

11 July 2016

Brian Smith

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Dear Mr Smith

Official Information Act request

Thank you for your email of 13 June 2016 requesting the following information under the Official Information Act 1982 (the Act):

'Please list number of mediation cases per year and the number that mediation overturns ACC original decision...

... the number of claims where mediation supports ACC's original decision that end up in the district court...

... the average cost of mediation'

Background

By way of background on ACC processes, mediation is a formal meeting process whereby a neutral mediator brings together both sides in an attempt to reach an 'agreement', through identifying the issues. The mediator facilitates this discussion and does not 'overturn' or make a final decision about ACC cover, or any other matter that is the subject of the mediation. If the parties do come to an agreement as a result of the mediation, then this will be documented. Mediations are facilitated by Fairway Resolutions Limited (FairWay), a separate organisation which ACC's contracts to provide mediation services. ACC pay FairWay a standard rate for up to eight hours of mediation, and then an hourly rate is charged for any additional work after that. ACC's contract with FairWay was last updated for the 2014/15 financial year.

This differs from a 'review', which refers to a more formal process whereby ACC clients have the right to ask an independent third party to review a decision made by ACC under the Accident Compensation Act 2001. These reviews are also conducted by FairWay. The reviewer appointed by FairWay considers all of the information related to the case that has been provided and makes a binding decision. The reviewer may uphold (or agree) ACC's original decision, modify it, or overturn it. The reviewer can also make decisions about costs and payments.

When a client disagrees with a decision made by ACC, the usual process is that the parties can attempt to settle the matter through mediation. If mediation fails, a client can then seek a review by FairWay. Following a review, either party may challenge the decision of the independent reviewer and make an appeal to the District Court. However, mediation can still occur at any time in the process if agreed between the parties.

Our response

Set out below is the information you have asked in relation to mediations.

The following table provides you with the total numbers of mediation cases for the 2012/13, 2013/14, and 2014/15 financial years, broken down by the number of mediations that were successful and unsuccessful. Please note we deem a 'successful' mediation as where the parties have reached an agreement. This could mean that ACC's decision has been

overturned or modified to some extent. However it could also mean that the client accepts ACC's decision and no longer wants to pursue the matter to a review hearing.

Where mediation is recorded as unsuccessful, this indicates that no agreement has been reached.

2012/13		2013/14		2014/15	
Successful	Unsuccessful	Successful	Unsuccessful	Successful	Unsuccessful
135	23	142	15	137	23

Please note that cases known as 'partial settlements', which are cases where the parties involved have reached some form of agreement but also acknowledge that not all issues were resolved, have been included in the 'success' figures provided. This is on the basis that some of the issues were successfully resolved and the parties agreed to continue to work on resolving the outstanding issues.

The following table provides you with the total cost of mediation-only cases for the three financial years above:

2012/13	2013/14	2014/15
\$203,000	\$211,900	\$309,700

These figures represent what is paid to ACC's provider of mediation services, and are exclusive of GST.

You also asked for the number of claims where mediation supports ACC's original decision and the matter progresses to the District Court. As discussed above, mediation is a process whereby the parties attempt to reach an agreement. In some cases after mediation, the agreement may be that ACC's decision would still stand. If no agreement is reached, then at the review hearing ACC's decision will undergo scrutiny as to whether or not it is correct. We are unable to provide you with a number of such cases, as a particular agreement will be specific to a specific mediation and could have a range of different effects on ACC's decision. We would need to check individual mediation agreements to determine this.

We trust this information has been helpful. However if you have any questions about the information provided or if you would like information about reviews, please let us know and we will be happy to work with you on these. We can be contacted by email at GovernmentServices@acc.co.nz.

You also have the right to complain to the Office of the Ombudsman if you are unhappy with this response. You can call them on 0800 802 602, 9am to 5pm weekdays, or write to:

The Office of the Ombudsman
PO Box 10 152
WELLINGTON 6143

Yours sincerely

Government Services