1
<i>Listen and Learn My Story – Jaed Hart</i> .....	2
<i>Listen and Learn – Philippa Coory</i> .....	3
<i>Listen and Learn My Story – Nikki Ross</i> .....	4
<i>Listen and Learn – A Red Zone Story</i> .....	6
<i>Listen and Learn – Althea Kallas</i> .....	9
<i>An Owner's Case Study of Assessment Failure</i> .....	12
<i>Listen and Learn – MBIE Guidance – David Townshend</i> .....	15
<i>Listen and Learn – Recommendations – Jake Preston</i> .....	16
<i>Listen and Learn – Lew Graham</i> .....	19
<i>Homeowners Have a Right to Accurate Information about the Act</i> .....	21
<i>Understand EQCfix.NZ</i> .....	23

## Introduction

Changing a culture, removing gatekeepers, becoming transparent, being honest and looking into the eyes of the victims of EQC is going to be incredibly challenging. It will likely be financially costly to put this right. If what I have outlined in this document is correct, it should also cost some people their jobs, and some companies their contracts.

There can be no quick fixes or cheap work arounds. Put yourself in the shoes of the people living with the EQC trauma, some for more than 2557 days and counting (refer Appendix item: Listen and Learn My Story – Nikki Ross). Money and jobs will never compare to their loss. Nothing will give them back what has been taken from them. The journey of the victims of the EQC has been significantly more difficult than that of the people working within the EQC.

On the 15<sup>th</sup> March 2018, you heard from a woman with stage-four cancer who could not move from her home. You heard from a person whose family moved out of their home four times because of the EQC, and about the impact on their marriage and their children. You heard from the subsequent owners, devastated that they have been dragged into this nightmare. That was just a handful of the thousands of people hurt by the EQC.

Am I upset about this? Yes. Has my life changed because of this? Yes. Did I want to be spending my weekends writing documents like this instead of spending time with my family? No. Did I have a choice? No. I had a home that was one of the first homes ever repaired by Southern Response. Someone helped me. I had an obligation to pay it forward.

Since our earthquakes, many insured Canterbury residential-property owners (homeowners) have experienced appalling treatment by the EQC. The resulting impact on those innocent individuals and their families must be acknowledged (refer Appendix Item: Listen and Learn My Story – Elissa Urquhart). Simultaneously, we need realistic solutions which address the financial losses and property damage suffered by homeowners due to the EQC's systemic failures and inadequate adherence to the Earthquake Commission Act 1993 (the EQC Act).

I believe there are hundreds of previously positive, motivated, and independent people who, for years, have been ignored, pushed into corners, and have lost their sense of self (Refer Appendix Item: Listen and Learn My Story – Jaed Hart). Collectively, this is a huge loss to the community. It should not be allowed to continue, and there must be clear pathways to let these people finally recover their lives.

Many homeowners will tell you that they distrust those on the ‘inside’<sup>1</sup>. The distrust that now exists in the community will not be un-learned easily. Proactive steps towards re-establishing trust is critical to resolving the moral, ethical and legal problems created by the failures of the EQC. There is a ‘them- and-us’ culture (*“EQC culture change is long overdue”*, 2018) which extends well outside the EQC (Figure 2). A culture change across a multitude of organisations involved in the Canterbury homeowner recovery will also be required (Figure 1).

Many would have assumed that seven years would be long enough to fix every quake-damaged house but that proved optimistic. There are still 2600 cases to go, nearly half of which are re-repairs, and there is a very good chance that further re-repairs will emerge.

A familiar story from the early days of the Christchurch earthquake period features unqualified inspectors performing cursory inspections of houses and failing to notice serious damage to foundations. The next part of the same story usually involved distressed homeowners casting about for lawyers and engineers who can represent them.

It has been a stressful and traumatic time for too many people in Christchurch. Residents often felt there was an “us and them” dynamic in the post-quake period. The recovery and rebuild was being done to us as much as for us, and it was imposed by Wellington.

Figure 1: Over the last seven years, much media points to issues within the EQC, issues which appear to have been ignored by those charged with rebuilding people’s lives after the 2010/11 quakes. Image sourced from *“EQC culture change is long overdue”* (2018).

Does our heads-down, thumbs-up, ‘she’ll-be-right’ Kiwi culture make us vulnerable to whims of Government and big business, or are we the unprotected victims of people with premeditated financial agendas, agendas which, with a quick Google search, are easy to find? For example:

- “Those who took the low-ball offers received prompt service, while those who didn’t had their claims delayed and potentially were reduced to bringing expensive lawsuits to fight for their benefits.” (Reilly & Rosenthal, 2011).
- “An insurance company can make a lot of money on the small claims,” said Jay Feinman, a professor at Rutgers University School of Law, “because if you save a few dollars on a huge number of claims, it’s worth more than saving a lot of dollars on a very small number of claims.” (Reilly & Rosenthal, 2011).
- “Miles says the delays and problems are not accidental and are in the financial interest of the private insurance companies.” (Miles, 2012).

<sup>1</sup> Likely defined by some homeowners as the EQC, Southern Response, private insurers, those organisations lawyers, project managers and subcontractors, Councils, MBIE and Government.

The financial costs for homeowners are not understood (Figure 18); the emotional cost not even on the radar.

### **Recommendation**

To remedy the damage caused by the EQC and other culpable parties, the EQC must engage the community at the start and involve them throughout the process. This is different from paying lip service, then continuing to hide.

New Zealand has already moved to correct previous abuses of power through the Waitangi Tribunal and other inquiries and commissions. Whilst the EQC debacle is not as far reaching as the erosion of the Treaty was, there are clear parallels -- a more powerful party ignoring its obligations to the other, shutting the other out, doing everything it can to silence the voices shouting the injustice. As the gentleman at the 15<sup>th</sup> March 2018 meeting stated, "You took my land once, and you are doing it again."

I have listed some of my thoughts on how to begin the journey to heal Canterbury and fix homes. I am only one person. Other opinions and views must be sought from all interest groups, no matter their bias. Decision making must be deliberate and considered, after every voice has been heard.

1. Full and complete community engagement and involvement.
2. Community leadership teams charged with directing and monitoring the Canterbury business unit.
  - 2.1 Approve the EQC's Canterbury business unit's objectives and KPIs; report its performance back to the community.
  - 2.2 Include at least one lawyer who has worked for the insured, and one psychologist.
3. Respect Article Three of the Treaty of Waitangi. Be inclusive of iwi.
4. Provide private and public opportunities for affected individuals to tell their stories to the people in the positions of power who can make a difference.
5. Approve an all-encompassing Royal Commission of Inquiry into the EQC, Southern Response, their project managers and contractors.
6. Invest in a range of social services which the community wants / needs.
7. Consider and identify the humanitarian goals which will form the foundation for the EQC's and associated organisations' corporate cultures.

8. When working through this culture change, appoint people who represent the community, not people who the EQC thinks it needs.
9. Initiate research to describe and learn from our years of exposure to multiple high-level stressors. Anticipate the outcomes of post-traumatic stress -- anxiety, depression and suicide<sup>2</sup>.
  - 9.1 Consult with medical professionals and organisations like CulturesafeNZ and Stop.
10. Balance the playing field by creating a government-funded Insured Persons' Council of New Zealand which will:
  - 10.1 Provide advocacy specific to the EQC Act and insurance policies.
  - 10.2 Be an independent body monitoring how insurance policies interact with the EQC and the EQC Act.
  - 10.3 Remove the ability of the EQC to divide and conquer.
  - 10.4 Protect post-disaster claimants from accepting discharges of claim before they even know what is happening.
  - 10.5 Lobby the government to give consumers greater protection around insurance.
  - 10.6 Become an organisation with real teeth, able to achieve visible and appropriate outcomes.
11. Regulate insurers, including that their loss adjustors be properly qualified and accountable to a professional code of conduct which, at a minimum, requires them to treat homeowners fairly<sup>3</sup>. Refer to Appendix item: Homeowners Have a Right to Accurate Information about the Act.
12. Engage with the EQCfix.NZ Steering Committee (refer Appendix item: Understand EQCfix.NZ). It is a trusted source of information and research.
13. Apologise.

---

<sup>2</sup> I believe we will see similar reactions from Kaikoura earthquake victims, as they become educated about how their claims have been managed under the Memorandum of Understanding between the EQC and private insurers.

<sup>3</sup> Some agents of the EQC, under the Memorandum of Understanding, are confused about differences between the EQC Act and insurance policy (I point to my Kaikoura claim as evidence).

## Background

When it comes to insurance, there are usually only two parties in a contract. The weighting of power in favour of the insurer is well documented. In the context of a New Zealand natural disaster, such as the 2010/11 Canterbury earthquakes, the EQC becomes a third interested party. As a result, the imbalance of power becomes more heavily weighted against the insured.

Most people in Canterbury, myself included, initially trusted how the 'system' would manage our post-earthquake insurance claims. Few of us had any experience with significant earthquake damage. We were vulnerable individuals when confronted with Crown entities, private insurers, their project managers, their contractors, and their lawyers (Figure 2).

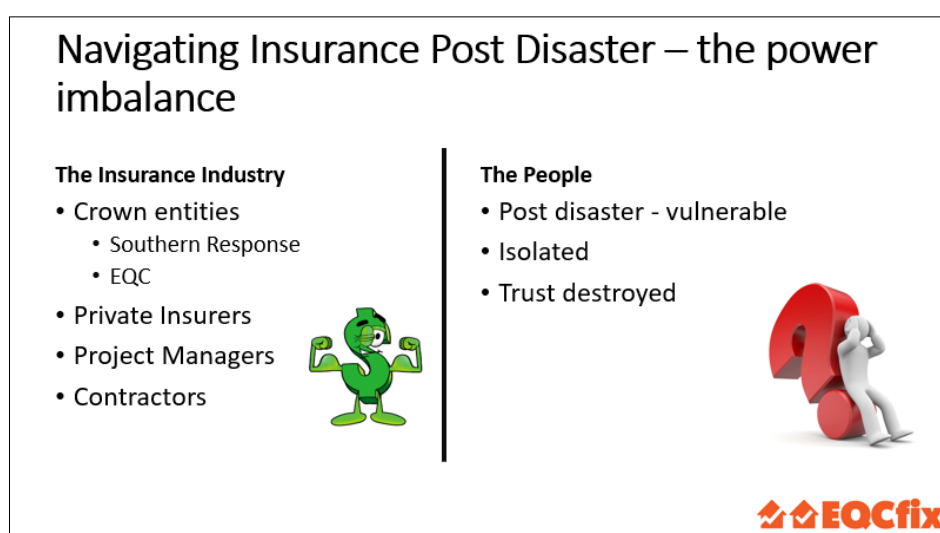


Figure 2: A snapshot from a presentation delivered to approximately 600 people on the 11th August 2015 by members of the EQCfix.NZ Steering Committee. Image sourced from "EQCfix.NZ Social Justice Project Launch", 2015).

A common theme we still hear from people impacted by the EQC (we were certainly hearing it at the EQC's 15<sup>th</sup> March 2018 meeting with Dame Annette King) is that 'others are worse off than me, so deal with them first'.

According to United Methodist Committee on Relief (2013), there are the five recovery phases:

1. Search and Rescue
2. Emergency Relief
3. Early Recovery
4. Medium to Long-Term Recovery

## 5. Community Development

Putting others before ourselves was the right way to behave in recovery phases one and two, if our emotional and physical situations were secure. However, Cantrabrians should not feel a need to be doing this seven years later. To me, once a community is in phases three, four and five, any appointed organisation must be efficient, organised and accurate. The EQC stills seems a long, long way from all those things.

New Zealand is known as a heavily insured country, with legislation to provide people with an additional level of security. Some themes we heard repeatedly were ‘we are prioritising<sup>4</sup>, ‘this is an unprecedented event’, ‘we are under resourced’. This was understandable in the first three months, phases one and two. It was not acceptable past that point with the resources that the EQC had available. Is it possible that the EQC’s position is indicative of failings and mismanagement of the Disaster Fund? This is a critical element that must be made transparent and clear.

According to Van Beynen (2016), the EQC and others did not characterise the middle classes of New Zealand correctly. In contrast with their assumptions, we are not shy about complaining when the pressure comes on. We will research, we will seek out information, we will learn, refer to the Appendix Items. The Canterbury people who were subjected to the EQC’s assessments, low-balling tactics, and ongoing denials are lawyers, doctors, engineers, nurses, administrators, teachers, business owners, academics, mechanics, project managers, builders, reporters, receptionists, social workers, public servants and more. How, in a 21<sup>st</sup>-century world, can any person in a position of power do what the EQC has done and then try to keep it hidden? At best, this is naïve; at worst, it is arrogant and morally corrupt to the core.

It is not complicated, or at least it shouldn’t be. Homeowners have insurance to protect them and their property. It is there so when things go wrong, homes can be fixed (Figure 3). We did not invest in insurance to be worse off. Nothing should impact negatively on those who paid their premiums, then, after a terrible natural disaster, believed that their contract (and trust) would be fulfilled.

---

<sup>4</sup> I have recently been told this by my private insurer managing my EQC claim from the Kaikoura 2016 event (we are now in 2018).



## What is insurance?

Insurance exists to protect against unforeseen loss or damage.

It takes the form of a contract where one person or business (the insured) agrees to transfer the risk that a range of unforeseen events may happen to a business (an insurer). In return, the insured pays the insurer a fee (a premium). This is formalised in a legal contract (a policy).

If an unforeseen event covered by the policy causes loss or damage to the insured or their property, the insurer pays for that loss or damage.

You can insure yourself, your property, and your legal liabilities.

Figure 3: The Insurance Council of New Zealand provides a succinct definition of insurance, likely representative of the average person's understanding of the contract they enter with an insurer. It is possible the average homeowner is not conversant with unique aspect of EQC's role following a natural disaster -- the EQC cap, or the potential differences in reinstatement standard between the EQC Act and an insurance contract. (*What is Insurance*, n.d.)

I am willing to guess that, prior to 2010, most people had only ever dealt with a car insurance claim. What an inconvenience it is when a car is damaged. It is off the road for a week or two. It is taken to a panel beater, assessed and repaired, and a week or so later it is returned. Annoying but relatively straightforward. Life goes on. Notably, the insurer-insured relationship worked, and the insurance promise was met. If that was our insurance experience before the quakes, we were naive, trusting, gullible, and vulnerable. We were susceptible to the whims of those with more knowledge and power.

Part of me still wants to believe there was no malicious intent to minimise the loss claimants experienced from the quakes by the EQC. In 2010/11, how many homeowners understood the meaning of things like 'substantially as when new', 'as new' or 'like for like'<sup>5</sup>? Very few. But others did know – the insurance industry, ICNZ, the EQC and the New Zealand Government. Is it possible that Treasury, ex-Minister of Finance Bill English and others recognised the costs associated with the reinstatement standards covered by the EQC Act and made decisions to lessen their liability? It certainly seems possible.

Were there frenetic policy discussions following the quakes (Mazey & Richardson, 2018)? Were those in decision-making roles panicking, or were they simply providing a short-term fix at the expense of long-term financial and emotional devastation for individual homeowners in the community?

Mazey & Richardson, (2018) point out that "hurriedly-designed public policies are, at best, equivalent to placebo medication, and, at worst, do far more harm to the patient than good".

<sup>5</sup> The correct use of these terms, as well as clear use of meaning, must be agreed and circulated in industry and the community.

### Reinstatement Standard

In my opinion, the EQC and every person party to any decision to reduce the reinstatement standard in the EQC Act was caught out by way of the Joint Statement signed by the EQC and The EQC Action Group in 2016. The EQC is littered with marketing and training material illustrating the lesser reinstatement standard of pre-earthquake. A simple Official Information Act request is enough to source it. Sadly, even in the face of the Joint Statement, with the words 'pre-earthquake' still on its website, the EQC maintained that 'as when new' had always been its position (Figure 4).

One of the concerns of the Action Group was that the Commission may have considered that the insurance under the Act was limited to reinstating an earthquake-damaged house to the same condition that it was in just prior to the earthquakes. The Commission confirms that the insurance under the Act insures houses for replacement value, which includes the cost to reinstate a house to substantially the same as (but not better or more extensive than) its condition "when new" and the cost of complying with any applicable laws. The Commission says that this has always been its position.

Figure 4: The EQC confirms it is obligated to reinstate a house to its as new condition (*"Joint Statement between EQC Action Group and the Earthquake Commission", 2016*)

Following the Joint Statement, the EQC publicly stated, "The declaration – confirming its (the EQC's) legal obligation to repair damaged homes to a 'when new' rather than pre-earthquake condition – would not spark any changes to its (the EQC's) practices" (Stylianou & Truebridge, 2016). Is this where we were at the start of 2018? It would seem so.

If the EQC in any way undermined the reinstatement standard by use of internal policy, marketing or training, then it was actively and knowingly changing a legally binding Statute, lessening it and degrading it. My own understanding, and that of most New Zealanders, is that no one in New Zealand is above the law. No person or organisation has the right to ignore or change the law simply because it does not suit a corporate or government financial agenda.

The requirement to repair homes to a condition substantially the same as when new, rather than their condition just before to the earthquakes, is also confirmed in the settlement.

EQC has previously used phrases such as “pre-earthquake standard” and “like for like” when describing its obligations.

Figure 5: It seems the EQC did use the lesser standard of ‘like for like’ and ‘pre-earthquake’ when assessing homes, even though it publicly stated that ‘as when new’ has always been its position (Hutching, 2016).

### Failed Assessments vs Failed Repair

The use of language and correct terms is important as we dissect the issues with the EQC. There is a lot of talk and references to ‘failed repairs’. For me, the phrase ‘failed repair’ is a misnomer. A failed ‘repair’ implies that there is something wrong with the workmanship. For example, the reason that blocks on a repaired home do not align with window frames (i.e. gaps between frame and block) is because of a ‘failed repair’. In reality, alignment of block-to-structure issues could be related to earthquake damage to land and / or the foundation<sup>6</sup>. To understand the underlying cause, there is a need to wind back to the assessment and scope the repair was based on. If the repair strategy is incorrect, then the repair will ALWAYS fail. If the scope that the repair strategy was based on is incorrect, then the repair strategy is ALWAYS flawed. If the assessment was based on an incorrect standard, for example, ‘pre-earthquake’ or MBIE Guidance (refer Appendix Item: Listen and Learn – MBIE Guidance – David Townshend), then the assessment did not conform with the standards outlined within the EQC Act. If the initial assessments (particularly on older homes, but relevant for all properties) did not include geotechnical reporting, foundation, drainage and structural engineering reports, it is probable earthquake damage was missed (refer Appendix Item: An Owner’s Case Study of Assessment Failure).

For me, this is not about failed repairs. It is about failed assessments, under-scoping, failed policy and failed policy making.

For the EQC to continually repair homes based on flawed repair strategies, developed from inaccurate scopes, which were created on the backs of low-grade assessments, seems to prove the quote we generally attribute to Einstein, a definition of ‘insanity’ (Figure 6). If it was

<sup>6</sup> Many homeowners are likely having EQC re-repair, on repair on repair when the issues will be land, foundation or structure related. Requiring Geo-technical, foundation and structural engineering reports. Not builders, painters and plasterers.

not incompetence that drove these decisions, it is something far more unsavoury – an intent to devalue the real loss experienced by insured homeowners.

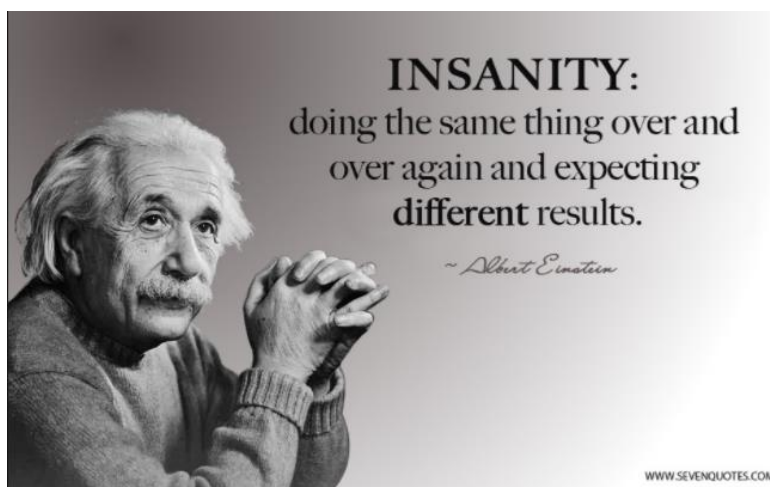


Figure 6: A quote commonly attributed to Einstein seems applicable to the EQC's approach to 'failed repairs'.  
Image from: <http://www.sevenquotes.com/insanity/>

How many homeowners and their families have had to move out of their homes multiple times because of a 'failed repair'? As you read this, think about how would you feel packing up and moving your children out of your home twice, three times, four times, because repeated EQC repairs were inadequate? How did you want your children to live for the last 2,557 days?

### Foundations

A decision was made. The EQC elected to manage repairs, that is its right. Overnight, project-management companies were gifted a golden goose. At the same time, one sole voice was trying to be heard. This person went into the red zone, crawled under floors and inspected foundations of homes before they were demolished. He did this to learn about the impact of the earthquakes on homes built with what are called rubble foundations<sup>7</sup>. The gentleman's name is Mr Bevan Craig of Underfoot Services (Figure 7).

If you speak with Craig, it becomes clear that he provided the EQC with early (2011) awareness of an important issue surrounding homes built in Canterbury before 1970. It appears that, in those early years, the EQC and MBIE chose to disregard this knowledge, despite its obvious relevance to the reinstatement standard governing the EQC. EQCfix.NZ were easily able to compile information for homeowners on rubble foundation. It is here

---

<sup>7</sup> Along with the EQC's apparent refusal to listen to experts on the issue of rubble foundation, EQC did not ensure house to street drainage was fully and competently assessed.

<https://www.eqcfix.nz/issues/> . We are in 2018 with the EQC and private insurer burden currently resting with homeowners (Figure 7). Some entities estimate there could be upwards of 35,000 Canterbury homes with rubble foundations not properly assessed, scoped or repaired by the EQC.

## Rubble foundations could be 'multi-billion dollar problem' for Canterbury homeowners

Figure 7: The liability which should have been covered by the EQC and private insurers appears to have been shifted to the people who entered a contract to protect them from exactly this kind of risk. Image from *"Rubble foundations could be 'multi-billion-dollar problem' for Canterbury homeowners"*, (2017).

### Land Claims

It appears that the EQC has engaged in similar behaviours in their approach to land as they did with reinstatement standards, i.e. diluting them to reduce the financial liability of the Crown (Figure 9).

Most property owners are not even remotely conversant with how land claims are to be managed. I am informed that land claims, unlike residential property claims, are not able to be assigned to subsequent owners under the EQC Act. A win for the EQC, but a devastating future financial blow for Canterbury homeowners and a country looking to improve the overall quality of its populations financial security and wellbeing.

All people in New Zealand should be treated equitably. Look at what is known as the 'Fendalton Four'<sup>8</sup> -- four properties in a 'top' area of the city where the EQC paid hundreds of thousands of dollars of compensation for land damage after the September 2010 quake. But the Crown's position quickly changed after the 22<sup>nd</sup> February 2011 quake (Figure 8). Some of the associated documents associated with the Fendalton Four can be found <https://www.eqcfix.nz/resources/>. Much more needs to be transparent around EQC and land. For example, has the EQC met all of its obligations to people who owned land in the Red Zone (refer Appendix item: Listen and Learn – A Red Zone Story).

<sup>8</sup> The outcome of an Official Information Request regarding land payments paid between September 2010 and February 2011 that appear inconsistent with what was done for other similarly impacted owners can be viewed here: <https://www.eqcfix.nz/resources/>.

Cabinet documents, provided to *Stuff*, show the Government agreed that EQC pay for the insured value of the owners' land where the cost of remediation work was greater than the insured value.

It was believed these payments were justified, but their size may have created "optic risks" for the Crown.

Figure 8: In New Zealand, all persons should be treated equitably. It is unacceptable to have one group of people compensated using the two solutions available in the EQC Act, whilst others are disadvantaged after cost becomes an issue for the Crown. Image from Truebridge, (2016).

The implications of the EQC decisions around land claims are far reaching and long term, with yet-unknown financial consequences for future homeowners. It seems that a financial liability which should have been borne by the EQC was shifted to future, innocent, homeowners. The destruction of lives and livelihoods may continue for decades to come.

For land, the EQC Act recognised two remedies. Either EQC would spend what it took to restore it. Or if the damage was catastrophic – say a landslide that wiped out a section – then EQC would pay for a minimum size lot where the home could be rebuilt elsewhere.

But for the Canterbury earthquakes, EQC invented a third solution – diminution of value (DoV) settlements.

Instead of fixing or replacing problem land – the many thousands of properties which had sunk towards the water table in Greater Christchurch as the repeated shakes pumped out liquefied silt – EQC would dish out cash sums meant to compensate owners for the market loss of value on their properties.

Figure 9: The EQC appears to have engaged in similar behaviours even after degrading the legislative reinstatement standard by introducing a third solution to land claims. Image sourced from McCrone, (2016).

You will find that Lew Graham (refer Appendix item: Listen and Learn – Lew Graham)<sup>9</sup>, Cam Preston, Hugo Kristinsson, amongst others, will have a good understanding of land from legislative, practical and homeowner perspectives.

### Drainage

Should the EQC, as part of its earthquake 'as when new' assessment processes, have inspected every single home-to-street drain? I think so. At the very least, they should have inspected every home old enough to potentially still have ceramic drains. That would be upwards of 35,000 inspections, if we use homes with rubble foundations as a possible statistic.

I know of three examples where the EQC have failed to manage drainage repairs prior to cash settling or repairing.

<sup>9</sup> Lew Graham has raised issues around the Public Trust, multiple earthquake events, and more.

1. A subsequent owner with an assigned claim registers a home with the EQC as part of the 2016 offer made by the EQC (Figure 10). The home is an EQC-repaired home, with documents indicating that the drainage was originally repaired by an EQC sub-contractor<sup>10</sup>. I understand the subsequent payment made to the new homeowner by the EQC to repair the drainage is over \$20,000.
  - 1.1 Payment excludes the costs to re-repair the private insurer elements of the earthquake claim, elements that will need to be damaged to complete the drainage repair.
2. In 2018, the EQC contacted an 'at time of event' homeowner to arrange to inspect drainage on a home with an EQC-managed repair thought to be complete. The home had 2010 / 11 non-EQC earthquake damage repaired by the private insurer, for example a new driveway. 2010 / 11 earthquake damage to drainage was identified in the 2018 drainage inspection. I am informed cost estimates to repair the drainage will exceed \$20,000.
  - 2.1 The homeowner is in discussion with the EQC about the cost for uplift of the private-insurer-repaired driveway, retaining wall and landscaping, all of which must be damaged to give access.
3. A home assessed and scoped by the EQC with cash settlement (under \$10,000) had a 2017 drainage inspection completed by an independent drainlayer as part of the EQC offer (Figure 10). I am informed the cost to repair the drainage is estimated by the EQC to be \$8,000.

#### EARTHQUAKE DAMAGED DRAINS

We are of the view that if your drains were not inspected as part of the claims process this is an issue for consideration. EQC had provided a grace period which expired end of 2016, however, this is well worth pursuing.

- Letter to EQC re: Earthquake Damaged Drains — *provided by Peter Woods, Anthony Harper* — [Word](#) / [PDF](#)

\*Recommended reading — [Damaged Drains and Sewer Laterals](#)

Figure 10: EQCfix.NZ attempting to inform homeowners of the EQC offer to inspect drains up until 2016. Image sourced: <https://www.eqcfix.nz/resources/>

There are some big questions that need to be put to the EQC around drainage. There are also big questions that need to be put to the Christchurch City Council (CCC). There are

<sup>10</sup> The EQC later state it was an emergency repair not a full repair that their contractor completed.



questions that must be put to homeowners who have sold homes or who own homes and have not repaired drains when they received funds to do so.

Our community will want to know about:

1. Health risk.
2. Risk to aquifers.
3. Risk to long-term land contamination from sewage and grey water to a property's land.
4. Risk of voids in land from the constant flushing of water through broken pipes.
5. Increased risk of borer.

So many issues to work through, for example:

1. When should drainage be repaired if homes have 'failed assessments' and homeowners are in dispute with the EQC?
2. What about homes which have drainage running uphill<sup>11</sup>?
3. How can we be sure that prospective buyers and real estate agents know this stuff back to front!

## Wastewater lateral repairs

If your pipes are damaged, sand, silt and excess groundwater can enter the system. This can cause blockages, increase pump wear and wastewater overflows.

Many pipes were damaged in the Canterbury earthquake sequence.

About 70 per cent of blockages in wastewater laterals are found in the private section, the pipe from the household gully trap to the boundary of the property.

The sooner you get this checked the more likely you are to avoid costly repairs. If it's clear that damage is related to the earthquakes and you have insurance cover, the Earthquake Commission (EQC) may cover the cost.

[Check your eligibility at the EQC website.](#)

If you haven't done so, you should get a registered drainlayer to have a look at your pipes.



CCTV footage of groundwater infiltration getting through cracked pipes.

Figure 11: The Christchurch City Council's page on wastewater laterals. Sourced from: <https://ccc.govt.nz/services/water-and-drainage/wastewater/maintenance-and-repairs/wastewater-lateral/>.

<sup>11</sup> I understand from conversations with drainage and land experts that is an issue for a number of Canterbury homes, with the cause being attributed to earthquakes.



To me, drainage inspections following a quake above a pre-determined magnitude should be a fundamental part of the EQC process<sup>12</sup>.

### Multiple Assessments | Denying Homeowner Reports

Many, many homeowners have lived through having their homes assessed over and over. And over. And over. Not once, not twice, not three times. No, actually 10 times, 15 times and more. Can you imagine people wearing orange vests and carrying clipboards going through your home, examining anything and everything, making notes, taking photos, rewriting reports, questioning what you say is earthquake-related damage, not telling you what will happen next.

Homeowner-sourced reports have been declined by the EQC, resulting in repeated costs, repeated wastage, delays, no matter the quality of the professionals engaged or the accuracy of the report. Suppliers to the EQC must be laughing their way to the bank. Many of us have invested in robust, quality reporting on our homes, but the EQC has to do it all over, and over and over again. I refer you 'again' to Figure 6 – insanity! Incompetence, or intent to devalue homeowner loss?

At a homeowner meeting on the 2<sup>nd</sup> August 2014, Zoran Rakovic (Structural Engineer) and Dean Lester (Insurance Specialist) spoke. They put forward an idea. What about a shared brief/instruction between the parties to the insurance contract<sup>13</sup>?

The idea of sharing meant that the EQC (or private insurer) would work with the homeowner to agree an Instruction<sup>14</sup> which would then be provided to mutually-agreed professionals who could conduct future assessments of earthquake damage on residential properties.

The Instruction would include clarifying the reinstatement standards and outlining the scope of the assessment. Homeowners would be advised to seek legal advice prior to signing.

In principle, it was a straightforward solution. Both parties to the insurance contract would agree up front on who would conduct the assessments, with standards described and articulated to the professionals conducting the assessments. Disputes processes and

---

<sup>12</sup> Questions need to be asked about whether the agents acting for the EQC in regard to the Kaikoura Quake are ensuring that drainage inspections are routinely carried out.

<sup>13</sup> I proposed this concept to two of my EQC claims managers. They escalated it to a supervisor, who was not interested. That claim is still unsettled with the EQC.

<sup>14</sup> An Instruction is a document that tells the person assessing earthquake damage about the EQC Act standard, the insurance policy, the terms of reference for the assessment and so on. In other words, a set of "rules" for assessors that insurers and homeowners can refer to back to.

timeframes would be agreed. It was transparent, simple, and inclusive. No more insanity (Figure 6).

Unless, of course, there is an industry strategy behind the approach of multiple assessments and the denying of homeowner reports and more. Is the reason to perpetrate delay? For example, in Reilly & Rosenthal (2011) they quote the following: "I believe [delaying claims] is an effort to put the squeeze on policyholders," Taff told HuffPost. She explained that while a claim is being held up, the insurance company may stop paying the policyholder's additional living expenses, forcing the policyholder to cover mortgage and rent entirely out of pocket. "That's something that many people cannot afford to do, so they're forced to take a lower settlement," Taff said." I have heard so many heart-breaking stories of homeowners facing these exact situations.

### Assignment of Claims

There is another elephant in the room. Conveyancing lawyers did it. Real estate agents promoted it. The media reported it. The EQC and private insurers said nothing.

Last year, homeowners were reminded that the EQC will accept claims assigned to it. However, if the home later goes over the EQC cap, the private insurer might only be liable for depreciated value (sometimes depreciated value can be less than the EQC cap). If this, as 'they' say, was always known, then where were 'they' two years ago, three years ago, four years ago, five years ago? Why did the ICNZ, insurers, the EQC, the New Zealand Law Society or the National Government not stand up and say, "STOP!" Consumers, homeowners, real estate agents, and conveyancing lawyers needed to know about this. Or was it a clever tactic designed to reduce liability to the private insurer? Let the property market flow on. Let people unwittingly trade property for a few years.

When you dissect it just a little, there are so many things wrong with this apparent turn around on assignment of claims. Learned lawyers will likely have many more than me.

I want to paint a picture for you and, while I do, imagine this is you, you with your family, your children, it is your first home, your ready-for-baby home, your home-in-the-zone home, your downsize-to-retire home.

1. There is some beautiful marketing of the home in the sales kit. One of its special features is 'EQC repairs completed, move in and enjoy'.

2. You complete the due diligence and / or rely on the EQC reports. You know the house was assessed, scoped and EQC repaired<sup>15</sup>.
3. There is extensive information available about the earthquake assessments and repairs in information pack on the property.
4. All is in order.
5. You buy the home.
  - 5.1 In the Sales Agreement, the standard clause is included, 'the claims are assigned to you'.
6. No matter how it comes about, you discover something is not right with the house. Maybe it is one door that stops closing correctly, water in places it should not be, a new crack appearing in a wall, or perhaps a toilet or drain backed up.
7. You investigate; it looks serious.
8. The investigation identifies missed earthquake damage.
9. You are at a loss to try and identify a remedy.
10. After some Googling, and no doubt some buggarising on Facebook (Figure 13), you decide what to do.
11. It is so time consuming, expensive and stressful. The arguments, the tears and the hurt involved. A big bit of you changed forever. But you are luckier than some. You could 'afford'<sup>16</sup> the \$10,000 in reports and legal fees.
12. With your professional assessments in hand, and after the EQC has paid for more reports (which were just like the reports your professionals diligently completed), the EQC agrees with your professionals.
13. The EQC places the claim over cap. This is the home that you purchased so 'all you needed to do was 'move in and enjoy'.
14. You phone the insurer.
15. From 2018, the insurer may say one of two things:
  - 15.1 "Subsequent owner, you were not a policy holder at time of the event, so you did not experience the loss. We are going to apply a depreciated value."
  - 15.2 "Limitation defence".

---

<sup>15</sup> Depending on when the home was sold post the 2011 / 11 quakes, some purchasers might have reasonably relied on the EQC scope and repair documentation. At one stage, this was considered a good practice, a reasonable practice.

<sup>16</sup> What does 'afford' mean?

Borrowing from one of the subsequent owners at the 15<sup>th</sup> March 2018 meeting, I recall them saying their home and land had cost them \$340,000 (their first home, I believe). It was estimated the earthquake repair works, missed due to under assessment, will cost an additional \$380,000. I understand they do not have access to the private insurance money to repair the home and they are not able to borrow from the bank.

An enormous financial loss being borne by people who can least afford it, because the EQC under-assessed earthquake damage.

The EQC will tell you that their hands are tied due to the cap. I refer you to *“Message from Chief Executive Sid Miller”*, (2018). Or to be cynical, is the EQC attempting to wash its hands of a problem it created?

Can I ask you to think on this for a moment? If Canterbury got a do over, knowing what we know, we wouldn't buy homes so:

1. What would happen to the property market and real estate business and agents?
  - 1.1 How many would be out of business and unemployed as hardly anyone sold homes?
2. How many people would still be stuck in the homes they owned at the 'time of event'?
  - 2.1 What would this have done to peoples mental health, their career prospects, their family life?

When the news of the private insurers approach to assigned claims hit the media in 2017 the community was told this was a known 'private insurer position'. If 'people knew':

1. Why did they not speak up?
2. Why did ICNZ not honour the promise on its website to protect consumers from "the risks they face "(Figure 12)?

Not only the Canterbury community, the entire country requires a solution to address financial losses incurred by homeowners when damage is under-assessed by the EQC. It does not matter who did the assessment, the repair work, or how long ago. The homeowner is not the financial scapegoat of others' failures, caught between the EQC and the private insurer.

## What we do

We are dedicated to

- working with stakeholders and consumers to help people understand and manage the risks they face
- promoting a strong and sustainable insurance industry that people can trust and have confidence in
- ongoing improvement of the reputation insurance services in New Zealand.

## How we do it

We do this by

- working with stakeholders and consumers to help people understand the risks they face
- administering the Fair Insurance Code — an industry best-practice code that governs how our members interact with their customers and the public
- working with Government on issues relating to the fire and general insurance sector in New Zealand.

Figure 12: The ICNZ state that they work with stakeholders and consumers to help people understand and manage the risks they face. However, the ICNZ was strangely silent for years about consumer risks related to the practice of assigning claims, commonly used in property sales in post-earthquake Canterbury (and likely Kaikoura). Image sourced: <https://www.icnz.org.nz/about-us/our-work/>.

## Limitation

I do not know where to even begin with the injustice hidden in the Limitation Act 2010 around the debacle of the mismanagement of the EQC Canterbury quake claims. The injustice is not around the EQC's position, it is with the position of the private insurers around claims transferring from the EQC to them. Limitation defence looms for many.

Frankly, I cannot really blame private insurers for saying, "Enough." These are claims that should have been over-cap from the start, instead of lurking in the EQC system for 2557 days.

Can you imagine! Your home was assessed over and over by the EQC. You find professionals and pay for your own reports. Your reports are routinely denied by the EQC. Or maybe your home was repaired by the EQC two, three, or four times. You might have been the owner at the time of the event, or you might be a subsequent owner. You know that once the EQC throws you over cap, they are finished with you. But will this happen, and when? You might have to fight another fight. With another insurer. But time is running out. Oops, the EQC wants to assess your home again. Or perhaps they don't answer your emails or your phone calls. You will have to file proceedings just to avoid Limitation risk with your private insurer<sup>17</sup>.

<sup>17</sup> These actions have prevented people doing so many normal things in their lives – for example, moving to a new house, changing jobs. What does seven years look like? Moving from 'young' at 33 to almost middle aged 40. Being 48 with children at home to 55 when you might want to downsize, being 74 losing your soul mate, to 81 when its your time to pass.

The use of Limitation by insurers is a travesty of the worst kind, a tool to make a homeowner's ability to recover real loss as difficult as possible, or impossible, due to delays caused by the under-assessment of a home by the EQC. In my 'non-legal, moral view', if a private insurer uses Limitation as a defence, then the EQC pays the true cost to repair or rebuild the home to the homeowner. The EQC can then take the private insurer to court to recover its loss.

### The Disenfranchising of Community

I believe not only that the EQC attempted to degrade and devalue legislation, they also elected to disregard and distrust homeowners, shutting them out of the process. A similar attitude was reflected by the National Government (Figure 13), calling honest, frustrated, and mistreated homeowners 'whingers and moaners', and feeding into a culture of treating homeowners as an untrustworthy, ungrateful bunch of rabble.

He called them whingers and moaners and accused them of buggerising around on Facebook.  
Of any person, Brownlee, a former woodwork teacher, should have realised these were his sort of people.  
Conservative, self-reliant, demanding of high standards and with a finely tuned sense of fairness.  
Here's what EQC should have done, in my middle class view.  
First they should have taken stock of their clientele and realised that half measures and treating people like idiots or liars was not going to work.

Figure 13: Homeowners have likely felt abused and undermined by people elected to ensure that their welfare and rights were protected. Van Beynen (2015), referring to comments made by ex-Earthquake Minister Brownlee about earthquake claimants.

So now, talking to homeowners will be the only way to get a true picture of what they have been through and how they have been made to feel. Some will tell you they were told to be thankful. That was my experience. After all, the EQC was painting some rooms in our houses, giving us a quick jack and pack. How many have heard the words, "You should be grateful. This is better than what you had before."

I still wonder what they meant – 'be grateful'. Grateful for what? We purchased insurance, entered into a contract and paid the EQC levy. We protected ourselves and paid for the security offered by legislation and insurance contracts. I am not grateful that legislation was diluted through use of internal policy. I am not grateful for big business dishonouring contracts. I am not grateful for the things done at the homeowners' expense, livelihood and sanity. No New Zealander should ever be expected to be grateful for that.

It is unforgivable that the National Governments (of which I was previously a paid-up member) appeared to refuse to listen and engage with the everyday people in this community. They shut us out, stopped listening and denied accountability.

Empowering people, educating them, and ensuring they have funded organisations to protect their interests is part of what, for me, is in the fabric of the being a New Zealander. Many times, it has felt like there is a proactive strategy to neither inform nor educate homeowners about the EQC insurance processes (Figure 14). The information coming out of the EQC was very often confusing, with untested positions stated as fact, and other things blatantly false. This environment was created by 'important' and 'influential' people being paid handsomely to bring this community back to life.

Denying information and education is a known tactic used throughout history. The less-educated are known to be more gullible to, and malleable by, those who wish to manipulate them. For instance, I know two examples where official bodies appear to have proactively denied homeowners access to information:

1. The cash settlement booklet (Figure 14). I recommend that you take time to review the booklet and the associated information trail. <https://www.eqcfix.nz/resources/> .
2. The removal of a video from the Kaikoura District Council Facebook Page because of possible pressure from the ICNZ (Small & Brown, 2017)<sup>18</sup>.

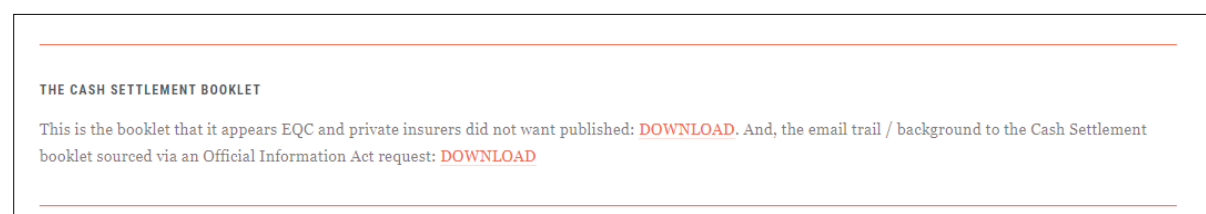


Figure 14: The cash settlement booklet that the EQC and the private insurers did not want published. The standard argument of 'every claim is different' appears at the heart of denying access to information that might help homeowners make informed decisions. Image sourced: <https://www.eqcfix.nz/resources/>

In this void of information, a group of homeowners, professionals, and practitioners, along with other interested people, decided to try to close the gap and share their knowledge, pro bono. The time gift from these people has been significant.

I take a totally different view to that of ex-Earthquake Minister Brownlee about homeowners and Facebook (Figure 13). Facebook has been a great source of relevant, helpful information for homeowners, as have lawyers sharing information pro-bono, public meetings

<sup>18</sup> I have a copy of the video.

and websites. Virtually all of it was done by members of the community who wanted to break through the isolation and the silence. Every little bit, I believe, has made a difference, one person at a time.

Already, he isn't big on the accountability side of the job. He refuses a face-to-face interview with the Listener, saying he doesn't want to be the focus of attention. After some toing and froing he

Former EQC Minister Gerry Brownlee refused an interview with John Campbell on unresolved EQC claims, because he believes the journalist too often offers his own opinions and cuts off answers.

Figure 15: Former EQC Minister Gerry Brownlee not wanting to discuss unresolved EQC claims. Images sourced: Laugesen (2011) and "Gerry Brownlee refuses interview with John Campbell", (2018). It has felt like a familiar pattern of denial<sup>19</sup>.

Underlying these initiatives was a goal to enable victims of EQC/insurers to come together, be connected, feel supported, and learn about their rights under the EQC Act and their insurance contracts. People needed to be able to move beyond the spin and get to the truth.

My own part in this was to create a platform to bring more information and knowledge to the community (Figure 16).

Event	Date
SouthernNoResponse - Claimants Meeting	11/02/2014
Homeowner EQ Insurance Issues - A Legal Perspective by Dr Duncan Webb	25/03/2014
Protecting Canterbury's Housing Stock - A Case Study With Adrian Cowie	07/04/2014
One Off Special Event - SUITABLE FOR ALL EARTHQUAKE CLAIMANTS	02/08/2014
4 YEARS ON IN CANTERBURY	04/09/2014
Just 4 Southern Response Claimants	22/10/2014
Focus EQC - Reduce the Risk of Devalued Home & Land	08/11/2014
Four Years On 2015 - Christchurch Earthquake February 2011	23/02/2015
Managing the Insurance Dilemma: Cash Settlements	25/05/2015
Know the Land You Have - A Forum for Canterbury Homeowners	13/08/2015
Canterbury Earthquake Repair Standards	10/09/2015
Collective Engagement of Experts	11/02/2016
Failing Earthquake Repairs - Requesting an Independent Inquiry	08/04/2016
PUBLIC MEEETING - EQC Action Group Win - What it means for you	12/05/2016
Creaky Homes Crisis - EQCfix.NZ Launch Event	11/08/2016
Taking Control of the EQ Claims Process - Sharing Knowledge from 2010 / 2011 Earthqua	23/03/2017
Owners of Pre-1970 Homes Repaired by EQC	26/06/2017
Demystifying Land Claims   EQC Failed Repairs	27/11/2017

Figure 16: This is a list of the meetings I organised to 'pay it forward', to close the information void, and to enable EQC/insurance victims to feel less isolated. The aim was to connect claimants with experts who could empower and support them.

<sup>19</sup> On 23<sup>rd</sup> February 2015, the John Campbell Show asked me to organise a meeting at the Shirley Boys High School. Minister Brownlee and others refused to attend, stating a security threat (reporting of the event is no longer publicly available).



Increasingly, numerous individuals in positions of authority, the same ones who were charged with protecting us and honouring our legislation, ignored the growing number of voices from within the affected community.

### Trauma Impact

We are still dealing with a disaster of significant proportions, not a natural disaster, but a preventable one. The affected individuals are now those who are least likely to recover financially from the EQC's failure to comply with the EQC Act. Subsequent owners of houses with failed repairs are the latest victims of the EQC, financially compromised, emotionally devastated. Even something as core to our society as an honest and transparent housing market is now threatened. Families have been torn apart, displaying high rates of anxiety and depression (refer Appendix Item: Listen and Learn – Philippa Coory). There will likely be suicides, some of which may be able to be attributed to mismanagement by the EQC (Keogh, 2018).

Any person associated with what the EQC did, any person who did not stand up and say, "Stop, this is wrong," must now confront their role in destroying lives, futures, and the community.

"The earthquakes have changed many aspects of daily life in the form of parents' distress, lack of certainty and EQC and insurance issues. The fabric of society here in Canterbury has changed and it is more stressful for many people.

"Children, as a result, suffer. They have new worries and have fewer supports from the adults around them. They become more insecure and more anxious."

Anxiety often affected children's behaviour and led to emotional difficulties and school and relationship problems.

Read more:

- [Canterbury quake damage raised heart attack risk](#)
- [Aftershock: The debacle of shoddy Christchurch earthquake repairs](#)

Figure 17: Long-term damage from parental distress around the behaviour and management of EQC must be researched and understood. Image from Keogh, (2018).

May I draw your attention to the 2002 study by Lewin, Carr, et al, "Recovery from post-earthquake psychological morbidity: who suffers and who recovers?". Whilst this study does not look at extended periods of trauma due to long years of being embroiled in what feels like an unwinnable fight with EQC and private insurers, it clearly indicates the health risks related to earthquakes. We need to understand the long-term consequences within our community from the distress and anxiety caused by the EQC, Southern Response and private insurers. Early indications are of serious concern, refer Keogh, (2018).

If you read this and you attended the EQC meeting on the 15<sup>th</sup> March 2018, you know that the stress, the anxiety, and the heart-breaking trauma of the victims of the EQC and private insurers is difficult to describe. This is simply unforgiveable.

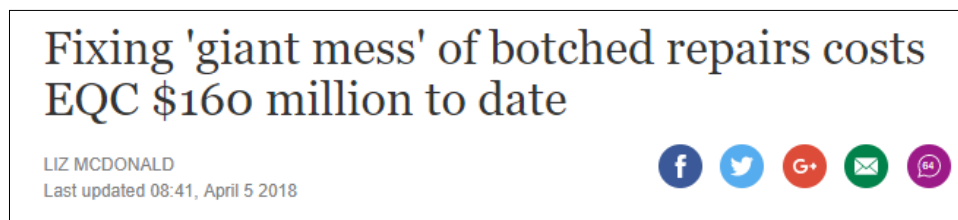


Figure 18: “Thousands of EQC repairs, project managed by Fletcher Building, are thought to be faulty or inadequate and EQC currently has over 1200 such cases open. It is also facing more than 300 court claims from homeowners, from a total of 684 cases filed since 2010, with more in the pipeline.” Sourced: <https://www.stuff.co.nz/the-press/news/102831967/fixing-giant-mess-of-botched-repairs-costs-eqc-160-million-to-date>.

### Balancing the Equation

There is another aspect that I feel compelled to mention. It relates to future-proofing our homes and our lives. Money is passing to and from the EQC and private insurers with no records of the history of the work that was done (or not done) on our homes. This is fundamentally wrong and needs to be addressed. Every house needs a complete record of damage and repairs.

Over the years, I have learnt a lot about insurance contracts, in-policy cash settlements and discharge of claims. When dealing with private insurers, homeowners need to be able to discharge their claims and take out-of-policy cash options. This is part of our rights and well managed by contract law. However, if an out-of-policy cash settlement is agreed between the parties, it does not seem right for there to be no public record of the damage alongside whether the house or land were actually repaired, and if so, to what standard.

I am a firm advocate of quality histories being recorded on each property. If people elect to discharge claims and on-sell property, any future owners must not be disadvantaged by not being able to source accurate information.

At least one property owner I know of, who had a home that was declared a rebuild, who agreed to an out of policy cash settlement, demolished the property and sold the bare land. They did this because “they did not want their ‘children’ to be at future financial risk with the home remaining in the market, with no records of its earthquake history”.

There must be competent and detailed reporting on land, drainage, foundations and repairs. As a community, we cannot, and should not, allow any future property owner to bear any risk because of a current owner's right to discharge earthquake claims with their private insurer.

Regarding the EQC component of a claim, I hold a similar view, but take a much stronger position. There must be an absolute requirement to maintain records of work, and for those records to be centrally available for residents and Councils alike. This is particularly relevant for house-to-street storm water and sewage repairs.

### **The Problem**

We are tired of hearing about complex claims and the excuse of an 'unprecedented event'. If we look at how the EQC ended up in this situation, does the explanation become simple?

There was proactive use of internal policy to reduce the EQC's liability to homeowners who lodged earthquake claims. This was most likely achieved by:

1. Reducing the reinstatement standards / entitlements in the EQC Act.
2. Creating an internal culture which supported models geared towards reducing the cost of claim settlements made by the EQC.

Recently, I spoke at length with an ex-employee of the EQC. He had reached out to me. He walked me through his understanding of what the EQC is required to do when a claim is lodged. He talked at length about his knowledge of the legislative reinstatement standard and land claims, which appeared to align with the EQC Act. He made comparisons between what he saw before the 22<sup>nd</sup> February 2011 quake and after. He holds a view that he and others who worked for EQC prior to the 22 February 2011 quake were deliberately removed from EQC's employment. He said he felt their viewpoints were not welcome in the organisation<sup>20</sup>.

It will take extensive research to identify all the details of why this went so horribly wrong. For now, here are my thoughts on how we got here:

1. EQC using insurance models to reduce EQC liability.
2. EQC using internal policy to dilute legislation.
3. EQC training employees and contractors per internal policy rather than the EQC Act.

---

<sup>20</sup> He would be willing to speak in a confidential setting.

4. EQC shutting the homeowner out of the process.
5. EQC using PR to create a story that did not represent the reality of the homeowner.
6. EQC relying on untested advice, stating it as fact, even when challenged by more knowledgeable professionals and lawyers.
7. EQC taking advantage of a homeowner's financial and knowledge vulnerability, alongside the high cost of justice.
8. EQC taking advantage of a homeowner's isolation, i.e. homeowners not knowing where to go, who to use, what to ask, who to trust.
9. EQC taking advantage of a homeowner's lack of resources compared to EQC's significant resources. For example:
  - 9.1 EQC had significant financial resources compared to the average homeowner.
  - 9.2 EQC had significantly more time to deal with claim issues compared to the average homeowner.

The EQC and private insurers have run unchecked, hiding behind big budgets and security companies, and relying on untested advice and professionally crafted spin. In my view, many of the people in and around these organisations have conducted themselves with minimal regard for past, present and future homeowners. Little consideration, in my view, was shown by Minister Gerry Brownlee, ex-Minister Bill English, ex-Prime Minister John Key, Mr Ian Simpson, Sir Maarten Wevers and others to the impact of exposure to long-term, repeated trauma occurring in an EQC victim's home and daily life.



Figure 19: Dr Duncan Webb meeting with earthquake claimants concerned about the handling of their claims. 19<sup>th</sup> March 2018. Image sourced from: <https://www.facebook.com/DuncanWebbLabour/>.

In my view, for seven years, culpable individuals and organisations used profit and cost as their compass, resulting in many layers of injustice, all of which were preventable. This is a large-scale public-interest issue which, in New Zealand, anyway, should carry more weight than corporate interest (Figure 20).

People are distressed. They are desperate to fix a problem that they didn't cause, but for which they are bearing immeasurable and life-changing consequences.

As successive elements of the rebuild devolved to local management, EQC seemed increasingly like a throwback to the bad old days of tight-lipped, defensive organisations that did not always seem to have local interests at heart.

Even outgoing chairman Sir Maarten Wevers' parting letter to EQC Minister Megan Woods reeked of defensiveness. In what seems an arch tone, he wrote that "I should not have to remind you that repairing houses is not, and never has been, part of the Earthquake Commission's role, and we embarked on that pressing national need from a standing start – with no suitably experienced staff, systems, capabilities or partners".

Figure 20: Sir Maarten Wevers sounding like a defensive throwback to the bad old days. A key player charged with caring for a traumatised and vulnerable community ("*EQC culture change is long overdue*", 2018).

## Discussion

After experiencing a natural disaster, people are vulnerable. They will look to government for aid and support in the recovery phases.

The EQC Act is a key component of a post-disaster reinstatement tool kit for insured New Zealanders. The EQC's first of three high-level objectives states, "New Zealanders rely on the EQC to provide efficient claims management in the aftermath of a disaster." (Figure 21).

### 1. Efficient management and settlement of claims

New Zealanders rely on EQC to provide efficient claims management in the aftermath of a disaster. This objective for EQC is to deliver levels of service acceptable to claimants and their representatives in local and central government. This involves timeliness and accuracy in lodging, assessing, quantifying loss, settling and resolving claims.

Figure 21: The EQC's first of three high-level objectives ("*Our role*", 2018)

A key word comes to mind when I read the EQC's objective titled 'Humanitarian'.

'Humanitarian' can be used as an adjective or a noun. As an adjective, 'humanitarian' means having concern for, or helping to improve, the welfare and happiness of people, and the alleviation of suffering. When used as a noun, it refers to a person who is actively engaged in human welfare and social reforms. ("*Humanitarian*", n.d.)

Every aspect of the EQC, every part of the dedicated unit established to resolve Canterbury claims (Figure 22), as well as every person associated<sup>21</sup> with EQC, must now be measured against humanitarian objectives. All objectives must conform with best practice, such as the goal-setting theory established by Dr Edwin Locke and Dr Gary Latham (Mindtools, n.d.). As a community, we expect to see specific, measurable, clear and concise goals that are made public, with every single person within EQC held visibly accountable.

All remaining Canterbury earthquake claims will transition to a dedicated Canterbury Business Unit (CBU) from early March. The standalone nature of the CBU, and the introduction of Settlement Specialist roles, will deliver end-to-end case management and a single point of contact for customers.

Figure 22: The EQC must be managed using publicly notified key performance indicators (KPI's), with all staff accountable for any failure to deliver to the KPIs. Image from *"Message from Chief Executive Sid Miller,"* (2018).

We are seeing severely traumatised people in our community who have lived in a state of perpetual anxiety and stress for seven years. Many will tell you they feel bullied, intimidated and at risk. Added to that, we have a new group entering the trauma experience -- subsequent owners. The behaviour of the EQC needs to change immediately. The EQC needs to stop, listen and learn.

In Mazey & Richardson, (2018) they reference post-war policy style. This was a style that would be extremely beneficial following a natural disaster, and one that will likely be required to rescue Canterbury homeowners from the failings of the EQC. The style has three main features:

1. "a recognition that interest groups, biased though they are, generally know where the shoe pinches. They often know what will work and what will not (mental health professionals being a case in point here in New Zealand, as the mental health inquiry gets under way)."
2. "the process was run by professional civil servants whose role was not to say 'yes, minister', but to warn them that that their latest bright idea might not actually work. If the Emperor has no clothes, someone needs to say so, and modern civil services used to be jolly good at that."
3. "the policy process was characterised by deliberation, by which we mean reflecting on the – often conflicting – evidence collected via review bodies, and taking time to generate and evaluate competing options for action."

---

<sup>21</sup> Includes all public servants, local and central government.

Doing things differently must start with the people at the top. Sadly, as a TVNZ report shows, little appears changed regarding the EQC's approach to publicly stating untested points of law. For example, in the report, Mr Sid Miller, the recently appointed CEO of the EQC, uses an untested point of law when he states that the EQC's "hands are tied due to their liability cap" when discussing the EQC's position to under-scope or EQC-repaired homes (Pugh, 2018).

Whilst this position may eventually prove to be correct (after legal deliberations), at this stage it is unknown and untested. I know this. A great number of homeowners know this. I trust that Miller sought advice before stating a position on behalf of the EQC. To me, however, this statement indicates an urgent need to look at where the advice is coming from and the motive behind such statements. Concerningly, Miller's statement conflicts with the Government's position, which was stated in the same article. "The Government is working on getting declaratory judgments to clarify where liability sits in such cases," (Pugh, 2018). I shudder to think of the distress that Mr Miller unknowingly caused by relying on an untested legal opinion.

Heidi Barlow, a new EQC hire for the dedicated Canterbury business unit, did something similar to Miller in McDonald, (2018). Barlow states, "If someone gets their own independent report carried out, then this will be at their expense. This is a requirement under the EQC Act." This is correct. However, Barlow went on to say, "EQC might reimburse expenses that identified damage it had missed, or that proposed a repair strategy EQC agreed with." (McDonald, 2018). Again, this appears to reflect someone's untested opinion. I point you back to Mazey & Richardson, (2018) who point out that "hurriedly-designed public policies are, at best, equivalent to placebo medication, and, at worst, do far more harm to the patient than good". I suspect the same can be applied to untested legal opinions being stated by employees of the EQC.

For me, if it is proven that the EQC was negligent in assessing and repairing homes, then it is highly probable that the EQC will be liable for associated damages. As with the Miller example, the Barlow example, in my view, also requires a declaratory judgement before a definitive position can be struck.

Building on Barlow's statement, I would like to draw your attention to "Pack 1 Remedial Description Form V04\_0", found on EQC's website. It states, "EQC requires you to complete all sections of this form". I am befuddled as to how the average homeowner could competently complete "Pack 1 Remedial Description Form V04\_0" to meet the EQC's

requirements without paying for professional assistance. This is a blatant example where the EQC demands that homeowners complete all sections of a complex form, but, by Barlow's statement in McDonald (2018), the EQC only "might" reimburse any expenses associated with doing so. It is a no-win-for-the-average-person conundrum that typifies the EQC.

My point is that the EQC is still significantly off track. It still appears to be ill informed. It is still disconnected from the community. It has not recognised or engaged with any of the many interest groups or individuals who, according to Mazey & Richardson, (2018) know what will and won't work (refer Appendix item: Listen and Learn – Recommendations – Jake Preston).

### **Southern Response**

Everything I have written above equally applies to Southern Response, with some additions.

- Southern Response engaged in a practice to discharge claims without full disclosure of all scopes / DRAs.
- Southern Response claimants still feel stonewalled by Southern Response. They often feel that there is no recourse but to engage lawyers and litigate.
- Southern Responses used Thompson and Clark Investigations Ltd to monitor claimants.
- I sat in a meeting with a claimant and observed the claims manager attempting to convince a claimant to accept a discharge of a claim. The claims manager:
  - \* Did not use the term 'discharge of claim', nor did they explain it or advise the claimant to get legal advice before signing.
  - \* Implied that the 'cash settlement' being offered was an in-policy offer. It was not.

### **Politics and Natural Disasters Do Not Mix**

In Pugh (2018) the headline reads "The Earthquake Commission has admitted to 1 NEWS there could be thousands of homeowners in Christchurch whose homes have extensive quake damage that they're unaware of."

On the 4<sup>th</sup> April 2018, Simon Bridges, Leader of the National Party, said he did not believe that an inquiry into the EQC was necessary (*Inquiry into EQC unnecessary, Simon Bridges says*). (2018). The next day, Gerry Brownlee said, "You've got to be very careful that you don't start disparaging the reputation of the outfit based on a small number." (Tibshraeny, 2018).



Reilly & Rosenthal, (2011) state that a claim delayed by even one month can spell financial disaster for some families. With the EQC admitting “there could be thousands of homeowners in Christchurch whose homes have extensive quake damage that they're unaware of”, the EQC’s associated demand that homeowners pay for reports to prove that EQC under-scoped their homes<sup>22</sup> (by way of “Pack 1 Remedial Description Form V04\_0”, insurers denying liability for assigned claims<sup>23</sup>) suggests there is an unprecedented financial disaster being experienced by Canterbury families. We call it the ‘Creaky Homes Crisis’.



One New Zealand family financially and emotionally ruined because of the EQC and the insurance industry is one too many. It is looking like we will have 1000s. These are not small, nor are they are just numbers (Tibshraeny, 2018). They are people. They are Kiwis. They are grandmothers, grandfathers, mothers, fathers, husbands, wives, children and babies.

It is time for the politicking to stop. It is time to listen. It is time to stop hiding behind spin to sell a story to the rest of New Zealand. It is time to be multi-partisan. It is time for politicians to use fact! -- fact that is transparent, honest and sourced from the people in this community.

On behalf of the Government, let me be clear that no one will be left to walk this journey alone.

New Zealand will walk this journey with you. We will be there every step of the way.

Christchurch; this is not your test, this is New Zealand's test.

I promise we will meet this test.

Figure 23: Prime Minister John Key's promise to Christchurch. Sourced from: “*John Key's full speech*”, (2011).

<sup>22</sup> Cost they only “might” get back, according to Barlow in McDonald, (2018).

<sup>23</sup> A technique used extensively in the property market to sell homes.

## Future Risk

This bothers me a lot. By now, you know that I want to see quality data on homes, but I also expect quality repairs that adhere to the EQC Act and insurance policy. This seems reasonable. So where does all this leave homeowners if there is a future disaster?

I suspect that the plethora of information that now exists (Figure 24) will be added to the EQC and insurance industry's arsenal of 'delay, deny, defend'. Take a pre-1970s home with a rubble foundation, with an epoxy-resin repair which is known to the EQC (they repaired it, after all). I can already hear, **"Future claim denied due to existing damage / inadequate repair."** The lay person will say, but hey, that is unfair. Yes, it is very unfair. But the EQC will likely argue that issues with a repair strategy needed to be resolved as part of the 2010 / 11 claim. Ask Dean Lester. He has seen it happen already.

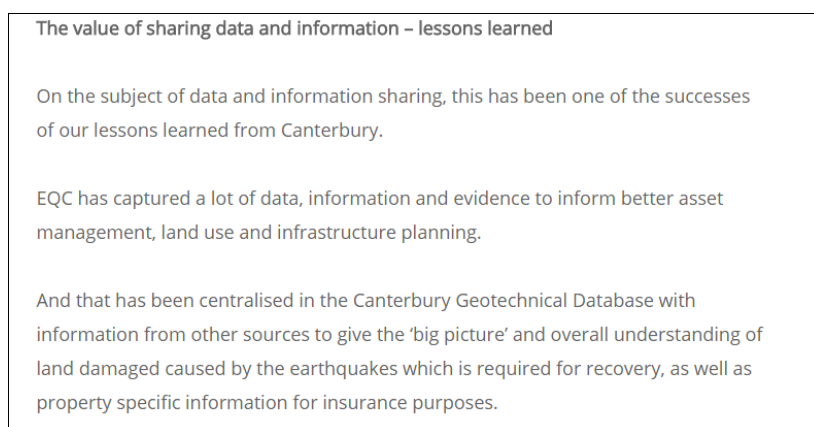


Figure 24: We need to question how the EQC will view its own repairs in the future, more so now with the universal acceptance that MBIE Guidance does not apply to rubble foundations. Remember, the EQC has relied on this Guidance for rubble foundations. Image source from: <http://www.scoop.co.nz/stories/PA1511/S00170/gerry-brownlee-speech-to-the-insurance-council-conference.htm>

## Summing Up

People's homes are their safe places, their sanctuaries. Homes represent hopes, dreams, love and family. Now, however, many of our homes have become our heartache, our place of hurt. We have no retreat, no peace. We see and live with the pain each and every day, while those we think caused it respond with silence or denials.

There needs to be balance and fairness for both sides. I want the EQC and insurers around for the long haul.

However, there must be robust measures to ensure that the EQC and private insurers are socially responsible and accountable. Some of our political parties must stop ‘buggarising around, carping and moaning’, and become multi-partisan, because one family torn apart or one life lost is one too many.

We are not ‘small’ and we are not ‘numbers’. We are Kiwis. We are grandmothers, grandfathers, mums, dads, husbands, wives, children and babies. We own homes, rent homes, work hard, pay bills, have insurance.

Stop, listen and walk with us.



STACY SQUIRES/FAIRFAX NZ  
Earthquake claims were discussed at a public meeting at the Transitional Cathedral. Pictured from left are: lawyer Duncan Webb, Dean Lester, Cam Preston, Peter Sparrow and Peter Woods.

Figure 25: An image from one of the many meetings organised to help homeowners.  
Imaged sourced Stylianou & Truebridge (2016).

## About the Author

My home was identified as a failed repair in 2012. I had to sign a confidentiality agreement to reach settlement. My experience caused me significant distress. It is still impacting my life. I was fortunate to receive information that changed how I approached the insurer. One little thing that one person told me meant that we survived financially. Emotionally, it was devastating. It still is.

After attending the Southern Response protest organised by Steve Gurney in 2013, I decided to use my skill and pay it forward. I felt so strongly that other people needed access to the type of information that helped me make better decisions. I took the plunge and set up my first public meeting, and so it began. In 2015, I began working with Peter Woods and others, resulting in the establishment of EQCfix.NZ, launched in 2016.

Over the last six years, I have lived with significant stress and trauma. I have been accused of self-interest, been called a conspiracy theorist and more. I have lost time I will never get back with my family. I have spent hundreds of hours organising meetings. I stepped back from paid work to dedicate time to what I felt was a significant issue for my community. Twice I have been speaking at large public meetings only days after surgery.

Hopefully, the time has come when others will share our burden so we can achieve a moral, ethical and rightful outcome. We should all be building a solution together, one that is fair and respectful to the victims of the EQC, Southern Response and private insurers, one that gives us our lives back.

We need to learn some important lessons and never ever treat a community like this one has been treated.

Like so many others, I would absolutely prefer to live without the stress of unresolved EQC and private-insurer claims with the EQC. I would like my phone calls and emails answered. I have three claims, two from Canterbury and one from Kaikoura.

I have owned a successful business, worked on large-scale change projects, developed strategic plans and navigated organisations through complex change. I hold a Bachelor in Applied Business Management, endorsed in Change and Transformation.

Mel Bourke

Email: [melanie@visibleskies.com](mailto:melanie@visibleskies.com)

Phone: +64 21 449 584

## References

- "EQC culture change is long overdue". (2018). Retrieved from: <https://www.stuff.co.nz/national/politics/101925620/editorial-an-eqc-culture-change-is-long-overdue>.
- "EQCfix.NZ Social Justice Project Launch" (2015). Personal copy of presentations held by Bourke M.
- Gates, C. (2018). "*Christchurch Cathedral mess a 'bloody disgrace'*". Retrieved: <https://www.stuff.co.nz/the-press/news/102840378/christ-church-cathedral-mess-a-bloody-disgrace>.
- "Gerry Brownlee refuses interview with John Campbell". (2018). Retrieved from: <https://www.radionz.co.nz/national/programmes/checkpoint/audio/2018634105/gerry-brownlee-refuses-interview-with-john-campbell>.
- "Humanitarian" (n.d.). Retrieved from: <http://www.dictionary.com/browse/humanitarian>.
- Hutching, C. (2016). "*EQC declaration sets 'as new' standard for repairs and cash settlements*". Retrieved from: <https://www.nbr.co.nz/article/eqc-declaration-sets-new-standard-repairs-and-cash-settlements-ch-188280>.
- "Inquiry into EQC unnecessary, Simon Bridges says". (2018). Retrieved from: [https://www.youtube.com/watch?v=K\\_2CjiUG6Vc](https://www.youtube.com/watch?v=K_2CjiUG6Vc).
- "John Key's full speech". (2011). Retrieved from: <http://www.stuff.co.nz/national/christchurch-earthquake/4694016/John-Keys-full-speech>.
- "Joint Statement between EQC Action Group and the Earthquake Commission". (2016) Retrieved from: <https://www.eqcfix.nz/joint-statement/>.
- Keogh, B. (2018). "*Canterbury earthquakes: Kids born after disaster inheriting trauma from parents through DNA, schools dealing with more behaviour issues*". Retrieved from: [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=12022751](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=12022751).
- Laugesen, R. (2011). "*The power of one*". Retrieved from: <https://www.noted.co.nz/archive/listener-nz-2011/the-power-of-one/>.
- Law, T. (2017). "*Failure to fix home sewer pipes concerns Christchurch City Council*". Retrieved from: <https://www.stuff.co.nz/the-press/business/the-rebuild/91610988/Failure-to-fix-home-sewer-pipes-concerns-Christchurch-City-Council>.
- Lewin, J, Carr, V.J., Webster, R. A. (2002). "*Recovery from post-earthquake psychological morbidity: who suffers and who recovers?*" Retrieved from: <https://onlinelibrary.wiley.com/doi/pdf/10.1046/j.1440-1614.1998.00380.x>.
- Mazey & Richardson. (2018). "*Taking your time and being deliberative can avoid policy blunders in a wired world*". Retrieved from: <https://www.stuff.co.nz/national/politics/102534509/taking-your-time-and-being-deliberative-can-avoid-policy-blunders-in-a-wired-world>.
- McCrone. (2016). "Did EQC save big on Christchurch's land claims?". Retrieved from: <https://www.stuff.co.nz/the-press/news/82612169/Did-EQC-save-big-on-Christchurchs-land-claims>.
- McDonald, L. (2018). "*Homeowners with botched repairs left out of pocket for reports*." Retrieved from: <https://www.stuff.co.nz/the-press/news/102392671/homeowners-with-botched-repairs-left-out-of-pocket-for-reports>.

- "Message from Chief Executive Sid Miller". (2018). Retrieved from: <https://www.eqc.govt.nz/news/message-from-chief-executive-sid-miller>.
- Miles, S. (2012). *"The Christchurch Fiasco: The Insurance Aftershock and Its Implications for New Zealand and Beyond"*. Dumore Publishing.
- Mindtools. (n.d.). Retrieved from: [https://www.mindtools.com/pages/article/newHTE\\_87.htm](https://www.mindtools.com/pages/article/newHTE_87.htm).
- "Our Role". (2018). Retrieved from: <https://www.eqc.govt.nz/about-eqc/our-role>.
- Pugh, A. (2018) *"Thousands of Christchurch homeowners 'in limbo' over unknown quake damage"*. Retrieved from: <https://www.tvnz.co.nz/one-news/new-zealand/thousands-christchurch-homeowners-in-limbo-over-unknown-quake-damage>.
- Reilly, M. & Rosenthal, M.J. (2011). *"Insurance Claim Delays Deliver Massive Profits To Industry By Shorting Customers"*. Retrieved: [https://www.huffingtonpost.com/entry/insurance-claim-delays-industry-profits-allstate-mckinsey-company\\_n\\_1139102](https://www.huffingtonpost.com/entry/insurance-claim-delays-industry-profits-allstate-mckinsey-company_n_1139102).
- "Rubble foundations could be 'multi-billion-dollar problem' for Canterbury homeowners". (2017). Retrieved from: <https://www.stuff.co.nz/the-press/business/the-rebuild/94096139/Rubble-foundations-could-be-multi-billion-dollar-problem-for-Canterbury-homeowners>.
- Small, J. & Brown, P. (2017). *"Insurance Council asks Kaikoura District Council to pull video from its Facebook page"*. Retrieved from: <https://www.stuff.co.nz/the-press/news/91005273/insurance-council-asks-kaikoura-district-council-to-pull-video-from-its-facebook-page>.
- Stylianou & Truebridge. (2016). "Ruling EQC must repair to 'when new' standard has 'implications for thousands". Retrieved from: <https://www.stuff.co.nz/the-press/business/the-rebuild/79385349/eqc-must-repair-to-when-new-standard>.
- Van Beynen. (2015). *"EQC wasn't equipped to deal with the middle classes"*. Retrieved from: <https://www.stuff.co.nz/the-press/opinion/72139804/eqc-wasnt-equipped-to-deal-with-the-middle-classes>.
- "What is Insurance" (n.d.). Retrieved from: <https://www.icnz.org.nz/understanding-insurance/the-basics/>.

## Appendix Items

### Listen and Learn My Story – Elissa Urquhart

My name is Elissa Urquhart and I fought EQC for five years. Our claim was easy and straightforward. Our house tilted, yet it took five years to get a proper set of levels done. EQC were planning on cash settling us for \$25,000. Our house ended up being a complete rebuild.

My kids were traumatised through the earthquakes. I should have been able to focus on their wellbeing, and not fight EQC. The fight with EQC was horrendous beyond description. The fight become overwhelming, and totally consuming. The stress was debilitating. In the whole 5 years of fighting, we had almost one Dr's app every 2 weeks, as the stress took its toll. I exhausted every avenue to progress my claim, but EQC were stonewalling me the whole time.

In the end, I decided the only way to end the fight was to do a public hunger strike. I began putting my plans in place (I would send the kids out of town for the duration and I also saw a psychologist to talk my plan through). My neck started hurting immediately. My GP told my it was because of stress. Eventually the skin on my neck tore open and I was left with a hole that dripped pus. It was incredibly painful, and I had to wait six months for surgery. Some days I couldn't move my head...some days I lay on the couch for hours in so much pain. This is what stress can do to the body. Surgery wasn't easy. I lost over a litre of blood, collapsed in the hospital and was tube fed for one week. I now have a scar right over my throat.



Figure 26 This is my EQC scar.

I can't explain the entire story in a few words, but I have always wanted my story heard. My story is the same as thousands of others, and in my opinion, all their stories need to not only be heard, but to be recorded. This is what happened to us after a natural disaster..this is what a Government chose to do to us.

*Elissa*

### Listen and Learn My Story – Jaed Hart

From an EQCfix.NZ Facebook Post 1 March 2018.

#### **HEADS UP FELLOW EARTHQUAKE VICTIMS!**

Here's OUR latest update that has totally blown us away! We are FINALLY at a settlement stage where we could walk away from this hell and either repair or rebuild!

The settlement agreement will not allow us to sell 'as is, where is'. We MUST stay where we are and put all funds into our home. We are ok with that. We only ever wanted our home reinstated.

However, as we now live in a flood zone (and it flooded, causing further damage to our home), the repair strategy to lift is unviable, so a rebuild is the only real solution to be made whole again.

But here is the cruncher... We had a meeting with the bank and we will have to pay back our entire mortgage, and they will NOT re-lend us the money because of our age and income! That then forces us to breach our settlement agreement ...

Five years of litigation, and the bank says taaaaaaaaahhhhhhhhhh! Twelve years of paying interest based on a 30-year loan! (We have actually paid back what we borrowed minus the interest). So, all the engineers' fees and lawyers' bills and other expenses over the past five years, to get to here, and it gets taken from you! The bank needs to protect their interest! Well, where the hell have they been during the past seven years? I never missed a payment!

I will never get the last seven years of absolute stress and struggle back... But I STILL will not have my home reinstated! I will be stuck in an unsafe home - near an earthquake faultline, in a flood zone UNINSURED!

So here's a heads up! No one has told us of THIS scenario, but it's apparently very 'common'.



### Listen and Learn – Philippa Coory

*Philippa Coory is a homeowner whose insurance claim took just under four years to be recognised by the EQC as being overcap. Today Philippa is still struggling with health issues as a result of being forced to live in unacceptable conditions for seven years following the Canterbury 2010 earthquake.*

*Philippa ran two Facebook groups and was active in producing material to help get the message through that people were suffering living in damaged homes, and were being neglected. In 2017, she collated stories from 75 homeowners into a book which she titled 'The Truth About the EQC', so people could learn more about the ongoing problems and find a solution.*

*Access the ebook by going go to EQCfix.NZ's Bookshelf: <https://www.eqcfix.nz/bookshelf/>*

Property Owner 1 – We Are Not the Same People.....	14
Property Owner 2 – Nora's Story.....	19
Property Owner 3 – I Wanted to Bop Him One .....	22
Property Owner 4 – Lied to, Ridiculed and Laughed At.....	24
Property Owner 5 – My Claim is Still Not Resolved.....	26
Property Owner 6 – Three Engineer Reports Not Accepted by EQC .....	27
Property Owner 7 – Failed to Take On-Board How Unwell We Were.....	28
Property Owner 8 – Seventh Winter Trying to Keep Warm .....	30
Property Owner 9 - Inept and Callous Treatment .....	32
Property Owner 10 – I Feel Still Very Vulnerable .....	37
Property Owner 11 – Suffered Severely with Anxiety .....	39
Property Owner 12 – Five Years of Constant Fighting with EQC .....	41
Property Owner 13 – Let's Talk Repair Standards .....	43
Property Owner 14 – A Shoddy Half-Arsed Job .....	45
Property Owner 15 – EQC Refused to Listen .....	46
Property Owner 16 – Unveiled Threats of Consequences.....	47
Property Owner 17 – Labelled as a Troublemaker .....	52
Property Owner 18 – Anatomy of a Failed Repair .....	58
Property Owner 19 – Awaiting EQC to Chase Me.....	63
Property Owner 20 – They Always Seemed to Change the Goalposts .....	68
Property Owner 21 – Hope I Never Have to Deal with EQC Again .....	73
Property Owner 22 – Lessons Learnt from EQC's Performance.....	76
Property Owner 23 – As Many Questions Might Be Asked.....	78

Figure 27: A snapshot from the table of contents in the ebook compiled by Phillipa Coorey. Even just one homeowner placed in hardship (financial, physical or emotional) by the EQC is one too many.

**Listen and Learn My Story – Nikki Ross**

On the 22<sup>nd</sup> February 2011 I was working as an Emergency Department nurse at the Christchurch DHB. I was immediately aware of the devastation “this one” had caused. The level of injury, and ultimately death, was like nothing I had experienced in my long nursing career. I gave my all that day, and the next, and the next, to help those who could be helped. I thought that would be my “earthquake” story.

Our house was terribly damaged on that day, but my whanau was safe! We would be ok - we were well insured. The house was uninhabitable, so we moved out to our wee 13ft caravan in Woodend.

After 14 weeks, it got cold in that caravan. We couldn't access emergency repairs, so my husband “fixed” the house enough for us to move back in. Dysfunctional toilets, no power in half the house and waterfalls through the kitchen roof when it rained! Our son's bedroom ceiling collapsed during one January aftershock.

EQC proportioned us.... we fought hard. Two years in, I was diagnosed with cancer and given a poor prognosis. We simply gave up the fight! Just fix us please, EQC/EQR.

Our repair began in June 2013. “Six weeks” they promised. We moved back in 22 weeks later! Fast forward six months. Floor levels were all out - we had cracks forming!

Then, unbelievably, I beat the cancer!

It was time to fight EQC again. This would be a battle that was harder than fighting for my life!

2016 - five years since that terrible day, our repairs of repairs started. One year later, on 4<sup>th</sup> February 2017 our builder walked off the site - he deemed the house unrepairable. He wouldn't put his name to it.

EQC conceded. This ruined wreck of a house sitting on TC3 land was indeed unrepairable.

It took a ‘mere’ 12 months more, the involvement of the opposition Minister of Parliament, the media, the threat of legal action and weekly (sometimes daily) emails to finally reach a fair solution.

On Thursday 22nd February 2018, at 3pm, a resolution was reached between EQC, our insurance company and us!

2,557 days, seven years to the day since our claim was lodged! Our son was at preschool on the day of the quake. He's in intermediate school now. Our daughter was in her first year of NCEA, and now she has graduated from university and is a fully qualified paramedic.

It was over....

No more delays, denials or false defence...that is, until we asked our insurer for a refund of the premiums we had paid since the date of our claim. Our insurers agreed we were entitled to a refund of a proportion of our premiums, but only after informing them of my intent to contact the media

*Ko Nikki Ross toku ingoa.*

- <http://www.stuff.co.nz/business/82444831/eqc-botches-repair-ignores-application-to-cover-accommodation-costs>
- <https://www.radionz.co.nz/national/programmes/checkpoint/audio/2018629843/eqc-botches-rebuild-of-quake-damaged-chch-home-twice>
- <https://m.youtube.com/watch?v=fpKh89Gjle8>
- [https://www.youtube.com/watch?v=\\_0GdUnylYRg](https://www.youtube.com/watch?v=_0GdUnylYRg)
- <http://www.radionz.co.nz/news/national/354313/brownlee-s-claim-that-repairs-weren-t-botched-outrageous-lawyer>

### Listen and Learn – A Red Zone Story

*The author asked to be anonymous but is happy to provide their name on request.*

On the day of the quake, my family and I ran outside. The ceiling was breaking up. The road was covered in sewage. We stayed with friends that night. The next day, we went back to get our pets. We opened the door and they came running. The house was so badly damaged. The floor had separated from the walls. It was so twisted we could not get inside.

We had nowhere to live. The insurance company told me we would never be going home. We left Christchurch in sewage-covered clothes. For the next four months we stayed in motels, not knowing where we would be sleeping the next night.

We were traumatised. In total shock. We had left behind loved ones and friends. We had no support systems. When I heard John Key say he would walk with us and no one would be worse off, I felt reassured. I never dreamed this would still be with me seven years later.

Due to the ongoing quakes, the Insurance company said they could not start the rebuilding process. Then along came 23 June 2011. The Red Zone.

We were put in an impossible position. "If you do not take the offer," I recall Mr Brownlee said, "you will be forced out of your homes and paid a value the government will decide the land is worth on the day they acquire the land." How could I make a good decision on top of the trauma experience?

In the end, I was paid out on a 2007 valuation for the land. I could not argue with it. On my GV it said I had a single-storey home, whereas I had a two-storey home. The GVs were years old. Maybe if I had been able to rush in and buy bare land quickly, I might have been OK. But market forces were at play, and the demand was high. My reality was I was not able to buy another piece of land anywhere in Christchurch for the money the Government paid me.

We were renting and paying a mortgage. The banks would not lend money for land, not just because of our extra outgoings but because the banks were not lending – no insurance on land without a foundation. The insurance companies would not insure or build because of the ongoing earthquakes. Making it worse, my insurance policy said I had to rebuild on the same land.

A decision was made by someone in 'authority'. Insurers had to only to pay red-zoners the costs to rebuild on TC1 land, not the costs to build on land that needed more complex

foundations. This means a saving to the insurer – they did not have pay to costs to rebuild on TC3 or TC2 land.

When I was feeling confident enough to hunt for a site to build a home most of the TC1 land in the marketplace was now owned by developers, or sold to other red-zoners. As I struggled to make decisions the cost to build had risen by \$100,000.

We had many more rentals, at ever-growing costs, most with a much lower living standard than we had before the earthquake. Legal bills, more rentals, moving costs and stress. Not knowing from one minute to the next about a roof over our heads.

Not only did we lose our home and contents, we had to endure theft and squatters. Eventually our home was burnt down by someone putting a stolen car in my garage and setting fire to it. I had lost so much. My family and I can never go back to retrieve our memories. Other people in our lives were also affected. My mum had dementia. I could not take her to the rental houses we had to live in because she was too frightened. There was no furniture she recognised. Nothing at all, actually. I never got to show her our new home, because she died within two weeks of us moving in.

My children and I were traumatised and stressed. We could not get on with a normal life, living and studying was a challenge.

There is not a day that goes by that I am not upset about the way the Government treated me and my family. I am financially worse off. I had to borrow \$200,000 to get another piece of land, smaller than what I had before.

John Key, in one of his early speeches on the news after the 22nd February 2011, said, “I promise that no one will be worse off as a result of this earthquake. We will walk with you.” But, I am worse off.

There are some things that really trouble me. One is there was a promise made, refer Figure 28. I have been asking and asking and asking to find out about the payment made to the Crown. I do not get an answer. I think that means the Government has not completed the sale process. The Government has not met its promise to me and others.

<b>Option 1</b>	<b>Option 2</b>
<ul style="list-style-type: none"> <li>• Your land.</li> <li>• The buildings and fixtures on your land.</li> <li>• Your EQC claims for the damage to your land.</li> <li>• Your EQC and insurer claims for any damage to the buildings and fixtures on your land.</li> </ul>	<ul style="list-style-type: none"> <li>• Your land.</li> <li>• The buildings and fixtures on your land.</li> <li>• Your EQC claims for the damage to your land.</li> </ul>
The 2007/08 rateable value for your land, buildings and fixtures less:	The 2007/08 rateable value for your land less:
Any insurance payments paid directly to you for your land, buildings and fixtures that you have not spent on repairing your land, buildings and fixtures. If you have received any direct payments you will need to provide evidence of the amounts that you have spent on repairs.	<ul style="list-style-type: none"> <li>• Any insurance payments that you have received for your land that you have not spent on repairing your land.</li> </ul>
Any adjustment required because your property is underinsured.	<ul style="list-style-type: none"> <li>• Any rates or charges for your property that you have failed to pay.</li> </ul>
Any rates or charges for your property that you have failed to pay.	If EQC's eventual payout to the Crown for the damage to your land is more than the rateable value for your land, the Crown will pay you the difference.

Figure 28: Supplied by author from the Redzone book.

Instead of making sure we were ok, that we were not worse off, they are wasting millions of dollars deciding what to do with the Red Zone. That feels like such an insult to those of us forced off our land. Those of use worse off than we were before.

I believe any person from the Red Zone that is financially worse off should be compensated for their loss. Our insurance contracts honoured as if we could stay on our land and rebuild our homes.

**Listen and Learn – Althea Kallas**

My name is Althea Kallas. We have been through a lot over seven years, including many elements of what has been stated above, and it hasn't finished yet. We were nearly victims of EQC (our thanks go to one project manager who, in fifteen minutes, after two years of EQC's insistence to the contrary, managed to see and say, "You guys are way over cap,") and then became Southern Response claimants.

When I hear or read about the enquiry into historical abuse of children in state care, I see a parallel. At least some of the children will still be alive to gain perhaps a drop of comfort from the investigation, though it has taken far too long. As for EQC and SR, a lot of the mistreated claimants might not be around when things are finally sorted out. It feels like we have lost not only homes but also lives, independence and the lovely, random moments of anticipation that people should be able to enjoy and share.

**How about 'An Enquiry into the Abuse of Homeowners in State Care (EQC and SR)'?**

If we feel disbelief and disgust at the thought of children being abused within a state agency, we should feel equally sickened when we hear about the state's mistreatment of homeowners. There are many similarities between those children and a way-too-big number of mistreated homeowners who dealt with EQC and/or Southern Response after the Canterbury earthquakes.

1. Neither had done anything wrong. They were just unlucky.
2. There were government institutions whose purpose was to help them.
3. They trusted those institutions and depended on them.
4. They wanted to live normal lives, but they couldn't.
5. They lost years of their lives waiting or fighting. Then they lost more years trying to pick up the pieces.
6. Some didn't speak out because they either couldn't deal with it or they didn't know how. Those who spoke out were ignored. Those who spoke most loudly were treated particularly badly.
7. In the case of the homeowners, they had (for the most part) spent their lives trying to be productive individuals, parents, family members, friends, workers, and citizens.

*Quotes from the links below. They apply as much to the homeowners as to the children.*

- More than 1000 New Zealanders told a confidential panel their experiences of sexual, physical and emotional abuse as children, while in the supposed care and protection of the State.
- "We need to hold responsibility; we need to open ourselves up to inquiring into the harm we had direct responsibility for," Ardern said.
- The Human Rights Commission is now backing the calls, and Race Relations Commissioner Dame Susan Devoy told the crowd of around 200 this morning: "This is not New Zealand".

*And:*

"If these people - whether they be children, young people or vulnerable people - were in our care and, regardless of where they were placed, they were harmed, then they are in scope," Martin said (Minister for Children Tracey Martin). "The purpose is to validate and believe the survivors who tried to tell the state that this was happening, and to use their stories to find the systematic failures and ensure that we have fixed them. Whether the state was aware and continued to place young people into situations of danger, whether the state was aware and didn't remove them - that's exactly what this inquiry is about."

- <https://www.radionz.co.nz/news/national/349392/abuse-inquiry-a-chance-to-confront-nz-s-history-ardern>
- [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11985999](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11985999)

Here is a summary of incredibly relevant bullet points from an RNZ interview with The Royal Commission's Chair, Sir Anand Satyanand. If you didn't know what he was referring to, you would struggle to guess whether it was children or homeowners.

"The Royal Commission of Inquiry into historical abuse in state care has launched a major public awareness campaign over what the scope and limitations of the three-year inquiry should be. Chair Sir Anand Satyanand speaks with Kathryn Ryan about why it's important to hear from victims across the country as the terms of reference are confirmed."

Our obligation is to listen.

We must recognise:

- Neglect
- Abuse



- The stain on our country's history

The nature of the trauma is:

- Physical
- Psychological
- Emotional

Our process is to:

- Listen
- Evaluate
- Investigate
- Analyse
- Adjudicate
- Atone (make amends, put it right)

The goal is to:

- Resolve the injustice
- Take responsibility for the people's well-being
- Stop further abuse

- <http://www.radionz.co.nz/national/programmes/ninetoon/audio/2018638793/how-broad-should-government-abuse-inquiry-go>

It is all here. Incorporate this into the EQC inquiry. Share and learn.

EQC's and SR's behaviours are not OK. You can't ignore all the stories that are out there.

There really is a problem. It needs to be fixed.

The 'insiders' can't do it. They've lost their chance. Are we suddenly supposed to trust them, when they've never admitted anything or said sorry?

Please fix it and allow us to move on.

*Althea Kallas*

### An Owner's Case Study of Assessment Failure

One owner's case study, found on EQCfix.NZ, tells a story all by itself. Read the article: <https://www.eqcfix.nz/blog/2017/7/7/casestudyeqcfailureate>. Supplied with permission of author, details supplied on request to addressees of this report.

This case study is shared with you (with my name removed) as a look into the EQC's performance in Canterbury and maybe to identify some of the systemic issues that exist and the looming risk should the EQC not properly address them. I have referred to the properties by suburb so that they are not able to be individually identified, but at the same time, you will be see that the properties are spread across Christchurch not in any one particular suburb.

#### EQC'S INITIAL RESPONSE:

- Property 1 (Upper Riccarton), assessed by the EQC as being cosmetic repairs and cash settled for around \$15,000 in 2015.
- Property 2 (Bryndwr), assessed by the EQC as being mainly cosmetic repairs and cash settled for around \$75,000 in 2015.
- Property 3 (St Albans1), assessed by the EQC as being cosmetic repairs only and cash settled in 2013 for around \$15,000.
- Property 4 (St Albans2), assessed by the EQC as being cosmetic repairs only and cash settled in 2015 for around \$18,000.
- Property 5 (Woolston), assessed by the EQC as being cosmetic repairs only and repaired by them in 2011 (repair value approx. \$20,000).
- Property 6 (Riccarton), assessed by the EQC as being cosmetic repairs only and repaired by them in 2012 (repair value approx. \$40,000).
- Property 7 (Belfast), assessed by the EQC as being cosmetic repairs only and repaired by them in 2012 (repair value approx. \$20,000).

Due to some legitimate concerns with the EQCs performance, I initiated independent reporting for six of the properties to properly investigate the earthquake damage and advise on appropriate reinstatements. I supplied the EQC with the results of that reporting to give them a chance to address the issues for each property (for both repaired and cash settled properties). The following is the result of that review and summarises the EQC's accepted position for each property as it stands today (Jul 2017).

## EQC'S SUBSEQUENT RESPONSE:

- Property 1 (Upper Riccarton), - no change, EQC's assessment of cosmetic damage was correct and house has been remedied.
- Property 2 (Bryndwr),- EQC has reassessed the property as significantly structurally damaged and placed the claim over cap. It is with the insurer awaiting resolution. EQC revaluation of repairs \$316,000. Insurer's figures show the house is 'beyond economic repair'.
- Property 3 (St Albans1),- EQC has reassessed the property as structurally damaged and placed the claim over cap and passed on to the insurer. Insurer has cash settled the property for rebuild, as it was finally assessed as 'beyond economic repair'.
- Property 4 (St Albans2),- EQC has reassessed the property as structurally damaged and placed the claim over cap. It is now with the insurer working through resolution. EQC revaluation of repairs was \$160,000, though this does not include significant remediation required for mould damage due to liquefaction under the dwelling that the EQC failed to identify.
- Property 5 (Woolston),- EQC has reassessed the property as structurally damaged and in need of significant foundation work and valued the re-repairs at around \$70,000. The scope of repairs is currently under review, as the EQC appear to have missed significant expense which could push the claim over cap.
- Property 6 (Riccarton), - EQC has reassessed the property and paid an additional settlement amount of around \$8,000 for failed cladding repairs.
- Property 7 (Belfast) – EQC has reassessed the property and paid an additional settlement amount of around \$12,000 for failed cladding repairs.

## SUMMARY OF THE EQC'S PERFORMANCE ACROSS THE SEVEN INSURED PROPERTIES:

Of the seven properties, the EQC properly identified the damage and applied an appropriate remediation strategy for only one.

The EQC initial assessments missed significant structural damage (for foundations) for four out of the seven houses.

The EQC have reassessed and admitted the errors and have now settled the claims for all bar one (Woolston).

For six out of the seven houses, the EQC initially failed to properly assess the damage and apply appropriate repair strategies. Four of those relate to missed structural damage to foundations. Two of those relate to inappropriate repair strategies to exterior cladding systems.

A common issue present across the initial assessments for all of the houses was that the EQC appear not to have used appropriately qualified and trained staff to assess potential structural damage to houses, though four out of the seven houses displayed signs of structural damage.

A common issue present across six of the seven houses (where more than a simple cosmetic fix was required) was that the EQC appear to have applied an incorrect standard for the remediation (pre-earthquake, rather than 'when new' as required by the EQC Act).

### Listen and Learn – MBIE Guidance – David Townshend

*David Townshend a homeowner who has significant subject matter expertise around topics like Building Codes, MBIE and the Act. Typifies the knowledge many homeowners.*

The MBIE Guidance, 'Repairing and rebuilding houses affected by the Canterbury Earthquakes' (previously DBH Guidance) was funded and created by the EQC in October 2010 as an insurance response.

Insurers were canvassed during its creation, but there was little (if any) representation of the other party to the insurance contract, the homeowner. The Guidance was used almost exclusively by the EQC, insurers, engineers and insurer project managers as a guide to determining earthquake structural damage, and provides methods of repair for that damage.

- In 2015, MBIE conducted a survey of EQC/Insurers exempt foundation repairs and found around 30% failed to meet the Building Code.
- In January 2016, MBIE provided a clarification letter to insurers that the Guidance is not equivalent to an insurance response.

It can be seen from a 2013 version of a Fletchers technical publication (the Redbook) that Fletchers used the MBIE Guidance floor-level criteria to determine whether foundations were damaged or not, and therefore whether to repair them or not.

On the 28th April 2016, the EQC and the EQC Action Group released a joint statement where they agreed that:

1. The fact that the floor level is within the MBIE Guidance criteria is not a sufficient reason for the insurance under the Act not to cover the levelling of the floor; and
2. If the insurance covers the levelling of the floor, the levelling required is determined by the Act, not by the MBIE Guidance criteria.

In 2017, MBIE admitted that the epoxy repairs contained in its Guidance did not apply to pre-1970 foundations, yet the Guidance had been widely used as a basis to repair rubble-type foundations, many of which are now failed repairs. The question must be asked what standard of inspection and repair was being applied at the time when the MBIE Guidance was created. Even though it had been initially funded and created by the EQC, it clearly did not meet an EQC Act or insurance policy standard of response. In their exempted repair survey, MBIE themselves found that it often did not even meet the standard required by the Building Act and Building Code.

**Listen and Learn – Recommendations – Jake Preston**

*Jake is a homeowner who has been impacted but the Canterbury quakes. Jake has volunteered time to help the community, and has developed a strong understanding of the EQC Act and insurance.*

Here are the recommendations I have drawn up for getting the EQC back to what it was brought into existence for, and what I see are the necessary steps to return public confidence (in as far as the people who have experienced EQC's service delivery) in EQC as an organisation.

In examining this question, I have tried to take a detached analytical approach. I am a homeowner who has experienced EQC and EQR (Fletchers) processes in relation to our own home, and also in a number of other homeowners' experiences where I have been asked to provide advice and strategy on the best way forward.

In my view, the problems with the EQC come from a toxic culture with a standard view of victim blaming in order to minimise entitlements, rather than taking a professional approach and applying the EQC Act and giving individuals choices as to how to best move forward. The tone set by the EQC and the previous government has extended to insurers and has given them license to behave in a similar way to the EQC, i.e. minimise entitlements rather than uphold their contracts with the insured. These are the very same insurers who, following floods in Australia, were given ultimata to settle claims within a specified timeframe or face consequences. They complied without hesitation.

The lack of strong leadership and regulation within the New Zealand insurance market has allowed the insurers, including the EQC, free rein to a large extent and ultimately transferred the risk from the contracted parties, insurers and the EQC to the insured.

Insurance at its simplest is a wager between, in this case, a homeowner and an insurer (including EQC), where the insurer assumes a risk that the homeowner is prepared to pay a modest amount for. I always recall an interview with Warren Buffet (of General RE, a major multinational reinsurance firm) shortly after the Canterbury Earthquake Sequence began, where he said, "This is the game. Sometimes you win and sometimes you take a loss." In the financial accounts for Berkshire Hathaway after September 2010, the company had already included a contingent liability for the entire sum of the reinsurance they held for Christchurch. Even with that loss, Buffet still believed it was possible to make an underwriting profit for his company that year.

At the moment, insurers and the EQC have been very successful in transferring risk back to the homeowner. This is still to be tested, but there is potential for homeowners to seek redress from EQC for botched repairs. Similarly, conveyancing lawyers, engineers and consenting authorities may have some culpability in the fullness of time.

These are the recommendations I would like to put forward for the reform of the EQC. I am happy to explain in further detail the reasons behind each recommendation.

1. Homeowner Advisory Board – similar to elected school boards to represent the rights of the homeowners, with meaningful interaction and oversight.
2. Return to Statutory period (12 months) to settle claims, along with escalating penalties, exclusive of statutory entitlement, paid to claimant when a settlement period is missed, and paid on the date when settlement is missed (\$20000 paid at 15 months since claim lodged, \$35000 paid at 18 months, \$50000 paid at 24 months, along with fines payable to government and claimant if payment does not occur on the due date). This will reduce intentional delay and should be part of the regulation of insurers as well as of the EQC.
3. Accountability and transparency in settlement processes. If the EQC cannot provide an engineer's report, then the process should allow for claimant to be paid for a report from a legitimate expert.
4. Good Faith principles need to apply to the EQC and insurers. A claim should not begin with an assumption by the EQC or an insurer that the claimant is inflating their claim.
5. The EQC's repair standard must be clear to all assessors **and** claimants from the outset.
6. Qualified immunity to engineers (and other professionals such as project managers) must be removed. If engineers were fully responsible for their recommendations, avoidance of entitlement under insurance contracts would stop immediately. Engineers are liable for their recommendations in the real world, with financial implications for the engineer and their professional-indemnity insurance. Bogus repair strategies which were signed off as meeting the Building Act and the Building Code would make great test cases for an advisory panel or tribunal.
7. Standard construction methods in the housing stock being repaired must be identified at the outset when dealing with assessment of damaged houses (rubble foundations, native timbers) rather than funding guidelines to minimise risk/exposure, as the MBIE now states privately. This does not refer to rubble

foundations. Similarly, proposed repair processes should be tested on damaged houses prior to providing any guidance.

8. Interaction with claimants needs to be concise and recorded so as to provide a timed file of interaction, rather than “losing” documents provided by claimants or providing a copy of a file including the same document multiple times in an attempt to foil discovery or inflate court costs ( refer to point 3).
9. Have robust, readily scalable systems and processes in place to ensure that the EQC is prepared and capable of handling another major event (this is what the EQC exists for).
10. Quality Control – ensure that claimants agree that the claim has been settled; confirm that the work that has been paid for has not only been completed, but meets the EQC Standard as per the Act, and that any overages are repaid to the EQC. To ensure protection of housing stock post event, this needs to be more than just a signature or email.
11. Complaints – where EQC gets it wrong, they need to take ownership and fix it quickly. People’s lives and mental health are being affected – refer to point 3.
12. Establish a Professional Standards Board to govern standards and processes used by the EQC – ringfenced from ministerial /political involvement.

I am an independent software developer/business analyst with degrees in Business, with a major in Management, a Masters degree in Mass Communication and Marketing, and a further Masters degree in communication specialising in online communication.

Thanks,

Jake Preston BBS(Hons.) M.Appl.Sci. M.Mgmt



**Listen and Learn – Lew Graham**

I hope next week to write to Megan Woods, Annette King and Sid Millar covering a number of EQC 'anomalies', including:

**Homes with a Rubble Foundation**

- The reality that many/most damaged rubble foundation properties would have been put over cap by the September 2010 quake and would be entitled to a cap payment for that quake.

**Apportionment of land damage**

- At my properties, all the visible damage is apportioned to September 2010 and the IFV/ILV to February 2011, and the 'missing' damage was not recognised and thus not apportioned to any event. By many measures, this does not fit the reality, not even EQC's own Tonkin and Taylor land damage reports.

**Public Trust**

- One other issue that I haven't been able to pursue as much as I would like (not the least because the OI Act doesn't apply to Public Trust) is damaged properties administered by trusts, i.e. trustees' failures to pursue proper earthquake settlements. My current home is administered by the Public Trust, who has missing in action for seven years and is now trying to hand the estate back to us as trustees at the eleventh hour.

**Quakes that are separate events**

- The number of quakes that are separate event quakes, and EQC's failure to treat them as such and pay out on the damage caused by each.

**Dangerous houses**

In my view substandard repairs have produced a range of hazards to occupants. Among my concerns are

- Fire hazard from improperly installed solid fuel burners.
- The risk of houses collapsing in another major quake, particularly rubble foundation homes which do not have the house physically attached to the

foundation – they just rely on gravity. There may be fatal outcomes to these deficiencies.

### **Weather proofing for winter**

I am heading into another winter at Diamond Harbour in an unrepared house that is not weather proof. During heavy rain water runs down the chimney into the roof space and then into the lounge, across the carpet and out the base of damaged Ranchslider doors. At our unrepared Dudley Creek rental where I overnight when work keeps me in town, the roof is also not weatherproof and neither are the racked window frames. The dwelling cannot be properly heated because following the March 2014 flooding all the carpets have been removed, the bottom 600mm of all the wall linings were removed and the heat pump drowned and failed. I appreciate that there are many benefits from not being sub-standardly repaired, but there can also be disadvantages.

### Homeowners Have a Right to Accurate Information about the Act

A homeowner approached EQCfix.NZ for confirmation on whether an opinion they were given by a homeowner support service was a correct interpretation of the EQC Act. This example should help demonstrate the confusion that exists for homeowners attempting to navigate entitlements contained within the EQC Act.

Opinion of the EQC Act Given to Homeowner	Peter Woods Anthony Harper
<p>“The earthquake can certainly exacerbate and existing situation i.e settlement but the EQC Act only kicks in when the repair strategy has to change as a result of the actual earthquake damage. If the house always needed some level of repair and the earthquake has created more damage but the repair is effectively the same, there is no loss and therefore the Act doesn't trigger.”</p>	<p>“I strongly disagree with this approach. If there is earthquake damage, it is covered under the Act. If as part of the repair of the EQ damage it is necessary to work on non-EQ damage, (including historic issues), that is also covered.”</p>
<p>Your professionals “report assumes all issues with the house are earthquake related.</p> <p>It also assumes the house must be brought back to a condition as if it was new.”</p>	<p>“The Schedule 3 clause 9 approach to the standard of repair only applies if EQC elects to do the work.</p> <p>Otherwise the standard of repair is set out in the definition of "replacement value" in section 2 of the Act.”</p>
<p>“The Act allows for any repair to be done to a condition as it was when it was new and taking into account new building code. Therefore a jack and pack can be done (if the bearing capacity of the soil allows for it) as long as it is done in a compliant way. The fact that the foundation may not be as</p>	<p>“This could be correct in general terms. However, there is a real issue that jack and pack as per the MBIE Guidance does not apply to rubble foundations.</p>

Opinion of the EQC Act Given to Homeowner	Peter Woods Anthony Harper
strong as it would be if built now doesn't come into it for EQC or the private insurer as long as the conditions for a jack and pack are reached. To give a new foundation for the purposes of having a stronger base for future quakes is called betterment."	MBIE has expressly acknowledged that the Guidance does not apply to rubble foundations."
..."the context of the MBIE Guidelines is about what repair strategies are indicated according to observed damage rather than them being used to determine if tolerances have been breached and a repair needs to be done at all. This is an appropriate use for the Guidelines. Obviously EQC then has to apply the Act to ensure the strategy is in line with entitlement".	"First, identify earthquake damage. Second, identify the appropriate reinstatement method to achieve the standard of repair. MBIE.  Guidance is not applicable to rubble foundations."

Table 1: An example of the confusion that exists within industry, reinforcing the need for standards to govern those giving advice to homeowners.

## Understand EQCfix.NZ

### EQCfix.NZ IS AN INDEPENDENT PUBLIC JUSTICE PROJECT HOLDING EQC TO THE EQC ACT.<sup>24</sup>

Since the EQC reinstatement programmes began in Canterbury in late 2010, more and more people have become dissatisfied with their EQC experience. Many are discovering that they have lost, or are losing, equity in their homes. Their quality of life has been severely impacted, and they feel hopeless. Overall, many people are finding they are significantly worse off than they were before the earthquakes. Clearly, this was not the purpose of the Earthquake Commission Act 1993 (the Act). The Act is there to protect homeowners, and to provide them with security and certainty after natural disasters such as the Canterbury Earthquakes.

A key issue faced by homeowners in the post-disaster insurance environment is access to quality, independent, and affordable information and resources, all of which have the homeowners' interest as the primary goal.

## Our Purpose

EQCfix.NZ was established in May 2016, following a Declaratory Settlement between EQC and the EQC Action Group. EQCfix.NZ is an independent public-justice project whose overarching goal, in a post-disaster environment, is to:

Ensure that the EQC meets its obligations under the Earthquake Commission Act 1993. The project intends to achieve its goal by working with central and local-body representatives such as legal, insurance, land, engineering, surveying, and quantity surveying professionals; as well as building-industry practitioners and tradespeople, all of whom are demonstrably motivated to ensure that the interests of the homeowner are protected.

Our aims are:

- to provide information and, if appropriate, education programmes for property owners so they can better navigate, understand, and manage the EQC process(es) from claim to reinstatement,

---

<sup>24</sup> From: <https://www.eqcfix.nz/about/>

- to co-ordinate and support groups of homeowners to work collectively in addressing the EQC's failures to meet its statutory obligations,
- when a potential EQC performance issue is identified by interested groups / individuals, to investigate and, if possible, to provide homeowners with access to a group solution which is affordable and realistic,
- to advocate for an independent inquiry into the EQC's performance, handling and management of Canterbury earthquake claim and reinstatement processes,
- to review and monitor EQC procedures and processes to better ensure that the EQC learns from past experience and makes changes accordingly.

#### *The Steering Committee*

- Cam Preston, Accountant
- Mel Bourke, Change Strategist
- Peter Woods, Lawyer
- Jake Preston, ICT Strategist
- Warwick Schaffer, Business Owner
- Craig Edwards, Commercial Real Estate

