

5 March 2015

Lee M.  
fyi-request-2520-54c1feb9@requests.fyi.org.nz

Dear Lee M

### Official Information Act Request

Thank you for your email of 24 February 2015 requesting the following information:

#### Question 1:

Sub-section 72(1)(c) of the Accident Compensation Act provides that a responsibility of an ACC claimant "must, when reasonably required to do so by the Corporation - authorise the Corporation to obtain medical and other records that are or may be relevant to the claim."

Given that Section 72 of the Accident Compensation Act carries the heading "Responsibilities of claimant WHO RECEIVES ENTITLEMENT", and that sub-section 72(1) states; "A claimant WHO RECEIVES ANY ENTITLEMENT must, when reasonably required to do so by the Corporation - authorise the Corporation to obtain medical and other records that are or may be relevant to the claim", what legal requirement is there for an ACC claimant who is NOT RECEIVING ANY ENTITLEMENT to "authorise the Corporation to obtain medical and other records that are or may be relevant to the claim" (with ENTITLEMENTS only starting once the ACC has assessed the claim and approved cover)?

#### Question 2:

Does Section 72 of the Accident Compensation Act apply to ACC claimants who are NOT receiving ENTITLEMENTS but where an ACC45 form has been electronically submitted to the ACC by the claimants' doctor, the ACC is either assessing the claim or has assessed the claim and has advised the claimant that it decided to decline cover and the claimant has applied for a review of that decision?

#### Question 3:

The ACC claim process begins with the completion and submission of an ACC45 claim form to the ACC. This can be done by the patient/claimant manually completing an ACC45 claim form, or, by the patient's/claimant's doctor electronically completing an ACC45 claim form.

Where an ACC45 form was completed and submitted by a patient's/claimant's doctor electronically, and in a situation where the patient/claimant was not shown the original or a copy, or given a copy, of the ACC45 form completed by the patient's/claimant's doctor, the patient did not sign the ACC45 form and the patient's/claimant's doctor did not discuss or mention any issue to do with the patient/claimant related to 'patient authority and consent' to obtain or release the patient's/claimant's private health information, what legally established authority would be there for the ACC to request

the doctor who completed the ACC45 form to release the patient's/claimant's private health information to the ACC?

Question 4:

In the above described circumstances - refer question 3 - and bearing in mind the provisions of sub-sections 56(4)(a) and (b) and 57(3)(a) and (b) of the Accident Compensation Act that require the ACC to "make a reasonable request to the person (claimant), or decide to make a request to another person, for the additional information; and if the Corporation proposes to make a request to another person for the additional information, tell the person making the claim (claimant) about the making of the request and its nature ..."; would it be a breach of the Accident Compensation Act if the ACC was to make a request for "additional information" to the doctor who had completed the ACC45 form, and, the ACC had NOT complied with sub-section 56(4)(b) or 57(3)(b) as applicable (it failed to tell the claimant about making the request and its nature)?

Question 5:

In the case of a work related gradual process claim; would it be a breach of the patient's/claimant's privacy rights (provided in various instruments of law) if the ACC sent an old/outdated blank ACC271 form to the patient's/claimant's doctor without complying with the provision of sub-section 57(3)(b) of the Accident Compensation Act (with Section 57 of the Accident Compensation Act applying to work related gradual process claims), with a request for the doctor who had completed the ACC45 form) to complete and return the aforementioned form to the ACC, and when the wording across the top of the aforementioned form clearly states; "xxx (patient's/claimant's name) has authorised ACC to collect information needed to determine cover for their injury, by completing the Patient Declaration on the ACC45 ACC Injury Claim Form", but where the ACC45 form was completed and submitted by the patient's/claimant's doctor electronically not manually, and in a situation where the patient/claimant was not shown the original or a copy, or given a copy, of the ACC45 form completed by the patient's/claimant's doctor, the patient did not sign the ACC45 form, and the patient's/claimant's doctor has also not discussed any 'patient authority and consent' to obtain or release the patient's/claimant's private health information?

Question 6:

What other section/s of the Accident Compensation Act, if any, authorises the ACC to obtain medical and other records from any other party/ies that are or may be relevant to an ACC claim?

Question 7:

What section of the Accident Compensation Act, if any, authorises the ACC to obtain medical and other records from any other party/ies that are or may be relevant to an ACC claim, where an ACC45 form was completed and submitted by a patient's/claimant's doctor electronically, and in a situation where the patient/claimant was not shown the original or a copy, or given a copy, of the ACC45 form completed by the patient's/claimant's doctor, the patient did not sign the ACC45 form and the patient's/claimant's doctor did not discuss or mention any issue to do with the patient/claimant related to 'patient authority and consent' to obtain or release the patient's/claimant's private health information?

Because of the nature of your request, ACC is treating it as a request for information under the Official Information Act 1982. The enclosed information sheet, *Requesting Official Information*, tells you about the legislation and the process we follow when looking into requests for official information.

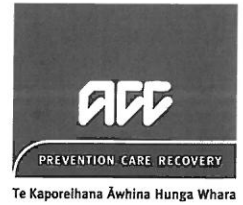
ACC is working on your request and will be in touch with you as soon as possible, and certainly by 24 March 2015.

If you have any questions ACC will be happy to work with you to resolve these. Please contact Government Services at [GovernmentServices@acc.co.nz](mailto:GovernmentServices@acc.co.nz).

Yours sincerely  
**Government Services**

Encl. *Requesting Official Information (INOIS01)*

# Requesting official information



Information on ACC and how we do our business is called official information. This includes a wide range of materials, such as written documents, tape recordings, electronic files and manuals, e-mails, books, maps, drawings, video tapes and films, as well as information on other people.

## How do I ask for the information?

You can call, write or email. We'd prefer you to write as this means we will both have a clear record of the information you want. Please remember to give us as much detail as possible.

## Will it cost me anything?

On rare occasions, we may ask you to pay if you've asked for large amounts of information. We'll always let you know how much it'll be before we start working on your request, and we'll usually ask you to pay some or all the charges before we begin work.

## How long will I have to wait?

When possible, we'll get the information to you within 20 working days of receiving your request. We'll always let you know if it's going to take longer.

## What if ACC isn't able to give me the information?

We'll always write and let you know why we aren't able to give you the information. Sometimes we may not have the information you want, but know other government agencies which do. If this happens, we'll transfer your request to them and let you know who will handle it.

## Relevant legislation

ACC complies with the Official Information Act 1982, which sets out how to request information, timeframes for delivery to you, and how much it may cost.

## Questions, concerns, or want to know more?

If you have any questions or concerns, please talk to the person you've been dealing with, or their manager.

If you're still not happy, or you're not comfortable talking to the person involved or their manager, please call our Customer Support Service on 0800 650 222 between 8am and 5pm weekdays. They'll be happy to answer your questions and will make every effort to sort out any problems. They'll talk to you about your options, including talking to our Privacy Officer or lodging a complaint.

If we're unable to meet your concerns, you may want to contact the Office of the Ombudsmen on 0800 802 602 or [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz)

If you'd like to know more, you may be interested in the following information:

For information on...	see the information sheet...
official information and how to request it	Requesting official information
how we collect and use your information	Collection and disclosure of information

Copies are available at any ACC Branch, on our website [www.acc.co.nz](http://www.acc.co.nz) or by calling **0800 101 996**.