

29 November 2019

Anthony Jordan

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Tēnā koe Anthony

Your Official Information Act request, reference: GOV-002225

Thank you for your email of 18 October 2019, asking for the following information under the Official Information Act 1982 (the Act):

1. *Process used by the Corporation to prevent Malfeasance/Misfeasance (in Reference to Claimants dealings)*
2. *Process used by the Corporation in the event of suspected Malfeasance/Misfeasance within the Corporation (in Reference to Claimants dealings)*
3. *Process used by the Corporation in the event of convicted (Criminally and/or internally Malfeasance/Misfeasance within the Corporation (in Reference to Claimants dealings)*
4. *In the last ten years, how many ACC employees have been suspected of Malfeasance/Misfeasance (in Reference to Claimants dealings)*
5. *In the last ten years, how many ACC employees have been Investigated regarding Malfeasance/Misfeasance (in Reference to Claimants dealings)*
6. *In the last ten years, how many ACC employees have been convicted (Criminally and/or internally of Malfeasance/Misfeasance (in Reference to Claimants dealings)*
7. *Process used by the Corporation to prevent Malfeasance/Misfeasance (in Reference to ACC in-house conduct)*
8. *Process used by the Corporation in the event of suspected Malfeasance/Misfeasance within the Corporation (in Reference to ACC in-house conduct)*
9. *Process used by the Corporation in the event of convicted (Criminally and/or internally Malfeasance/Misfeasance within the Corporation (in Reference to ACC in-house conduct)*
10. *In the last ten years, how many ACC employees have been suspected of Malfeasance/Misfeasance (in Reference to ACC in-house conduct)*
11. *In the last ten years, how many ACC employees have been Investigated regarding Malfeasance/Misfeasance (in Reference to ACC in-house conduct)*
12. *In the last ten years, how many ACC employees have been convicted (Criminally and/or internally) of Malfeasance/Misfeasance (in Reference to ACC in-house conduct)*

On 7 November 2019, you confirmed you were happy to receive data for the last five financial years only.

Our interpretation of your request

To answer your questions, we consider:

- Malfeasance as someone in a position of authority intentionally doing something dishonest, against policy or illegal.
- Fraud as any unlawful act or omission made with the intent to gain advantage for yourself or another. Behaviour that is unlawful. We have classified that suspicions or findings of fraud are malfeasance.
- Misfeasance as someone in a position of authority performing a legal act not in accordance with policy or procedure, often without intending to.

- Waste as any careless act or omission that results in an advantage contrary to policy, practice or procedure. Behaviour that causes unnecessary loss to ACC
- Abuse as any negligent act or omission that results in an advantage for yourself or another through abuse of policy, practice or procedure. Deliberate disregard of ACC policy, practice or procedure to gain advantage. We have classified that suspicions or findings of waste or abuse are misfeasance.
- Information *in reference to claimants' dealings* to be for situations where members of staff have not acted appropriately in relation to the management of client claims.
- Information *in reference to ACC in-house conduct* to be for situations where members of staff have breached ACC's Code of Conduct or its related policies, or where their behaviour is not acceptable to ACC.

Questions one and seven - Process used by the Corporation to prevent malfeasance/misfeasance in reference to claimants' dealings and ACC in-house conduct.

ACC has a number of channels through which we monitor and work to prevent malfeasance and misfeasance. The ACC Integrity Framework is our overarching methodology and approach to minimize fraud, waste and abuse. This outlines the roles and responsibilities of ACC staff while administering the scheme and encourages people to be transparent and open in all aspects of their work.

The Integrity Policy also provides staff with guidance on what to consider if they are concerned about a situation or behaviour. The policy also outlines ACC's five lines of defence as follows:

- First line – all ACC employee and managers are responsible for acting on any non-compliance identified to ensure staff are operating within policy.
- Second line – Integrity Services as the lead ACC business group for ensuring adherence to ACC policy, supported by specialist business groups including Enterprise Risk and Compliance and Business Risk managers.
- Third line – Assurance Services may assess adherence of policy as part of their reviews.
- Fourth line – ACC's Chief Executive and Chiefs have primary responsibility for ACC's strategic objectives and reporting to the Board on the management of these.
- Fifth line – ACC Board holds overall responsibility for ensuring effective risk management is in place.

Other methods ACC use to prevent malfeasance and misfeasance:

- mandatory online awareness training for staff through our online learning portal, Grow@ACC
- ACC's values
- ACC staff delegation's framework
- internal policies, for example, the ACC Integrity Policy and the Code of Conduct
- internal whistle-blower hotline
- internal information sources about raising concerns of fraud, waste or abuse
- automated system controls, for example, monitoring sensitive expenditure
- controlled access to claims
- 0508 fraud reporting hotline for members of the public
- use of the OK2Say service, an independent confidential service for raising concerns
- the ability to raise concerns with ACC's Company Disclosures Officer
- ACC's online grievance tool through HR self service
- Internal education and awareness campaigns
- Internal Governance forums (ACC Board Risk Assurance and Audit Committee and ACC Remedies Panel)

Question two - Process used by the Corporation in the event of suspected malfeasance/misfeasance within the Corporation in reference to claimants' dealings.

Where there is a suspicion of malfeasance or misfeasance, the first step is for a referral to be made to the Integrity Services team. Members of the public can do this by completing an online form through www.acc.co.nz, by phoning the 0508 fraud reporting number or by raising a written complaint via ACC's Integrity Services team or the Customer Resolutions team. Members of staff can also utilise the OK2Say service or raise their concerns with the Company Disclosures Officer.

All referrals are assessed and considered for further action. Referrals where suspected fraud, waste or abuse are present are explored further.

Initial conversations are held to identify if there is a need for further inquiries. Following these conversations, the Integrity Services team makes recommendations to the relevant group/manager to work towards resolving the concerns.

Once all the recommendations have been explored, an outcome regarding the concern is confirmed. This outcome will vary depending on the findings of the recommendations. Some examples are mandatory training or a period of compulsory supervision or dismissal. Lessons from these outcomes help ACC improve our internal processes and our clients experience. There are also data analytics performed on a regular and ad-hoc basis to review performance and conduct against ACC expectations.

Questions three and nine - Process used by the Corporation in the event of convicted criminally and/or internally malfeasance/misfeasance within the Corporation in reference to claimants' dealings and to ACC in-house conduct.

We have interpreted these questions to be for the process in the event where suspected malfeasance or misfeasance is confirmed. This does not necessarily mean that the person has been convicted through the court system.

Following Integrity Services' process, if malfeasance is indicated this is referred to ACC's Remedies Panel. The Remedies Panel considers the findings of the inquiries made during the investigation into the issue, along with other factors, before deciding the most appropriate remedial outcome, for example prosecution, will be recommended. If prosecution is recommended the matter is referred to Crown Law or other external prosecuting agency to lead this, for example, New Zealand Police or the Serious Fraud Office.

If a misfeasance is indicated, ACC has internal processes and policies, for example, the Code of Conduct, to determine if any misconduct or serious misconduct has occurred. Any breaches may result in disciplinary action or dismissal in line with the relevant discipline or dismissal internal procedure.

The disciplinary and dismissal procedure outlines the steps to be taken to warn the employee about their conduct and give them a reasonable opportunity to achieve satisfactory standards. It also outlines the process for dismissing an employee who continues to behave in an unsatisfactory manner.

Question eight - Process used by the Corporation in the event of suspected malfeasance/misfeasance within the Corporation in reference to ACC in-house conduct.

ACC has a Disclosure Committee made up of the ACC's Company Disclosures Officer and senior management. The Disclosures Committee assesses referrals made to the Disclosures Officer and refers the concern to the relevant unit within ACC for further investigation.

ACC's Talent Group (Human Resources) have dedicated resources to explore concerns raised and undertake any relevant investigations. The Integrity Services unit also works to explore concerns raised

with them. The teams report back to the Disclosures Committee once they have undertaken the relevant investigations.

The Disclosures Committee then considers the findings they are presented and agree to recommendations on how the matter is to be resolved. This could be for a member of staff to undergo further training, a formal warning to be issued or for the employee to be dismissed if the findings meet the threshold for such an action.

The delegation to prosecute staff in relation to internal misconduct sits with the Chief Executive of ACC.

Questions four, five, six, 10, 11 and 12 - In the last ten years, how many ACC employees have been suspected, investigated and convicted of Malfeasance/Misfeasance in reference to claimants' dealings and to ACC in-house conduct

Malfeasance and misfeasance in relation to 'in-house' staff behaviour have higher numbers of suspected and substantiated allegations than those related to claimant dealings. This is because 'in-house' staff conduct covers a wider range of expected behaviours from ACC staff, which include those described by the ACC Code of Conduct and the related policies. Allegations can include breaches of the Use of Internet Policy (visiting banned internet sites), breaches of the Leave Policy (periods of unexplained leave) or breaches of the Bullying and Harassment Policy.

A review of ACC's internal integrity environment and the then named Investigation Unit took place in 2013. This review recommended the Unit be renamed to Integrity Services and internal matters of fraud, waste and abuse be managed by this Unit. Integrity Services are responsible for protecting the integrity of the scheme by minimising fraud, waste and abuse. Prior to this, internal concerns were largely managed reactively, and less reporting was maintained.

As all referrals are assessed and considered for further action, we consider that all allegations of suspected malfeasance and misfeasance are investigated. For the purposes of this response, we have provided figures for suspected and investigated as one figure.

Between 1 July 2014 and 30 June 2019, 27 members of staff were suspected for malfeasance or misfeasance in relation to "claimants' dealings". None of the allegations were confirmed and referred for further action.

In relation to ACC in-house conduct, 258 members of staff were suspected for malfeasance or misfeasance between 1 July 2014 and 30 June 2019. Allegations regarding breaches of ACC policy in relation to 23 members of staff were confirmed, 5 resulting in dismissal and the remaining in written warnings. 1 staff member was prosecuted for fraud within this timeframe. This information is publicly available.

This data was extracted from ACC's internal systems and databases where members of staff can report concerns regarding staff behaviour. Due to the variety of ways concerns can be raised, staff may have chosen to record this information directly onto the employees personnel file.

We have not provided information taken from employees' personnel files, as to collate this would require a manual search through individual staff files to determine whether concerns have been raised. As this would require a substantial amount of collation and research, any information that would be collated from staff files has been refused under section 18(f) of the Act.

How to get in touch

If you have any questions, you can email me at GovernmentServices@acc.co.nz. If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

Nāku iti noa, nā

A handwritten signature in black ink, appearing to read 'Sasha Wood', written in a cursive style.

Sasha Wood

Acting Manager Official Information Act Services
Government Engagement & Support