

26 May 2015

L Barber

Fyi-request-2709-61ac1514@requests.fyi.org.nz

Fyi-request-2705-ebdf2f86@requests.fyi.org.nz

Dear L Barber

Official Information Act Request

Thank you for your requests of 8 and 10 May 2015, asking for the following information under the Official Information Act 1982 (the Act):

ACC is pleased to provide the following Information:

Request dated 8 May 2015

1. How are complicated claims processed differently to a standard claim? Please give examples.

The more complicated a claim is the more likely ACC will need to request more information. For example:

A couple who are married who have children together, and were living together at the date of death. ACC would only require a copy of the marriage certificate, birth certificates for the children and the death certificate to make a decision on the dependants.

Alternatively the same couple, who are married with children but are not living together at the date of death. ACC would require all of the same information requested in scenario one but would also need information to determine why the couple were not living together. ACC would need to determine if they were separated or living apart due to employment, health or imprisonment. This could require ACC to request medical notes, information from an employer or a prison. If the couple had separated we would need to investigate whether the deceased person was financially supporting the surviving spouse.

From a previous request

Q. Does ACC determine whether any of the information supplied on this form (ACC21) is factually correct & no information has been withheld? If not why not?

A. ACC does not rely entirely on this form.....ACC asks for documentation to support.....

2. Is the information gathered by police during the investigation into a death, provided to ACC used to help with its decision making (as this is available much sooner than a death cert.), or does ACC await the documentation, being the death certificate & rely solely on that for verification that a dependant exists, or needs to be contacted ?

Does ACC obtain multiple or singular verification where available?

The Police do not provide ACC with information about their investigation. The Ministry of Justice do provide confirmation if they believe that the death was as a result of murder or manslaughter. In this situation often the cause of death is withheld while the Police are investigating. Cover is given in this situation as although ACC do not know the actual cause of death, it is known that it is as a result of an "accident". The Police do not provide ACC with any other information about the family or the situation.

Receipt of a death certificate may alert ACC to the fact that there are other dependants that it was not aware of. In a situation where there is more than one family dependant on the deceased ACC get more than one application for death benefits. For example ACC may get an application from an ex-wife who has the natural children of the deceased in their care as well as an application from a new partner who was living with the deceased. Victims Support are also normally involved with the family and provide support to all of the dependants and assist them in their applications to ACC.

Dependant on the nature of the relationships ACC may require more information to confirm the relationship. For example natural children of the deceased are straight forward as the deceased is named on the child's birth certificate as a parent. Children of the new partner are more complicated as we need to determine that the deceased acted as a parent to the children. In this situation ACC would first need to determine the nature of the relationship of the new spouse and the deceased, it would then need information to support the fact that the deceased acted as a parent. This may include information from the children's school, friends of the family, doctors etc.

ACC gathers enough information to create a full picture of the deceased relationships with all of the surviving dependants. This can vary greatly depending on the nature of the relationship.

Request dated 10 May 2015

1. Does a Government. Department issued 'document' e.g. birth cert, passport, driver's license etc. carry equal, higher or lower legal integrity to an ACC claims handler when compared with an ACC 'statutory declaration'?

I believe that a 'document' is a formal & legal representation of a certain set of events, & a 'statutory declaration' has legal implication with regard to almost all other non-formal sets of events, but, I am unsure how an ACC claims handler approaches this issue.

There is no basis to compare formal documents such as driver licenses with Statutory Declarations as to the respective reliability. Statutory Declarations are assertions as to fact, while formal documents are records. They're both capable of being "evidence". If for example a claims manager had sighted and copied a client's driver licence and then was required to consider a Statutory Declaration that the client had never had a driver licence, clearly the sighting and recording of the actual document would be determinative.

2. How does a claims handler proceed with a claim when presented with conflicting information of equal stature, quantity & quality of source?

The claims manager assesses all the available information, applying their own training and experience, and asking for specialist input.

ACC has also developed a number of decision making tools, depending on the type of entitlement that is at issue. The most commonly used is the ACC850 'Decision Rationale' form. The form provides an example of the consultation a claim manager will make when evaluating evidence, prior to their decision.

3. Is there a flow chart or process that is followed?

There is a process for applying legislation to consider each entitlement.

The staff member gets a step-by-step walk through the steps that must be followed. There is also a policy, where the staff member gets a broad overview of the rationale behind the use of the particular legislative provision.

4. If so what is the process & has this process changed when each act has changed?

The operational process has remained essentially the same over the years, but where necessary the information to be used will be updated to reflect changes in legislation.

For example, since 1 July 1992, there has been minimal change to the application of Section 117(1), re the suspension, cancellation, or declination of an entitlement, simply because the provision has been very similar in each of the three Acts in force since that date.

Other processes, such as the assessment of an Independence Allowance (which, for a while, replaced the Lump Sum provisions) have evolved fairly radically since 1 July 1992 in response to changes in subsequent Acts, and also in response to cases from the Courts.

5. If this process has changed with the various acts, please explain the changes in process in relation to the 1982 act & the present act?

The process of operational consideration will change very little, but the criteria to be used for an entitlement may change.

6. Is a signed & witnessed statement, produced by a police officer to a Coronial inquest, considered to have equal, more or lesser veracity to a claims handler, than an ACC 'statutory declaration'?

The police officer would generally produce the statement under oath. As Statutory Declarations are not made under oath, they would be expected to carry less weight.

Further questions

1. I understand that ACC have requirements of evidential standard before a claim can be accepted, & insomuch as all the acts allow ACC to receive & consider any information, regardless of whether it CAN be used in a court of law, is information, regarding a certain set of events that HAVE been accepted by a court of law as fact, considered to be more or less accurate, to a claims handler gathering information in consideration of a claim, than a 'statutory declaration' that has not yet faced a legal test?

It would be difficult to determine whether a Court has actually “*considered something to be more or less accurate...*” A statement is either accurate, or it is not. “More or less” is not an option. There may be occasions when evidence presented to a Court is contradicted by a Statutory Declaration. In that case ACC would establish the facts necessary for its own determination – as the information presented to Court may not be particularly relevant for ACC’s purposes.

2. I am interested in ACC policy regarding the procedural use of 'documentary', 'declaratory' & 'evidential' information & which, if any FORM of information, carries the higher onus of proof during the information gathering stage of an entitlement decision, (cover has been accepted) where there is conflicting information (non-medical).

One form of information does not necessarily carry more weight than another for ACC’s purposes.

The case manager would consult with specialist colleagues when considering any piece of information. ACC’s legislation specifically provides for the allowance of information given by Statutory Declaration – therefore, if relevant, a case manager is entitled to rely on that, rather than on information which might have been provided to another agency for another purpose. But each situation will be different; and there is no ‘set’ grading of information.

ACC will make a decision on the information available, as prescribed by ACC’s legislation. If that decision is to be challenged, a Reviewer has the power to accept or reject information on which a decision is based.

*3. Document-Information of public record - Information supplied is true & correct as recorded by appropriate Govt. agency for public record?
Declaratory-Information supplied as true & correct where an individual/s can be held accountable to a court of law?*

Evidential-Information that has been accepted by a court of law as being factual?

The standards of information necessary for a Court hearing (in line with the Evidence Act) do not apply to information gathered for decision-making purposes by ACC. If a client believes that the information ACC has used is wrong, or can be outweighed by something else, the Review process is the correct way to challenge that.

ACC is happy to answer your questions

If you have any questions about the information provided, ACC will be happy to work with you to resolve these. Please address any concerns by emailing GovernmentServices@acc.co.nz or in writing to *Government Services, PO Box 242, Wellington 6140*.

If you're unhappy with ACC's response, you may make a complaint to the Office of the Ombudsman. You can call them on 0800 802 602 between 9am and 5pm on weekdays, or write to *The Office of the Ombudsman, PO Box 10152, Wellington 6143*.

Yours sincerely

Government Services