



23 June 2023

Sarah Brodrick

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Kia ora Sarah

Your Official Information Act request, reference: GOV-025291

Thank you for your request via [FYI website](#) of 25 May 2023, asking for information related to privacy at ACC under the Official Information Act 1982 (the Act).

How we have interpreted your request

Your request asks for 'all' official information relating to a range of subjects about privacy at ACC. In our view, the term 'all' is very general, and does not clearly identify the sort of information you are after. Noting this, we have interpreted your request as seeking documents that are current and provide an overview of each subject requested. This interpretation, we hope, provides you with information that is relevant to your enquiries.

The Ombudsman website contains guidance on making official information requests, which you can find at: www.ombudsman.parliament.nz/resources/making-official-information-requests-guide-requesters.

Please note that Staff names have been removed from the documents provided as we have determined that they are out of scope of your request.

ACC's access and use of client information

ACC's Personal Information and Privacy Policy (attached) sets out how ACC collects, stores, uses, discloses, retains, and protects personal information.

The ACC Code of Conduct sets out that ACC employees are expected to maintain the highest standards of integrity, discretion and ethical conduct when performing their duties. All staff and contractors are also required to act in accordance with the [ACC Code of Claimants' Rights](#), which covers claimants' rights to have their privacy respected.

You can read our privacy notice, framework and disclaimer at www.acc.co.nz/privacy/. You can also understand how your privacy is protected and how to make a complaint about our privacy process.

Collection of medical and other records

To establish your entitlement to compensation, rehabilitation and treatment we may need to collect medical and other records about you from a third party, such as your General Practitioner, other medical professional or employer. If there is a clear reason that 2 years is likely to be insufficient, we can collect up to 5 years if rationale exists that we are reasonably likely to need this.

We need your authority to collect them and only seek records that are or may be relevant to your claim during the life of your claim. We'll let you know about the types of records we need to collect, and why we need to collect them to make these decisions about your claim.

You can either authorise and submit an ACC form or contact us if you'd like to discuss other ways to provide your authority. These may include, for example, setting the duration of your authority or asking us to contact you for authority on a case by case basis.

When ACC collects, uses, stores, and discloses information, we comply with the [Privacy Act 2020](#) and the [Health Information Privacy Code 2020](#). We use all information collected to fulfil the requirements of the [Accident Compensation Act 2001](#) (AC Act).

People who receive assistance from ACC have a legal responsibility under [Section 72 of the AC Act](#) to provide, or authorise other people to provide, all relevant information and cooperate with ACC in their own rehabilitation.

Where a client refuses to provide medical information that is relevant to making a decision on their claim, a decision cannot be made, and therefore the claim must be declined.

We have provided you with the following documents:

- *Obtain Client Authority to Collect Information*
- *Request medical or clinical records policy*
- *Request clinical records*
- *Decline or withdraw client authority to collect information*

Please note that there are no legal grounds to support requesting information that is not related to the relevant claim decision being investigated and reasons for requests for medical information must be communicated to clients or a client's advocate/authority to Act. We are therefore refusing this part of your request as the information does not exist. This decision has been made under section 18(e) of the Act.

Written guidance

To assist in making decisions, ACC's frontline may request internal specialist guidance from a number of different areas, such as Clinical Services.

The Clinical Advisor works collaboratively across teams to provide expert consistent, robust and up to date clinical and rehabilitation advice to ensure sound, consistent, evidence-based decision making. They provide comprehensive guidance within a written guidance form and stored on ACC's claims management system (Eos).

We have provided you with the following documents:

- *Clinical Advisor job description*
- *Seek internal guidance*
- *Provide internal guidance- written*

Pre-existing conditions and casual link

ACC does not cover pre-existing conditions made symptomatic by an accident (or other qualifying circumstances). However, degenerative changes or pre-existing conditions do not exclude cover if there is a new injury that is caused by an accident (or other qualifying circumstances), and is not substantially caused by the pre-existing condition.

ACC has an investigative onus when considering claims (whether for cover or entitlement) and must make decisions on reasonable grounds. Attached is ACC's Cover criteria for pre-existing conditions Policy.

For a claim to have cover for a treatment injury there must be a causal link between the treatment and the injury. See Casual Link policy attached and [Section 33 of the AC Act](#).

Privacy breaches and the number of settlements

We have interpreted your request for data related to unlawful requests for personal information and remedies for those unlawful requests as the number of privacy breaches and the number of settlements made for breaches under the collection related information privacy principles:

- Only collect personal information if it is necessary
- Get the information straight from the individual concerned
- Tell them what you're going to do with it
- Be considerate when you're collecting it

Between 1 July 2022 and 31 May 2023 there were nine breaches under these principles recorded. Since 2018 there has been one settlement.

We are unable to provide you with the number of related breaches between 1 July 2018 and 30 June 2022 as it would require substantial collation and research to complete. In order to extract whether a breach by way of unlawful collection had occurred, would require manual review and investigation of the written explanation of the privacy incidents across all of weekly breach reporting spreadsheets for that period..

We are therefore refusing this part of your request as the information required to complete your request requires substantial collation and research. This decision has been made under section 18(f) of the Act.

In making this decision, we considered extending the time limit for responding or applying a charge (as allowed under the Act). However, neither of these were offered as responding using either option would still have unreasonably interfered with ACC's operations.

If you have any questions about this response

You can email me at GovernmentServices@acc.co.nz.

If you are not happy with this response, you can also contact the Ombudsman via info@ombudsman.parliament.nz or by phoning 0800 802 602. Information about how to make a complaint is available at www.ombudsman.parliament.nz.

Ngā mihi



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