

29 July 2024

Sue

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Kia ora

Your Official Information Act request, reference: GOV-032830

Thank you for your emails of 31 May 2024, asking for the following information under the Official Information Act 1982 (the Act):

First email:

Request 1: I request the reference to the specific Act, and specific section of that Act, that gives ACC:

- (a) a right to implement a care indicator; and*
- (b) any legislative limits to the information that may be included in the care indicator; and*
- (c) any legislative limits to the information as to whom may have access to the care indicator information; and*
- (d) any legislative requirements that ACC must fulfil before implementing a care indicator (e.g., such as consent, right to be heard and challenge the decision, right to correction, or a right of review of the decision).*

Request 2: I request the reference to the specific Act, and specific section of that Act, that gives ACC

- (a) a right to implement or retain a claimant's communication plan; and*
- (b) any legislative limits on the types of communication plans that may be imposed on a claimant; and*
- (c) any legislative limits on how those communication plans may be implemented.; and*
- (d) any legislative requirements that ACC must fulfil before implementing a communication plan.*

Request 3: I request the reference to the specific Act, and specific section of that Act, that gives ACC:

- (a) a right to implement or retain a plan which involves the redirection of personal communications to an unintended recipient; and*
- (b) any legislative limits on the redirection of personal communications to an unintended recipient; and*
- (c) any legislative limits on how the redirection of the personal communications may be implemented; and*
- (d) any legislative requirements that ACC must fulfil before redirecting claimant's personal communications to an unintended recipient.*

Request 4: If there is no such enactment, that confers a right to ACC to:

- (a) implement a care indicator,*
- (b) implement a communication plan, and/or*
- (c) implement a plan that involves the redirection of claimant's personal communications to an unintended recipient, then please provide me with the case law, secondary legislation or any other legal document which affirms ACC has these rights.*

Request 5: I request the policy, process, guidelines, procedures, rules and all other documents, or, if no document exists, a description of the steps taken by ACC to

- (a) obtain the claimant's consent to have their private communications redirected to an unintended recipient; and*
- (b) obtain the intended recipient's informed consent to have the personal communications redirected to an unintended recipient; and*
- (c) obtain the claimant's informed consent to have the claimant's care indicator accessible to all ACC employees who have access to EOS (including phone operators); and*
- (d) obtain the claimant's consent to disclose the care indicator information to third parties.*

Second email:

Request 1: I request ACC's position regarding claimant's rights to review ACC's decision to:

- (a) implement a care indicator,*
- (b) implement a communication plan, and/or*

(c) implement a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.

Please specify if it is ACC's position that the claimant's right to review the decision occurs before or after ACC implements:

- (a) a care indicator,
- (b) a communication plan, and/or
- (c) a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.

Request 2. I request ACC's position regarding the claimants' right to the principles of natural justice (NZ BoRA, s 27), which is a right to be heard or challenge ACC's decision, prior to ACC's implementation of ACC's decision to:

- (a) implement a care indicator,
- (b) implement a communication plan, and/or
- (c) implement a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.

Request 3. If ACC's position is that ACC has the obligation to uphold the claimant's right to principles of natural justice or right to review, I request the policy, process, guidelines, procedures, rules or other documents, or, if no document exists, a description of the steps taken by ACC to ensure that the claimant's rights to the principles of natural justice and review are upheld prior to the implementation of ACC's decision to:

- (a) implement a care indicator,
- (b) implement a communication plan, and/or
- (c) implement a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.

Request 4. If it is ACC's position is that ACC DOES NOT have an obligation to uphold the Claimant's right to principles of natural justice (NZBoRA, s 27) or a right to review ACC's decision, please direct me to the specific Act and section of the Act, that states ACC is excluded from obligations under NZBoRA or that such decisions are excluded from review.

The description of the care indicators, communications plans, and the redirection of personal communications, all appear to be consistent with breaches of ACC's obligations under the

- (a) the Accident Compensation Act (sections 40, 41, 45 and 54),
- (b) the Code of ACC's Claimants' Rights (in the entirety),
- (c) the Privacy Act (IPP 3, IPP 4, IPP 5, IPP 6, IPP 7, IPP 8, IPP9, IPP10, and IPP 11),
- (d) the OIA (s 12, 21-24; and
- (e) NZBoRA (rights 14, 21 and 27).

Request 5: I request a list of all of the authorities (government agencies, including names of the specific advisors), statutes, advisory panels, reports, case law, etc, which informed ACC's procedures, policies, guidelines, and rules and other documents, for:

- (a) implementing a care indicator,
- (b) implementing a communication plan, and/or
- (c) implementing a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.

Request 6: I request all documents, consultation notes, reports, third party advice, and any other document, which shows that ACC took all reasonable steps to make sure that ACC was not breaching ACC's obligations under the Act (sections 40, 41, 45 and 54), the Code (in the entirety), the Privacy Act (IPP 3, IPP 4, IPP 5, IPP 6, IPP 7, IPP 8, IPP9, IPP10, and IPP 11), the OIA (s 12, 21-24), NZBoRA (rights 14, 21 and 27), and any other Act, when ACC developed ACC's procedures, policies, guidelines, and rules to:

- (a) implement a care indicator,

- (b) implement a communication plan, and/or*
- (c) implement a plan that involves the redirection of their personal communications to an unintended third party, without the claimant's informed consent.*

ACC's response have lacked transparency. I have seen no documentation of:

- (1) how ACC implements the redirection of personal communications to an unintended third party; and*
- (2) who within ACC has the delegated authority to implement a plan that involves the redirection of personal communications to an unintended third party; and*
- (3) steps taken to ensure that the decision was reviewed by a neutral third party (such as a reviewer, Court, Ombudsman, the Privacy Commissioner, or that all sides were properly heard before ACC implements such drastic measures.*

Request 7. I respectfully request explicit details as to:

- (a) how ACC implements the redirection of personal communications; and*
- (b) whether it is with the consent of the sender; and*
- (c) whether it is with the consent of the intended recipients; and*
- (d) whether the sender is informed of the redirection prior to implementation, and the actual effect of that redirection; and*
- (e) where the consent and communications to the affected party are documented by ACC; and*
- (f) whether the intended recipient receives the personal communication in their inbox, then forwards the communication to a third party, or*
- (g) whether the redirection occurs at the server, which means that the intended recipient does not receive the personal communication, but an unintended person does receive the communication; and*
- (h) which ACC documents detail the names of the individuals, roles, and departments, who have the authority to implement redirection of personal communications.*

Request 8. I request a copy of the delegation framework, signed by the CEO, which specifies who has the delegated authority to implement the redirection of personal communications sent by parties outside ACC, without the sender's informed consent, and the steps those persons must take before implementing such a plan – such as providing notice to the affected person and a right of review (adherence to the principles of natural justice).

Our response

I refer to your message via fyi.org.nz of 15 July 2024 declining to provide the further information that ACC sought to be able to deal with your request.

I note that ACC has received seven other messages in identical terms on 15 July 2025 from someone using the same name as you in relation to requests that ACC is still considering and one in relation to a request that ACC has recently declined, however none of those messages acknowledge that they are all sent by the same person, despite ACC's request that you should do so if that is the case.

ACC sent a message to you of 5 July 2024 explaining in detail why ACC needed information about yourself and the reasons for this official information request.

ACC notes that you do not accept ACC's explanation justifies it asking for the information it has sought and claim that ACC is treating you inconsistently with the way it treats others.

As ACC has previously explained to you, the Ombudsman accepts that where an agency receives an official information request like yours it may need to ask the requestor about themselves and the reasons for their request.

ACC is treating you no differently than it would anyone else whom it might reasonably ask if their request was one of many related requests that could potentially be responded to together or refined in the ways allowed by the Official Information Act.

For the reasons that follow, ACC now declines your request.

- Over the past two months ACC has received more than 40 apparently closely related official information requests that also appear to be made by or on behalf of the same person.
- These include a significant number of requests apparently made by you under the same name, including the eight other separate requests where ACC received identical messages from the requestor on 15 July, and other requests that are either anonymous or made under other names.
- All of these 40 or more information requests require considerable expense and effort for ACC to respond to. ACC estimates that it is currently allocating more than the equivalent of one full time employee to respond to each of these requests separately, despite the fact that they seem closely related. It would likely require even more expense and effort to produce all of the information sought in each of these requests.
- In one of the requests apparently made under your name, the requestor has acknowledged having made more than one request, but neither they nor you have provided any details of any other requests so to assist ACC to consider them together.
- ACC has decided that you, or people closely related to you, have probably made all of the large number of recent requests mentioned above whether made under your name or not.
- The way that you, or people acting for you, appear to have asked for a wide range of information in many separate requests rather than include all questions in one request interferes with ACC's ability to determine whether and how it might be able to apply various provisions of the Official Information Act to deal with your request. Those provisions relate to whether the requests taken as a whole require substantial collation or research so as to:
 - allow ACC to decline some or all of the requests under s18(f) of the Act;
 - consider combining your request with any other requests made by you under s18A(2) of the Act;
 - fully to consider fixing a charge for providing the documents concerned under s15 and s18A(1) of the Act.
- ACC considers that your request is frivolous or vexatious in terms of s18(h) of the Act. Your request appears to be part of a wider course of conduct making numerous official information requests in a way that prevents ACC from applying the parts of the Official Information Act that protect agencies from being put to unreasonable effort and expense in responding to official information requests. You have declined to assist ACC by providing information that might permit ACC to deal with your request along with many other related requests. ACC has received similar refusals to assist in the eight other requests referred to above. Your request and your refusal to answer questions about it appear to be part of a course of conduct designed to prevent ACC from taking legitimate steps to minimise the costs and inconvenience of responding to a series of related requests.

If ACC is wrong and your request is not one among many related requests then please let me know urgently, or if you prefer, take the issue to the Ombudsman in the way set out at the end of this message.

ACC sought the same information from each of the requestors in as many of the related requests as it has been able to identify and has not received information from any of them to allow it to work out how to consider and respond to the requests in the way required by the Act.

If you have any questions about this response, please get in touch

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



Christopher Johnston
Manager Official Information Act Services
Government Engagement