

27 April 2016

P.A. Hamill
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Dear Ms Hamill

Official Information Act Request

Thank you for your email of 28 March 2016.

Your request

You sought the following information under the Official Information Act 1982 (the Act):

"Since losing the Miller case.

How many claimants has ACC had to pay out in back dated interest?

What is the gross amount of that back dated interest that ACC has had to pay out since the Miller decision?

What is the longest period of back dated interest that ACC had to pay out for?

What were the 10 highest back dated interest payments ACC had to make?

How many claimants are still negotiating their back dated interest payments with ACC at this time?"

Our response

Background context

Following a Court of Appeal ruling on 9 May 2013, ACC now follows new criteria when calculating backdated interest in some cases where weekly compensation is reinstated after having been suspended.

ACC is now liable to pay interest from the date of suspension if we have made an incorrect decision to suspend weekly compensation due to:

- misinterpreting legislation
- erring in our interpretation of unambiguous medical evidence
- our decision being based on insufficient evidence or investigation, or
- a separate decision-maker (a reviewer or the Court) reaching a different decision based on the same evidence.

The Court's ruling applies to historical as well as current claims. This means any client who has received backdated weekly compensation in the past can have their eligibility for interest reviewed, in line with the new criteria.

Following the Court's ruling, ACC established a dedicated team to proactively identify and contact potentially eligible clients, and manage requests for backdated payments.

Questions 1 and 2

Since the Court of Appeal ruling, 2,055 clients have received interest payments. ACC has paid a total of \$19,237,331 (excl. GST).

Question 3

The longest period of backdated weekly compensation that interest was paid on was for 33 years, starting in 1977. *Please note* however that interest did not accrue for backdated weekly compensation payments until 1992.

Question 4

The following table shows the ten (10) highest interest payments made since 9 May 2013 for backdated weekly compensation.

Cost
\$854,232
\$678,091
\$590,232
\$287,568
\$256,700
\$254,451
\$251,146
\$250,592
\$240,812
\$234,000

Question 5

The date interest applies from is specified in section 114 of the Accident Compensation Act 2001 and the calculation is also prescribed. Section 114 states that interest applies if weekly compensation has not been paid within one month of ACC receiving all the information necessary to calculate and make the payment. If interest applies, it is calculated from the date all information is received.

As at the date of your request, there are approximately:

- eight (8) review applications where a hearing is pending on interest decisions issued from 1 January 2015
- 25 cases being considered for payment of interest
- nine (9) appeals pending hearing related to interest decision.

Queries and concerns

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*.

You have the right to complain to the Office of the Ombudsman about our decision. 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