

Ref: 0050703

20 October 2017

David Lawson
Email: fyi-request-6557-fa436129@requests.fyi.org.nz

Dear Mr Lawson

Official Information Act Request

Thank you for your request of 18 September 2017, made under the Official Information Act 1982 (the Act).

On 26 September 2017, you provided clarification of your request and asked for additional information. In accordance with sections 15(1AA) and 15(1AB) of the Act, we have treated it as a new request that replaces the original.

Your questions and comments, and ACC's responses to those questions, are set out below.

Questions 1 - 7

1/ Please name Concussion specialists used on Complex Medical Panels and why ACC consider these people qualified and specialized up to date in Concussion particularly in the long term effects of undiagnosed complications/consequences

2/ Will ACC provide an opportunity to have any Claimants specialists present at review in order to scrutinize and debate their history and potential outcomes with ACC appointed people

3/ Will ACC fund any such Claimants specialists present at review that has been involved in Claimants care

4/ What questions are usually asked at a Complex medical review where Concussions and Historical arrears claims are concerned

5/ Is there anything a Claimant can do in a Layman capacity to assist ACC to carry out review in a timely and orderly manner in order to get the full story on the table

6/ What format is typically proven more helpful, historically, to put forward evidence in order to be more successful in obtaining and proving a significant arrears entitlement

7/ In 1996/1997 was there a requirement whether by legislation, privacy act, or 'good courteous conduct', to invite the client to any meeting held by an ACC CM and their employer. Particularly where it was an issue of ongoing employment and ability/inability to work due to injury.

Clarification of Questions 1 - 7

On 26 September 2017, you provided the following clarification for questions 1 - 7:

OIA Requests 1 to 7 replicate exactly what the original requester asked through FYI at <https://fyi.org.nz/request/6076-concussion-related-complex-medical-panel-and-reviews-pertaining-to-historical-arrears?nocache=incoming-20565#incoming-20565>.

The original requester has acknowledged that the information was successfully provided by ACC to them and my original request to be provided with the same information that was provided.

Your amended request asks for the information that ACC provided to an earlier request of 28 June 2017, on the FYI website.

Responses to Questions 1 - 7

Although the 28 June 2017 request referred to the Complex Medical Panel, ACC's response refers to the External Medical Panel. This is the correct name of Panel that is the subject of that request. Information on this Panel can be found in the attached documents, which were provided in the response to the 28 June 2017 request:

- All about External Medical Panels
- External Medical Panels – Key messages and FAQs for case owners

As well as these documents, our response included written replies to each of the seven questions. Please note that some of our answers included information specific to the requestor. We are withholding that information under the privacy grounds allowed under section 9(2)(a) of the Act. In making this decision we have determined that withholding this information is not outweighed by public interest in making it available.

The information provided is set out below, according to the relevant question number.

Question	The following information/comments were provided:
1	<ul style="list-style-type: none">• Information on the specialists involved in specific External Medical Panels (the Panel) is provided in information packs that are provided to clients, including who the specialists are, their specialisation, and their qualifications.• Further information on External Medical Panels is provided in the attached documents.
2	<ul style="list-style-type: none">• There is no opportunity for anyone but Panel members to attend the Panel sessions.• The Panel members are not known to the Branch or the claimants until the Panel report is issued.• The Panel considers all available clinical documents from all the client's claim files.• In most cases, the clinical documents are from medical professionals who have seen and commented on the client. It is assumed they gave an accurate picture of the situation at the time the report was written.• Further information on External Medical Panels is provided in the attached documents.
3	'The Panel is independent and objective and any member representing ACC or the claimant would nullify that objectivity, please see the attached information sheet'.

4	Information withheld under section 9(2)(a), as the response was specific the requestor's situation.
5	<ul style="list-style-type: none"> • The information pack sent to clients prior to the Panel includes a summary of the claim and the questions that the Panel will consider. • About a month prior to the Panel, clients are provided a copy of the documents to be referred to the Panel [which is included in the information pack] • Clients are welcome to ask questions regarding the Panel referral after they have received the information pack. • The client has an opportunity to add any other documents, as well as a letter to the Panel that they would like considered. <p>We have withheld some information provided for this question under section 9(2)(a).</p>
6	As noted above, clients are welcome to ask questions regarding the Panel referral after they have received the information pack
7	Information withheld under section 9(2)(a), as the response was specific the requestor's situation.

Question 8

I therefore also respectfully request to be supplied with copies of all of the Corporation's legal advice that the Corporation relies upon to be able to offer as part of their service package to a claimant, services through internally appointed, medical assessors and ACC Claims Panels which limit a claimant's legal rights to be fully informed by the most suitable vocationally qualified medical specialist, heard, and their ability to be able to participate/ or be represented in the Claims panel claims and entitlement decision making process, and for which the claimant is left with no ability as evidenced above to be able to ensure that the advice sought by the Corporation has been provided by a medical specialist vocationally trained within the field that the class of injury is assessed, diagnosed treated and rehabilitated. Please ensure that the information that I seek addresses individually and separately each of the areas that I have addressed under question 8 (a), 8 (b), 8 (c), 8 (d), 8 (e) (i), (ii) & (iii), 8 (f), 8 (g) & 8 (h).

Clarification of Questions 8

On 26 September 2017, you provided the following clarification for question 8:

I would expect that ACC's response to OIA Request 8 would also pertain to, but not be limited solely to the Complex Claims Panel, but will also respond in the wider context to also include other ACC services (e.g. Sensitive Claims, the team that handles spinal claims and injuries....etc) associated with any and all internally appointed, medical assessors and ACC Claims Panels in which decisions are made by ACC on assessment, treatment, cover and rehabilitation.

Response to Question 8

We have not identified any legal advice in relation to the circumstances described in this part of your request. Accordingly, we decline this part of your request as the information does not exist or cannot be found. This decision is made under section 18(e) of the Act.

Decisions on treatment injury claims are made by Clinical Advisors within the Treatment Injury Cover Assessment Centre. As part of the decision making process for treatment injury claims, Clinical Advisors refer complicated cases to the Complex Claims Panel for a

recommendation. This process assists the Clinical Advisor in making a robust decision on cover, and aligns with ACC's legislative responsibility to make decisions on cover.

Additional Question

You also asked in your email of 26 September 2017 for the following information:

Since the original reference was to Complex Medical Panels, and since I am unsure as to whether there is more than one panel that concussion decisions may be internally ruled/reviewed on within ACC, I would appreciate you listing additionally, for the purposes of answering OIA requests 1 through 7 any and all internal ACC panels that decisions on concussion are reviewed and ruled upon, within ACC.

Response

ACC uses the following internal panels for providing advice for decisions on cover for physical injuries, which may include head injuries:

- Clinical Advisory Panel - who provide clinical advice on the causation of conditions as part of the decision-making process for surgery entitlements.
- Complex Claims Panel - who provide advice regarding decisions on treatment injury claims.

As noted in the above information, ACC may also refer claims to External Medical Panels.

Concerns raised in your email

We note you have raised a number of concerns regarding your claim being referred to the Complex Claims Panel, as listed in 8(a) – (h). As these are not requests for information, we have not commented on them. However, we referred those concerns to your ACC branch for their consideration.

Queries or questions

If you have any questions or concerns about the information provided, ACC will be happy to work with you to resolve these. Please address any concerns by emailing GovernmentServices@acc.co.nz or in writing to *Government Services, PO Box 242, Wellington 6140*.

If you're unhappy with ACC's response, you may make a complaint to the Office of the Ombudsman. 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 Engagement and Support

External Medical Panels

The External Medical Panel is made up of independent specialists who consider your injury and provide us with advice and recommendations based on all available information about your injury.

Who is on the panel?

The panel is a group of medical specialists. Each of them has many years of experience treating injuries like yours. They understand how injuries and illnesses happen, what treatment and tests should be done and what makes these injuries or illnesses recover best. These specialists work in hospitals and clinics where they see a wide range of injuries in all age groups. By getting them together to talk about your injury, we get right to the important questions and benefit from their discussion. A panel is a reliable and helpful way to answer important questions and gain more understanding about your injury related problems without you having to attend another assessment or examination.

Why do we use a panel?

The panel is looking at your injury by examining the medical information held on your file. This is because either there are questions about your injury (diagnosis) or we need this specialised advice to help us work with you to manage your injury and plan for better rehabilitation. For each type of injury, the specialists on the panel will have different skills to bring with their knowledge and experience of that type of injury into the group. This makes the discussion and the report useful.

The panel helps us to consider things like whether:

- any changes to your treatment or rehabilitation are likely to help you
- the injury is still preventing you from doing certain activities
- we could organise more support or assistance for you
- your current condition is still a result of the covered injury.

What the panel will do

The specialists on the panel will look at all the medical information about your injury. This includes information that we give them from your claim file, such as hospital summaries, x-rays, physiotherapy reports and lab test results. The panel will then meet to talk about the information and what it means.

Have a look at the information that we've given to the panel. If you'd like them to look at any other information, you can give it to your case manager immediately who will pass it on to the panel.

All about External Medical Panels

The panel will then give us their expert advice for example: what your condition is (diagnosis), any more tests or treatment that might be needed and suggestions on the right rehabilitation for your injury.

After the panel meets

The panel will provide a report based on their discussion and your case manager will then send a copy to you and one to your doctor.

This report will go on your file with all your other medical information.

Your case manager will contact you after you've received the report to answer any questions you might have and discuss any possible options or decisions that come from having this new information.

You will also be offered the opportunity to discuss the report with your case manager, your general practitioner and the panel facilitator if you wish.

What happens next

If new information from the panel could affect your injury claim or the support you need, we'll discuss this with you first. For example:

- if the report recommended changes to your rehabilitation, we will discuss these with you and update your rehabilitation plan together
- if you've recovered from your injury, we'll discuss the need for ongoing support with you
- if you're still unable to undertake activities like work because of your injury, we'll discuss this with you and update your rehabilitation plan together
- if the report and other information confirms your current condition is not caused by your injury, we won't be able to provide further support for that condition but we'll help you to apply for other assistance and ensure your future treatment provider has the Panel report with the recommendations.

What do I need to do?

Just keep in touch. It is important you understand what is going on and have regular talks with your case manager.

Next, before the panel, check the information your case manager is sending to the panel and let us know straight away if there is anything else you would like to send.

When you get the report, check your details: If you can see any mistakes in your personal details, please let us know. It's important to know we're only able to make changes to the report if there's a mistake in your personal information. Because the panel's opinion about your injury is a medical opinion, that part is not something we can change. However, you are welcome to provide comments on the panel's report and they will be attached to the report and read in conjunction. Please send these to your case manager.

All about External Medical Panels

Lastly, make a time with your case manager to talk about the report and next time you see your doctor, bring your copy to discuss. Your doctor is likely to find the report helpful too.

We're happy to answer your questions

If you have any language or cultural needs, let us know so we can help. If you'd like to know more about our services, please call your client service staff member directly or phone **0800 101 996**. You may also find the following information helpful.

For information about...	See the guide...
help we can provide	Getting help after an injury (ACC2399 booklet)
how we collect and use your information	Collection and disclosure of information (INPIS01 - information sheet)
your rights to receive a high standard of service, and how we resolve any concerns you may have	Working together to resolve issues (ACC2393 booklet)

1. What is an External Medical Panel?

External Medical Panels (EMP; panel) are a way for ACC to receive medical opinion in complex cases where more direction is required for any onward treatment or rehabilitation.

2. What types of cases are considered by a panel?

Cases which are complex where there might be conflicting diagnoses or different recommended approaches, or where there are other medical conditions which are impacting or being impacted by an injury.

3. How is using an EMP different to seeing a medical assessor?

A medical assessor meets with the client and undertakes a medical assessment. The resulting report provides findings and makes recommendations about onward treatment or rehabilitation.

An EMP is a group of specialists who are independent from the case. They review assessments and other medical information available from the client's file, discuss clinically complex issues related to cases, answer questions and reach a consensus opinion as to the best onward treatment or rehabilitation approaches.

The panel does not meet with the client.

4. Is an External Medical Panel just a way for ACC to decline a claim?

The EMP is not a decision making panel. Its role is to discuss the complex medical issues related to a case and recommend the best onward treatment and/or rehabilitation.

ACC will use this information along with other information to make a decision about the onward management of the claim.

5. Who's on a panel?

Panels are made up of at least three specialists who have expertise in the medical field relevant to the cases being put forward. Members have been endorsed by their professional body as being experts in their field. They are independent with no conflict of interest in the client's case.

Current panels are multidisciplinary usually involving the disciplines of orthopaedics, neurology, pain management, occupational medicine, specialist general physician, psychiatry and radiology.

The panel is facilitated by a branch medical adviser who has had additional training in facilitation.

6. What if some on the panel has been a treatment provider or has assessed the client?

The panel member discloses this fact and where appropriate declares a conflict of interest. Where there is a conflict of interest, the panel member will not provide an opinion on the case.

7. What if the panel members don't agree?

Sometimes cases are so complex that the panel are not able to reach a consensus. When this occurs, the facilitator asks the panel to find a point of agreement and then try to move forward from that point. Where the panel can't reach a consensus opinion, the report records this.

8. Do I need to obtain client consent for a case to be referred to a panel?

Specific consent is not required but you do need to discuss with your client why a referral is being made, their ability to review the file being sent to the panel and ask their own questions of the panel, and how the panel report will be used.

9. Do clients get a copy of the panel report?

Yes, and they're able to participate in a case conference that may include their GP and the panel facilitator if they wish.

10. Can the client request a review of the External Medical Panel recommendation?

The panel provides external medical opinions and recommendations - they don't make decisions. If a client is unhappy with the recommendations in a report, they can discuss this with their ACC case owner.

A client can review any decision made by ACC. They can also appeal a review decision.

11. How much time will a client (and/or their doctor) have to prepare information for the panel if they decide to submit something?

There is usually around a fortnight but it is dependent on when referrals are received for any upcoming panels.

12. How much does a panel cost?

Panel members are paid the normal specialist rate for their time.

13. How can a panel member who is paid by ACC give an independent opinion?

Medical professionals take an oath when they qualify to practice medicine in accordance with professional and ethical standards. Their opinion should have nothing to do with who's paying them.

The group discussion encourages panel members to question assumptions and challenge each other and this helps to make sure opinions are independent and have a strong reason behind them. The panel discussion is focused on clinical information only, not legal issues.

14. Does the EMP process mean potential delays getting treatment or rehabilitation for clients while they wait for panels to meet and report back?

Where a case owner needs to make changes that are urgent, the case should not be referred to an EMP. The cases referred are complex where decision making is unlikely to be delayed by waiting on a panel recommendation.

If you have an urgent case there could be a space for an extra case to be discussed at the next panel. In the first instance call the EMP coordinator to discuss.

In all cases, the current rehabilitation plan should continue to be implemented while waiting for the panel report.

15. What is the schedule for panel meetings in 2017?

- February 3
- March 3
- March 31
- May 5
- June 2
- June 30
- July 28
- August 25
- September 15
- October 13
- November 10
- December 15