

04 June 2013

Gladys Webster  
[fyi-request-852-a645f984@requests.fyi.org.nz](mailto:fyi-request-852-a645f984@requests.fyi.org.nz)

Dear Ms Webster

### Official Information Act request

Thank you for your request of 5 May 2013 asking for a variety of details under the Official Information Act 1982 (the Act), regarding complaints received by ACC about eight independent assessors.

ACC is pleased to provide responses to your questions in the order that you have asked them.

**Question 1: How many complaints have ACC and SCU received regarding the following assessors over the last 5 years (Drs John Collier, Jan Reeves, Rosey Fenwick, Phillipa Campbell-Tie, Carmen Lowe, Mark Davies, Anthony Asteriadis, and Louise Armstrong)?**

Clients may raise concerns with ACC about a variety of issues involving referrals to contracted assessors, the assessment itself, their perception of an assessor, or the wording of a report. These issues are recorded on individual claim files, with no central record kept about which clients raise issues about which providers.

In addition to the above, depending on the type of complaint raised, ACC may refer the matter to an external body. This is likely in situations where the client is unhappy about the conduct, behaviour or service provided by the health professional. In the first instance, ACC may seek to refer the client to the professional body that the provider is affiliated with such as the Royal Australasian College of Surgeons or the Royal New Zealand College of General Practitioners to name only two. Alternatively, a complaint investigation by the Medical Council or the Health and Disability Commissioner may be appropriate.

ACC will investigate concerns that are directly related to its responsibilities under the Privacy Act, Health Information Privacy Code, and the ACC Claimants' Code of Rights.

In order to locate the information you seek, ACC would need to search all claim files that have been managed in the Sensitive Claims Unit over the last five years.

Accordingly, your request is declined because the details cannot be made available without substantial collation or research. This decision complies with section 18(f) of the Act.

**Question 2: At what number of complaints will ACC and SCU take notice and notify the psychiatrist of the rising numbers of complaints?**

ACC takes all complaints received seriously, and evaluates each on a case-by-case basis. If the complaint is about an issue that the Corporation can investigate (e.g. under the Privacy Act, Health Information Privacy Code, or the Code of Claimants' Rights), staff make every effort to follow due process by inviting a response from the provider.

**Question 3: At which point (eg number of complaints received) will ACC and SCU remove a psychiatrist from their 'preferred assessors' list?**

The Corporation does not have a preferred assessors list. It has a list of registered psychiatrists that meet its Service Provider Qualifications criteria to deliver assessments. This criteria is listed at the end of this letter.

As per ACC's response to your question two, all complaints received by ACC, whether about assessors or staff are evaluated on a case-by-case basis. The resulting steps taken by the Corporation depend on the findings and outcome of the investigations conducted.

**Question 4: Surely complaints received are taken very seriously by ACC and SCU as complaints usually regard assessors breaking the Medical Code of Ethics – First do no harm – and secondly the ethical codes of their particular organisation. How do ACC and SCU manage this situation?**

ACC takes all complaints seriously and will take appropriate actions when risks are identified. If the assessor is in breach of their contractual standards or requirements, then ACC can deal with the supplier in accordance with an escalation model of provider performance management. This model aims for local management and resolution in the first instance to allow transparent communication of any issues that have been identified between the case owner and the provider.

Performance management gives the provider an opportunity to improve performance, address the concerns raised and work with the client to reach the best outcome for all parties. If the issues are not resolved at that stage, they are passed on to the local Supplier Manager, who may work with the provider on an agreed and time-framed performance management plan. If the issues are of sufficient concern, they may be escalated for further investigation. Depending on the issues being presented and the level of risk associated with them, a range of actions may result including:

- remote or onsite audit/review of clinical documentation and clinical practice to determine exact nature and cause of issues and related risks
- investigation (and potential prosecution) by the Investigations Unit, where there are suspicions of fraud
- communication between the provider and the Clinical Services Directorate, to discuss standards of practice and professionalism and address any education or support needs
- referral to the relevant regulatory body, where potential risk of harm has been identified.

It is also important to note that part of ACC's standard contracts/agreements with third parties such as clinical assessors, requires them to ensure compliance with their own professional codes of ethics and conduct, as well as the Privacy Act and Health Information Privacy Code.

**Question 5: If the Medical Council were to uphold a complaint in any form how would ACC or the SCU respond to the assessor? Question 6: What limits on practice and future assessments would be placed on such assessors?**

ACC's responses to your questions 5 and 6 are as follows.

Depending on the actions taken and conditions placed by the Medical Council, ACC may:

- commence a performance management plan, with time-framed goals and consequences if these are not met
- suspend all new referrals, pending a statement of good standing from the Council
- increase monitoring of existing clients or remove them from the provider's workload, pending a statement of good standing from the Council
- enforce conditions for future payment for services (i.e. dependent on review of clinical management/documentation to ensure it meets all necessary criteria)
- review all submitted assessment reports over a stipulated period, to ensure they are of good quality and have clients reassessed by another provider if deemed necessary

- suspend contracts pending a statement of good standing from the Council
- suspend ACC registration, with all clients removed from their workload, pending reactivation
- cancel any contracts (and ACC registration), with all clients removed from their workload.

**Question 7: How do people get inaccurate information written by these assessors corrected so that under the Code of Claimants' Rights ACC and SCU holds "full and accurate" information regarding people's claims?**

The Privacy Act 1993 and Health Information Privacy Code 1994 govern how an agency, such as ACC, must manage a request to correct personal information.

All individuals have the right to request correction of personal information that an agency holds about them. If the agency is not willing to correct the information (e.g. because the information is the assessor's clinical view), the individual has the right to request that a statement of correction be attached to the information. An agency must then take reasonable steps to attach the statement of correction to the information it holds as described in Principle 7 of the Privacy Act 1993.

ACC clients who wish to have their personal information corrected should contact the staff member handling the claim. The Corporation can then determine if the information needs correction, whether incorrect information needs to be removed, or attach a statement of correction. If the information in question is contained in notes, reports or other information from a third party, such as an assessor, ACC will contact that third party. If the third party agrees to amend the information, an updated copy of the information will be sent to ACC for the client's claim file and the incorrect information removed. Sometimes, clients may ask for an assessor's opinion about them to be corrected. Unless the assessor's opinion was based on incorrect factual information, it is unlikely the assessor will agree to amend their report in this manner. In these situations, ACC will offer the client the option of providing a statement of correction, to be attached and read in conjunction with the report.

You can reach me at [gabby.boag@acc.co.nz](mailto:gabby.boag@acc.co.nz) if you have any queries about this letter.

If you're still not happy, you may 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  
P O Box 10 152  
WELLINGTON 6143

Yours sincerely



Gabby Boag  
**Senior Advisor, Government Services**

### **7.3 Service Provider Qualifications**

All Service Providers providing Clinical Psychiatric Services must hold professional qualifications which include both comprehensive training and relevant expertise in differential diagnosis of psychiatric disorders and appropriate certification. Each Service Provider will comply with the following requirements, evidence of which shall be supplied to ACC prior to the Service Provider being added to the list at Part A, clause 3:

- Fellowship of the Royal Australian and New Zealand College of Psychiatrists, or equivalent;
- Membership of an appropriate section or faculty of this professional college (for example, section on Forensic/Liaison Psychiatry, membership of the faculty of Child and Adolescent Psychiatrists);
- Vocational registration in psychological medicine or psychiatry with the Medical Council of New Zealand;
- Identified experience in particular fields (e.g. Forensic Psychiatry, General Psychiatry (sexual abuse, depression, disturbances of affect and motivation), Liaison Psychiatry (for example, chronic pain syndromes, post traumatic stress disorder);
- Engagement in a Maintenance of Professional Standards Programme.
- Be endorsed to provide clinical psychiatric services by the Sector Reference Group, or its successor.

#### **In addition each Service Provider will provide:**

- Evidence of any identified relevant additional training or qualification;
- Details of languages spoken/relevant cultural expertise identified;
- Record of any Health and Disability Commission or Medical Council of New Zealand Adverse Finding(s).