

23 December 2015

Lee M
Fyi-request-3313-7f33ff3c@requests.fyi.org.nz

Dear Lee M

Official Information Act 1982 Request - Response

Thank you for your request of 3 November 2015 asking for the following information.

1. Does the ACC appoint and use lawyers to represent it in preparing for review hearings, including draft review submissions?
2. If the ACC does appoint and use lawyers to represent it in preparing for review hearings, including drafting review submissions, under what circumstances does the ACC do this, and, does the ACC believe this is the most claimant friendly and cost efficient way to prepare for review hearings, including drafting review submissions? And, if the ACC does believe that appointing and using lawyers to represent it in preparing for review hearings, including drafting review submissions, is the most claimant friendly and cost efficient way to prepare for review hearings, including drafting review submissions, why does it believe that this?
3. Does the ACC appoint and use lawyers to represent the ACC at review hearings?
4. If the ACC does appoint and use lawyers to represent it at review hearings, under what circumstances does the ACC do this, and, does the ACC believe this is the most claimant friendly and cost efficient way to represent itself at review hearings? And, if the ACC does believe that appointing and using lawyers to represent it at review hearings is the most claimant friendly and cost efficient way to represent itself at review hearings, why does it believe this?
5. Does the ACC appoint and use lawyers to represent the ACC at review hearings, and then not attend the review hearing itself? If the ACC does do this, under what circumstances does it do so?
6. If the ACC does appoint and use lawyers to represent it in preparing for review hearings, including draft review submissions, and to represent the ACC at review hearings, why does the ACC not use its own "in house" lawyers and/or experienced reviews administration staff who work in the ACC's regional Review Units located in large towns and cities across N.Z. for these purposes?
7. Does the ACC recognise and accept that if it does appoint and use lawyers to represent it at review hearings, that the large majority of ACC claimants who seek review of the ACC's decisions are not legally represented and that they see this as a bullying and intimidation tactic that gives the respondent - who made the decision against the claimant - an advantage over the claimant?

8. Does the ACC recognise and accept that if it does appoint and use lawyers as outlined above, this is funded out of the "public purse", and that claimants would likely consider this offensive particularly when the intention and purpose of the AC Act originally was to provide a "no fault", non-litigious, accident injury scheme which they have contributed to in one way or another through ACC levies?
9. If the ACC does use lawyers in relation to reviews as outlined above, would that be a private law firm, would a junior or senior ranking lawyer be appointed, and what rate would the former and latter cost approximately per hour?

ACC is happy to provide the following response under the Official Information Act 1982 (Act):

Response

Response to Questions 1, 2, 3, 4, 5 and 6:

On occasion, ACC instructs external lawyers to:

- Prepare for review hearings (including the preparation of submissions); and
- Appear at review hearings.

In general, we do this when:

- A case involves a complex or technical area of law which the lawyer attending may have specialist expertise; and
- Where ACC believes the use of a lawyer for disputes may be beneficial as it is likely to have less adverse impact on the client/case manager relationship.

Decisions about how to manage who attends review hearings are taken on a case by case basis depending on the circumstances of the case. In terms of your questions about ACC's views on the cost effectiveness or claimant friendliness, the Official Information Act does not require ACC to express an opinion. Accordingly, this part of your request is declined in accordance with section 18(e) of the Act.

Response to Questions 7 and 8:

The Official Information Act does not require ACC to express an opinion. Accordingly, this part of your request is declined in accordance with section 18(e) of the Act.

Question 9

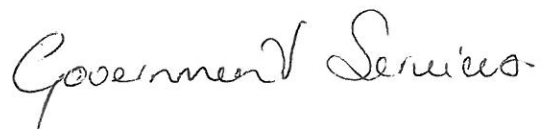
On occasions ACC does instruct private law firms to act for ACC. The degree of seniority of the lawyer and the costs incurred may vary according to the complexity of the review. ACC declines to provide the approximate costs because it would be inappropriate to do so as there is a need to protect information which, if released, would disclose a trade secret or unreasonably prejudice the commercial position of the person who supplied the information and/or ACC. The public interest in disclosing this information has been considered, and ACC is of the view that the public interest in protecting the information outweighs the public interest in disclosing the information. This decision complies with section 9(2)(b) of the Act.

If you have any questions, ACC will be happy to work with you to answer these. You can contact us at GovernmentServices@acc.co.nz or in writing to *Government Services, PO Box 242, Wellington 6140*.

Where ACC has declined to provide you with an opinion under the OIA you have the right to make a complaint to the Office of the Ombudsmen. You can call them on 0800 802 602, 9am to 5pm weekdays, or write to:

The Office of the Ombudsmen
P O Box 10 152
WELLINGTON 6143

Yours sincerely

A handwritten signature in cursive script that reads "Government Services".

Government Services