

27 February 2018

Trevor Smith  
[fyi-request-7179-2182380c@requests.fyi.org.nz](mailto:fyi-request-7179-2182380c@requests.fyi.org.nz)

Dear Mr Smith

Ref: 0051305

### Official Information Act request

Thank you for your email of 27 January 2018, asking for information under the Official Information Act 1982 (the OI Act).

In our letter dated 26 February 2018, in response to your official information request of 26 January 2018 (ref: 0051294) we referred you to the Ombudsman's guidance on requesting official information, which notes that requests for opinions or explanations do not qualify as official information requests under the OI Act.

A number of your points in this current request ask ACC to provide an opinion, make comment, provide an explanation, or 'justify' points based on your opinion, and therefore do not qualify as requests for official information.

As such, we have not addressed these points. We quote parts of your email below, the points highlighted in bold are the only requests for information as defined in the OI Act, which we are responding to.

*Name of Author and checkers of the ACC Treatment Provider Hand Book*

*This request ... is about the ACC Treatment Provider Hand Book last updated May 2017.*

*... There are several error in this document and if relied on by Treating Providers will mislead Treating Providers what injuries have cover.*

*There is a number of simular statement;*

*gradual process injuries that are not caused wholly or substantially by work-related gradual processes, diseases or infections*

*claiming that these injuries are not covered*

*... then there is the claim that mental injury caused by physical injury can only be accepted when the legislation at Section 26 (1) (c) is; mental injury suffered by a person because of physical injury suffered by the person.*

*One can only look at this practice in an attempt to limit liability.*

*As the document is incorrect in fact and law one can only conclude it is deliberate to reduce the liability of the Accident Compensation Corporation and place the liability directly on to the general public of New Zealand.*

*Although the Chief Executive has endorsed the document **please supply the name and position of the persons who carried out the necessary checks to make sure the document applied to the legislation.***

*If the Accident Compensation Corporation is claiming this is an update of Mr Ralph Stewart book, and other updates published since 2011, showing the same mistakes then **one must request the name and position of the person who authored and check those documentation.***

### **Our response**

We have interpreted your request with reference to your other January request (ref: 0051294), to be centred around the understanding and clarification of when gradual process injuries are covered and when they are not. We believe you are referring to page 10 of the ACC Treatment Provider Handbook (the Handbook), which includes the statement you quote, in the third bullet point under the title "What ACC is unable to cover". When you mention a book of ACC's previous chief executive, Ralph Stewart, we presume you are referring to the Handbook in any of its previous iterations. With these details in mind please refer to our letter of 26 February 2018 for information to assist in the clarification of these points.

As you correctly point out, under the Accident Compensation Act 2001 (the AC Act) gradual process injury, disease and infection can be covered under particular circumstances, as defined by the AC Act. Furthermore the AC Act also clearly defines when mental injury suffered by a person because of physical injury, is defined as 'personal injury'.

Please note, the Handbook is a guide for ACC providers; it is not a policy document. The bottom of page 3 states "*While ACC has endeavoured to see that it's correct, the legal information contained in this document is a summary only. For any legal purpose, see the applicable legislation and regulations.*" You will also see on the front page the statement: "*This is a living document and will be updated as required*".

We are not providing individual staff members' names who may have worked on any of the iterations of the Handbook since 2011. This decision is made under 9(2)(a) of the OI Act, to protect the privacy of natural persons. We have considered the public interest in this information and in this instance we consider that maintaining individuals' privacy outweighs the public interest in making the information available.

As noted in our response to you of 26 January 2018, claims are assessed individually on their own merits and a case by case basis.

### **Questions or concerns**

We hope this response helps to clarify the wording used in the Handbook. If you have any questions about the information provided, you can contact us at [GES@acc.co.nz](mailto:GES@acc.co.nz) or in writing to *Government Engagement and Support, PO Box 242, Wellington 6140.*

You have the right to complain to the Office of the Ombudsman about our response to your request. 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

**OIA Services**

**Government Engagement and Support**