



File No. DOIA 1516 0688

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Lee M

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Dear Lee M

Thank you for your email of 3 November 2015 requesting a response to questions made under the Official Information Act 1982. The questions and answers are set out below.

*Has the Governor-General exercised the abovementioned authority and prescribed rules for the conduct of AC Act review hearings conducted by Fairway Resolution Limited? If the answer to the above question is "no", can you please provide the fullest possible explanation as to why the Governor-General has not done so.*

I can advise that no rules for the conduct of Accident Compensation Act 2001 (AC Act) review hearings have been made by Order in Council. This is because the essential elements of the review process are contained in the AC Act under Part 5, sections 134 to 148.

*Also, can you please advise me why there is no independent complaints process for review hearings conducted by Fairway Resolution Limited under the AC Act? And, what is a disgruntled claimant to do when they have legitimate grievances about the administration of their review applications and the procedures followed by Fairway Resolution Limited in relation thereto regarding the attitude and conduct of the reviewer, given that the powers provided to reviewers under Section 5 of the AC Act are so wide as to allow reviewers to conduct reviews as they see fit without their being any policy, guidelines or rules around what this means exactly.*

The AC Act provides for a right of appeal to the District Court against most review decisions except on a decision by ACC under the Code of ACC Claimants' Rights. The reviewer's powers under Part 5 of the AC Act are subject to specific duties that are:

- to act independently
- to comply with the principles of natural justice
- to exercise due diligence, and
- to adopt an investigative approach.

The District Court has, on appeal, the power to modify or quash the review decision.



*Lastly, where there is an abuse of power and/or process by a Fairway Resolution Limited reviewer, what statutory recourse is available to ACC claimants?*

While I am unable to offer individual legal advice, as a general comment, the review can be appealed to the District Court except for Code of Claimants' Rights cases. There is also the option of judicial review. However, the appeals process prevents a court from considering a judicial review application where there is a right of review or appeal in relation to the claim. This means that a remedy is not available until all appeal rights have been used.

I hope that this information is helpful.

Yours sincerely



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