



# Office of Hon Nikki Kaye

MP for Auckland Central

Minister for ACC

Minister of Civil Defence

Minister for Youth

Associate Minister of Education

**19 SEP 2016**

Lee M

Fyi-request-4255-28f81cc1@requests.fyi.org.nz

Dear Lee M

On 22 August 2016 you requested the following information under the Official Information Act 1982 (the Act):

“a list of the relevant sections [of the Accident Compensation Act 2001] that apply to Fairway”; and

“a copy of ‘a contract with a reviewer’ used by the ACC when it engages as a reviewer a person who is currently engaged by it to make decisions on claims in the capacity of the reviewer”.

As you may know, Hon Nikki Kaye is on leave from her responsibilities for health reasons. I am the Acting Minister for ACC until she returns.

There is a significant difference between

- a request for information that is already known to, and held by a Minister or agency (i.e. official information); and
- a request to form an opinion or provide an explanation or comment, thus creating new information (i.e. not official information).

In my view, the first part of your request falls into the second of these two categories. Providing a response would require me to provide an explanation of the various sections of the Accident Compensation Act 2001 (the AC Act) that apply to Fairway.

I do not propose to do this. A copy of the AC Act is available however at <http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM99494.html>

In relation to the second part of your request, I have been advised that

- under section 139 of the Accident Compensation Act 2001, ACC is obliged to secure the independence of reviewers. In particular, it is prohibited from engaging any person as a reviewer where that person is currently employed

or engaged to make decisions on claims. This will continue to the case after the provision in the Statutes Amendment Bill that is currently before Parliament becomes law.

- Because of this, there is no contract of the kind you described in your request.

Accordingly, I have to refuse this part of your request under section 18(e) of the Act because the information requested does not exist.

You have the right to seek an investigation and review by the Ombudsman of my decision on your request. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Yours sincerely



Hon Nathan Guy

**Acting Minister for ACC**