

20 April 2018



Karl Bloxham  
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Dear Mr Bloxham

Ref: 0051658

### Official Information Act Request

Thank you for your request of 21 March 2018 asking the following:

1. *"...breakdown of the legal expences from the defence of a ACC or Fairways Decision incurred in the District Court, High Court, Court of Appeal Surpreme Court Years 2014.15.16,17"*
2. *"The numer of claimints for each year"*
3. *"The potenal cost savings/estimate/losses for each year."*

As previously advised on 28 March 2018, to best respond to your request we separated your request into three separate parts.

#### Notes and limitations

To provide you the information requested, we have had to interpret some of your words based on reasonable assumptions. The assumptions used are set out below.

*Data accuracy:* Please be aware when reading the answers, there are limitations to the accuracy of some of the data we have been able to extract from our systems. For example, it is possible that some information has been miscoded in our systems, leading to relevant information being missed or irrelevant information being captured. Therefore, all numbers provided should be treated as indicative only.

*Definition of "legal expenses":* The Accident Compensation Corporation (ACC) has interpreted "legal expenses" to mean the spend by ACC, in the relevant time frame, on engaging external law firms and lawyers (as defined below) to represent ACC in litigation in the District, High and Supreme Courts in relation to disputed decisions.

*Definition of "law firms and lawyers":* We have used this wording to mean all lawyers ACC has engaged in the relevant time frames to provide it with legal advice or representation in relation to disputed decisions (as defined below), who are not staff of ACC.

Please note ACC engages both externally contracted lawyers, and in-house lawyers and support staff to provide legal advice and support. However, ACC cannot identify the cost of in-house legal staff time in relation to individual cases. This is because staff do not record the time they have spent on each individual case. Therefore, this response only includes data for external law firms and lawyers as defined above.

*Definition of "the defence of a ACC or Fairways decision":* ACC has interpreted this as 'disputed decisions' and as referring to matters that are heard in a Court forum as part of the ACC dispute resolution process contained in Part 5 of the Accident Compensation Act 2001 (the AC Act). Accordingly, we have excluded consideration of matters heard in tribunals and other dispute resolution forums from this analysis. We have also excluded any matters relating to other kinds of disputed claim or other litigation proceedings involving ACC.

*Definition of "number of claimants":* We have interpreted 'number of claimants' as referring to the number of cases included in the data for Q1. The definition of 'cases' is matters that are heard in a Court forum. Accordingly, we have excluded consideration of matters heard in tribunals and other dispute resolution forums (such as Fairway reviews) from this analysis.

**Our response**

Unfortunately, we are unable to provide you with a breakdown to the level of detail you have requested. This is because the number of cases in the Court of Appeal are low, <4, and ACC does not release numbers that are <4 to limit the potential for individuals or matters specific to certain individuals being identified. This decision is made to protect the persons' privacy, under section 9(2)(a) of the Act. We have carefully considered the public interest in this information, and decided it does not outweigh the persons' right to privacy.

However, to provide you some information we hope that you find useful, we have combined the numbers for the High Court and Court of Appeal in the tables below.

Also, we note that matters heard under Part 5 of the AC Act have no right of appeal to the Supreme Court. Therefore, no costs are provided for the Supreme Court.

**Q1** *"...breakdown of the legal expenses from the defence of a ACC or Fairways Decision incurred in the District Court, High Court, Court of Appeal Supreme Court Years 2014.15.16,17"*

**Table 1. Legal expenses\* for 2014/15 to 2016/17**

Financial year 1 July-30 June	District Court (\$)	High Court and Court of Appeal (\$)
2013/14	1,086,857	354,803
2014/15	1,428,664	209,663
2015/16	1,988,835	630,779
2016/17	2,146,279	342,220

\* GST exclusive

**Q2** *"The number of claimants for each year."*

**Table 2. Number of cases, by the year filed**

Calendar year	District Court	High Court and Court of Appeal
2014	442	20
2015	396	33
2016	419	27
2017	418	11

**Q3** *"The potential cost savings/estimate/losses for each year."*

Based on your clarification email of 29 March 2018, we have interpreted this as referring to information about the cost of legal expenses for disputed decisions compared to the cost to ACC if declined claims that are challenged at review or appeal were all approved.

ACC does not hold any information or analysis about the cost of legal services compared to the potential cost of approving declined decisions that are challenged at review or appeal. ACC does not aggregate or compile the potential cost of decisions in the way described by you. Therefore, we are unable to respond to this part of your request as the official information you requested does not exist.

While ACC has an understanding of the potential cost of some treatments, we note that every claim is unique and the amount of the associated funding of entitlements is based on the specific circumstances of each person.

**ACC is happy to answer your questions**

If you have any questions about the information provided, I will be happy to work with you to resolve these. I can be contacted via email 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. 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**