

6 April 2018

Mr Anthony Jordan  
[fyi-request-7415-6bf12ed7@requests.fyi.org.nz](mailto:fyi-request-7415-6bf12ed7@requests.fyi.org.nz)

Dear Mr Jordan

Ref: 0051596

### Official Information Act Request

Thank you for your follow-up email of 9 March 2018, asking for the following information about the External Medical Panel under the Official Information Act 1982 (the Act):

*1/ Please provide a copy of the policy/guidelines that Professionals would be expected to peruse and agree to that ensures the ACC are satisfied their intentions and conduct would meet that of the law and Corporation Objectives.*

*I cannot find anywhere in the act that explains or indicates, in any way, the process the ACC use to ensure consistent independence and protection of Panel Members from 'questionable professional pressure or coercion' amongst a team.*

*2/ Please supply the publication of act that indicates the process the ACC use to ensure the above-mentioned scenarios are less likely to occur.*

*3/ Cost per External Medical Panel professional (per review meeting) from February 2017 to March 2018 Note Well: Please do not disclose Panel names and their expertise, just cost per Professional*

*4/ Total cost per respective month for travel and accommodation/meals collectively for Panel Reviewers*

*5/ Total cases reviewed per respective months*

### Our response

#### Question 1

External Medical Panel (Panel) members are required to hold, and continue to hold, a current practicing certificate and be vocationally registered with the Medical Council of New Zealand. They must also agree to provide services in a competent and professional manner with due care, skill and diligence, and to the appropriate professional standard.

Panel members must adhere to the standards of practice as outlined in the statement produced by the Medical Council of New Zealand titled "Non-treating doctors performing medical assessments of patients for third parties". This document is publicly available on the Medical Council's website at [www.mcnz.org.nz/news-and-publications/](http://www.mcnz.org.nz/news-and-publications/).

Panel members are also provided with the following documents; copies of which are attached.

- External Medical Panel Professional Protocols
- ACC Code of Conduct

### Question 2

We have decided to decline this request under section 18(e) of the Act, as the information does not exist. ACC legislation is not specific to the level of detail you infer in your outlined scenario above. Please refer to the details provided in response to question one, which ACC relies on to ensure consistent professional behaviour from third party specialists.

### Question 3

As indicated in the documentation provided to you by your case manager on 7 July 2017, Panel members are paid the normal specialist rate for their time. Under section 9(2)(a) of the Act, we decline to provide the cost per Panel members to protect their privacy.

We have considered the public interest in releasing the amount paid to individual Panel members, and have determined that the public interest in making the information available does not outweigh the need to protect the privacy of persons to whom your request pertains.

### Question 4

Table 1 below shows the total cost for Panel members' travel and meals, between 1 February 2017 and 9 March 2018, broken down by month. There were no accommodation costs.

Table 1

	Costs \$ (incl GST)		
	Travel	Meals	Total
February 2017	1728.94	161.00	1889.94
March 2017	2717.40	322.00	3039.40
April 2017	N/A	N/A	N/A
May 2017	1092.67	161.00	1253.67
June 2017	3302.67	322.00	3624.67
July 2017	1612.39	161.00	1773.39
August 2017	1533.88	189.18	1723.06
September 2017	1567.24	189.18	1756.42
October 2017	1425.79	189.18	1614.97
November 2017	1357.68	189.18	1546.86
December 2017	1257.35	185.15	1442.50
January 2018	N/A	N/A	N/A
February 2018	1372.92	185.15	1558.07
March 2018	1464.82	173.88	1638.70

### Question 5

Table 2 below shows the number of cases the Panel reviewed in the period between 1 February 2017 and 9 March 2018, broken down by month.

Table 2

2017	Total cases
February	4
March	8
April	nil
May	4
June	8
July	5
August	4
September	5
October	5
November	5
December	5
2018	
January	nil
February	5
March	5

**Comments or concerns**

If you have any questions or concerns about the information provided, please email Government Engagement and Support at [GES@acc.co.nz](mailto:GES@acc.co.nz).

You also have the right to make a complaint to the Office of the Ombudsman about our 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 Engagement and Support**

## **External Medical Panel Professional Protocol Document**

The fields of medicine and adjoining clinical disciplines are bound by these rules of expected conduct. Adherence to our professional values ensures our personal professional integrity.

A breach of these values may result in the individual being held accountable by the professional bodies or in a court of law.

- It is acceptable to seek clarification on a particular issue or given opinion from any member of the External Medical Panel (EMP). This does not mean modifying the original documented opinion, but rather explaining what has been written to enable the case owner to understand the wording or rationale for that opinion.
- The opinion of the EMP is not a decision. It is expert advice on diagnosis, causation, management, and/or treatment requirements but it is not a decision on cover or entitlement. The opinion may be utilised, by ACC, to make a decision on a claim but it is only part of the process. The EMP cannot be asked to change a decision. The Panel can, however, be asked for further opinion.
- The EMP will only provide or revise an opinion when new and pertinent information is presented either in relation to the claim or by way of medical evidence and / or research.
- The opinion of the EMP must be recorded as given, and not altered or presented 'piecemeal' as these might change the intended meaning.
- Existing medical or health practitioner's notes must not be altered. An amendment or clarification should be dated and authored. The original document must remain intact. Health professionals' notes are legal documents.
- The EMP opinions and advice are provided in good faith based on the information available.

For further clarification on the issues listed above:

- The Medical Council of New Zealand (MCNZ) Guidelines for non-treating doctors performing medical assessments of patients for third parties (December 2010).
- Chapter 11 on The Medical Record from Cole's Medical Practice in New Zealand (2011 edition) makes the point (page 102):

*"Sometimes, on reviewing an earlier record entry, a doctor may feel that it is inaccurate, incomplete or potentially misleading. It is appropriate to augment a record in such cases, making it clear when and by whom the augmentation or annotation was added. The earlier entry should never be deleted, obliterated or changed, if only because such amendments might later raise suspicion of covering up an error in treatment or diagnosis."*

# ACC Code of conduct



*The Code of Conduct applies to all  
ACC employees and contractors*



*Everyone who works for ACC has an important role to play in making sure we achieve our vision of 'leading the world in injury prevention, care and recovery.'*



*This updated version of the Code of Conduct took effect from 30 November 2012.*



# Introduction

Everyone who works for ACC has an important role to play in making sure we achieve our vision of ‘leading the world in injury prevention, care and recovery’.

How we go about our business is as important as what we deliver. As a Crown entity, ACC is part of the State Sector and contributes to building the trust and confidence of citizens in the institutions of government. All State Sector organisations are expected to work with a spirit of service to the community, to make our services accessible and effective to those who need them, and to strive to make a positive difference to the wellbeing of New Zealanders. Our actions and behaviours must be consistent with these expectations at all times.

ACC is charged with the implementation of the Accident Compensation Act 2001. The Corporation’s reputation and standing is largely determined by public perception of employee conduct. All ACC employees and contractors are expected to maintain the highest standards of integrity, discretion and ethical conduct when performing duties or representing the Corporation in any way.

This Code of Conduct sets the required standards of conduct for all ACC employees, to enable us to meet the expectations placed upon us as a Crown Entity. These standards are based on the standards that apply to all State Servants, detailed in the State Services Standard of Integrity and Conduct.

## The Code of Conduct:

- Can be used to provide coaching on appropriate conduct
- Enables recognition of those who model the desired standard of conduct
- Reflects and reinforces the ACC values. In particular, the Code elaborates on the standards of integrity required
- Outlines inappropriate behaviour and its consequences (misconduct and serious misconduct)
- Will be used as part of an employee's annual Performance Review to help determine the extent to which ACC values have been demonstrated during the performance year.

Everyone who works for ACC must read, understand and follow our Code of Conduct. All employees are required to undertake a Code of Conduct eLearning module when they join ACC and annually thereafter. Talk to your manager if you have any concerns about what might be considered unacceptable behaviour or before you take a course of action that you are not entirely sure falls within the bounds of acceptable behaviour.

If you believe someone in ACC is acting unethically or has been involved in serious wrongdoing you should report this confidentially by calling 0800 403 478. Please refer to the 'Disclosing serious wrongdoing under the Protected Disclosure Act 2000' pages on The Sauce for more information about serious wrongdoing and the process we follow to investigate this.



# Expectations of all employees

You are expected to exercise good judgement to determine what action to take in a given situation. Your actions need to be able to withstand scrutiny from internal and external parties. Our behaviour and actions must be seen to be fair, impartial, responsible and trustworthy at all times.

In order to achieve the high standards of behaviour expected of us, as an employee or contractor you must:

1. Be honest and act with integrity in all aspects of your employment (e.g. in your work with clients and levy payers, with regard to work attendance, requests for financial reimbursement, use of sick leave etc.)
2. Respect the rights of others by:
  - treating others fairly, courteously and without discrimination or harassment
  - upholding the rights of clients, as specified in the Code of ACC Claimants' Rights
  - being respectful of and responsive to all cultures, values and beliefs, particularly Maori and those of ethnic or minority groups
  - promoting the principles of Equal Employment Opportunities.

Refer to the Equal Opportunities in Employment Policy, Bullying and Harassment Policy, and Code of ACC Claimant's Rights

3. Perform your duties to the best of your ability by:
  - ensuring your primary role as an ACC employee takes precedent over any secondary interests, commitments, values or beliefs you personally hold, and declare any potential for a conflict of interest immediately
  - showing commitment to a high quality of work performed in a manner consistent with the ACC WorkSAFE policies
  - complying with all ACC policies, processes and standards
  - model and demonstrate our values of:
    - honouring people as people
    - freedom to succeed
    - pride in what we do
  - these organisational values underpin decisions about what we do, how we operate and behave
  - complying with the Code of any professional body that you are registered or affiliated with, where this impacts upon your work with ACC
  - showing initiative and being creative in resolving problems, seeking improved productivity and identifying opportunities for improvement
  - making decisions appropriate to your role and being responsible for those decisions and the actions that result from them
  - being supportive of changes made by the Corporation, as change is necessary for ACC's success
  - being supportive of your colleagues and accepting your responsibilities as a team member

- making sure you manage your personal and workplace relationships appropriately so they do not adversely affect the way you do your work.

Refer to the Conflict of Interest Policy, Health, Safety and Security Policy, Delegations Manual, and taking leave policies.

4. Uphold the reputation and standing of ACC by:
  - acting with integrity in any personal dealings you may have with ACC as a claimant
  - obtaining your manager's approval before commencing any activity, business interest or employment that has the potential to conflict with ACC business (e.g. acting as an advocate for a client, undertaking secondary employment or volunteering for a political party)
  - ensuring your behaviour in relation to gifts and gratuities and managing contracts and purchasing does not compromise (or appear to compromise) your personal integrity or the Corporation
  - maintaining the same standard of behaviour as if you were at work, when travelling on Corporation business or in situations where you could be perceived as a representative of ACC
  - having a professional standard of dress
  - forwarding any media enquiries to the Media Unit, who will advise you on how the query is to be handled
  - behaving in a manner that will not bring ACC into disrepute

- advising your manager if convictions or charges are laid against you whilst working for ACC
- maintain appropriate boundaries and relationships with clients and the people that you work with.

Refer to the Dress Code, Conflict of Interest Policy, Procurement Policy, Gifts And Gratuities Policy, Media Policy, and Social Media Policy.

5. Act in a politically neutral manner by:
  - ensuring that your behaviour maintains Ministerial and public confidence in the impartiality of advice given and actions taken
  - ensuring your individual comments do not compromise either the Corporation or the Minister (e.g. stating or implying your personal view on an issue is the Corporation's view)
  - ensuring your participation in political matters does not bring you into conflict or the appearance of conflict with your duty to act in a politically neutral manner.

Refer to the State Services Standard of Integrity and Conduct, Conflict of Interest Policy, and Social Media Policy.

6. Use ACC information and property appropriately by:
  - being responsible for the security and confidentiality of all information that you deal with during your employment with ACC

- use financial and non-financial information gathered by ACC and your knowledge of ACC's systems and processes only to perform the Corporation's business
- treating all ACC assets with care and respect
- taking all reasonable steps to protect client privacy
- reporting any actual or potential privacy breach immediately to your Privacy Champion.

Refer to the Privacy Policy, Social Media Policy, information security policies, Fraud Policy, and Internet Access, Email and Instant Messaging Policy.

7. Act within the law (in particular Accident Compensation Act 2001, Official Information Act 1982, Privacy Act 1993, Health Information Privacy Code 1994, Human Rights Act 1993, Employment Relations Act 2000 but including any other relevant legislation).

# Additional expectations for managers

Managers are representatives of ACC both when dealing with external customers or stakeholders, and when dealing with internal employees and contractors. Managers have a lead role in establishing and promoting our expected standards of behaviour and integrity. Managers are expected to consider their behaviour, actions and decisions in terms of the expectation to be fair, impartial, trustworthy and responsible at all times.

As a manager you are expected to:

- manage employees in line with the Code of Conduct, and other ACC policies, processes, standards and systems in place to support you as a manager (e.g. coaching programme, performance management processes).
- lead, model and promote the expected standards of behaviour and integrity within the Code of Conduct and other internal policies and processes, providing employees with education on these where needed.
- represent ACC positively when interacting with your staff and deliver its policies, changes, initiatives or decisions in a manner consistent with ACC's intentions.
- take ultimate responsibility for work quality and the actions and decisions of employees in your team.
- manage within your capabilities and take ownership of your own development and that of your team.
- manage within the delegated authorities framework as specified in the Delegations Manual.

# Misconduct and Serious Misconduct

Behaviour or actions that are investigated and found to be in breach of the Code of Conduct may result in disciplinary action. In all instances, the discipline and dismissal procedures available on the Intranet will be followed and the employee will have an opportunity to provide an explanation for their actions or behaviours and have the right of representation.

The action taken will depend on the severity of the breach:

- Breaches of the Code of Conduct that are deemed Misconduct may lead to disciplinary action up to and including a final warning.
- Breaches of the Code of Conduct that are deemed Serious Misconduct may lead to disciplinary action up to and including summary dismissal. Summary dismissal is termination of employment without notice or prior warnings.
- If any breaches normally considered to be misconduct are very serious or repeated, these may be deemed serious misconduct and could result in disciplinary action up to and including summary dismissal.

The lists below of actions considered to be misconduct or serious misconduct are intended as a guide for employees, and are examples only. They do not constitute an exhaustive list of breaches of the Code of Conduct. Talk to your manager if you have any concerns about what might be considered unacceptable behaviour or before you take a course of action

that you are not entirely sure falls within the bounds of acceptable behaviour.

## Misconduct

Examples of Misconduct include:

- any act of negligence injuring the Corporation
- disobeying a lawful and reasonable instruction from a manager
- failure to meet the standards of performance and behaviour expected of ACC employees
- inappropriate behaviour or relationships
- any action which may in any way damage the relationship of trust and confidence between ACC and Government, other agencies or the community
- allowing unauthorised access to, or disclosure of, any matter or information in relation to ACC business
- misuse of ACC internet and/or email systems
- absence from duty or place of work without proper reason or authorisation, repeated lateness for work, or repeated absenteeism without just cause
- failure to comply with any ACC policy or procedural requirements
- any behaviour of a similar type.

## Serious Misconduct

Examples of Serious Misconduct include:

- dishonesty of any kind



- theft
- fraud against ACC or a claimant
- handling a claim relating to oneself, a relative, acquaintance or friend without the express approval of the manager, or taking a role as an advocate for a claimant without approval
- corruption – accepting a bribe, inducement, reward or gift, or complying with a request or threat to use your position to provide a benefit to any person or third party, which has the effect of allowing inappropriate activity or compromising the impartial performance of your duties
- failure to declare any activity, business interest or employment that has the potential to conflict with ACC business
- accessing ACC information relating to family, friends, acquaintances or clients without legitimate cause
- criminal conviction, leading to imprisonment or adversely affecting the employee’s ability to carry out their work. Offences generally considered unacceptable are outlined in the Screening for Criminal Convictions policy but will be determined according to the nature of the employee’s role
- misuse or unauthorised possession or sharing of ACC property and/or information (e.g. misuse of financial information or client information)
- harassment of anyone you work with (eg. client, employee, contractor)
- abusive or discriminatory statements or practices
- fighting with, assaulting or abusing another person
- drug, alcohol or substance abuse during working hours or work performance affected by drug, alcohol or substance abuse

- dangerous or unsafe work practices, including non-compliance with ACC WorkSAFE and health and safety legislation
- any act that has the potential to bring ACC into disrepute
- significant failure to comply with any ACC policy or procedural requirements
- any behaviour of a similar type.

# Related policies



The following related policies are referenced within the Code of Conduct. Each one provides further information on the particular aspect of the Code of Conduct it relates to:

- Equal Employment Opportunities
- Bullying and Harassment
- Conflict of Interest
- Delegations Manual
- Disclosing Serious Wrongdoing under the PDA 2000
- Dress Code
- Fraud
- Health, Safety and Security
- Information Security
- Internet Access, Email and Instant Messaging
- Media
- Privacy
- Procurement
- Gifts and Gratuities
- Social Media
- taking leave policies
- Code of ACC Claimant's Rights.

These policies are provided on The Sauce. You must read, understand and follow these in addition to the Code of Conduct.



Te Kaporeihana Awhina Hunga Whara

[www.acc.co.nz](http://www.acc.co.nz)