

17 April 2014

Ms G Webster
fyi.org.nz

Dear Ms Webster

Official Information Act Request

Thank you for your emails of 20 February 2014, requesting information regarding a number of matters. Please find ACC's responses to your questions below.

ACC and the Health and Disabilities Commission

1. *'Please outline for claimants exactly what the appropriate remedies and rights of appeal are under the Accident Compensation Act 2001... in protecting the claimant from harm by ACC.'*

The Accident Compensation Act 2001 (the Act) requires that in all its dealings with clients that ACC's actions are consistent with the Code of Claimant's Rights (Sections 40 – 47). In circumstances where a client considers their rights under the Code have been breached, they can complain to the Office of the Complaints Investigator, who will undertake an investigation of the complaint. Remedies for any breaches identified are determined on a case by case basis.

In circumstances where a client disagrees with an ACC decision, they can seek to have it reviewed. Sections 133-148 of the Act provide details of the independent review process. If the client or ACC disagrees with a reviewer's decision, they have the right to appeal this decision in court. The rights and process of appeal are set out in sections 149-164 of the Act.

ACC's website www.acc.co.nz has further information about the available avenues for dealing with issues under *'What if I have problems with a claim?'*

2. *'Is there some kind of agreement (written, unspoken or tactical) between ACC and the HDC that protects each agency and means only the cases resulting in severe harm and death are investigated?'*

No. If you are interested in the investigative policies of the Health and Disability Commission you would need to seek this from them. Their website www.hdc.govt.nz provides detail on this.

Sensitive Claims Unit (SCU) and the Disley Report

3. *'How has SCU implemented the recommendations in the Disley Report for adults of childhood sexual assault?'*

4. *'What changes can clients expect when sent to SCU as few of the original cohorts have left?'*

ACC accepted all of the findings made by Dr Disley in her review and has started work on implementing all of the 14 recommendations made. Dr Disley undertook a review of the work and reported that SCU had made good progress with the required changes. A copy of this report, *Monitoring Report on the implementation of the recommendations from the Independent Panel's review of the ACC's Sensitive Claims Clinical Pathway*, is available on ACC's website.

ACC continues to work on the Sensitive Claims Service re-design, which involves work with representatives from the sector, providers, and other government agencies. Further information on the service redesign work can also be found on ACC's website under '*Sensitive Claims Service Redesign*'.

5. *'If a treatment provider contacts SCU requesting time out for a struggling client with PTSD as a covered claim, how is it in keeping with 'safe and therapeutic' expectations as recommended in the Disley Report? (The GP provider is attempting to limit more costly hospital treatment! As SCU staff refuse to listen or co-operate?'*

The Official Information Act 1982 (the OIA) requires ACC to make decisions on releasing information it holds. It does not require ACC to respond to requests for its opinion, or comment on hypothetical situations. Consequently, ACC will not respond to these questions under the OIA.

I will note, however, that decisions on claims are made in accordance with the ACC's governing legislation and the individual circumstances of the case.

6. *'How does SCU implement judgements of the court in cases like MC v Accident [Compensation] Corporation when SCU limit cover (among other failings) – which is not mandated in the 1982 Act, or as in LS v ACC where the assessors are misleading using (environment, genetics, thus discounting the contribution of CSA)? What process exists in SCU for this and how are case managers upskilled?'*

In circumstances where court decisions require changes to ACC claims processes and decisions, the issues raised are reviewed by ACC's policy team. Following consultation with the relevant departments, this team puts in place the necessary changes.

Changes in policy are advertised throughout ACC via its intranet and training is delivered to the relevant staff.

Branch Advisory Psychologists (BAPs)

7. *'What is the job description of a Branch Advisory Psychology attached to ACC's SCU?'*

Please find this attached.

8. *'In this insurance role at SCU, how do BAPs uphold their own code of ethics?'*

Branch Advisory Psychologists (BAPs) adhere to the New Zealand Psychologist's Board's Code of Ethics. The principles of this code apply across whichever organisation or practice a psychologist works in.

9. *'How often do SCU BAPs provide training and education to SCU staff on how to treat and deal with clients who have diagnosed mental injuries?'*

BAPs provide training and education when new staff are inducted into the SCU and during the year depending on the needs of the unit.

10. *'What practices are in place when BAPs interpret [a] psychiatrist's report and make recommendations? (Are they expected to check with an assessor if they are unsure?)'*

BAPs use their training and experience to interpret psychiatric reports. They will obtain peer review if they would like a second opinion, and consult with the assessors where necessary. The majority also receive external supervision.

All of the BAPs maintain a clinical role outside of ACC to ensure they remain clinically experienced and up to date.

11. *'If BAPs make calls that result in quantifiable harm for SCU clients what means of redress is there?'*

BAPs make clinical judgements based on provider's information or reports and then an ACC Case Owner or Technical Claims Manager will make a decision based on the information received.

If clients are dissatisfied with a BAPs input, they can lodge a complaint with ACC or refer the matter to the Health and Disability Commissioner or the New Zealand Psychologist's Board.

12. *'Whom in the chain of management are BAPs accountable to? Who checks BAPs interpretation of psychiatrist reports and opining? What checks and balances are in place?'*

In respect to management, BAPs are directly accountable to the Manager, Psychology and Mental Health, Dr Kris Fernando. A regular audit process occurs twice a year conducted by this manager and two team leaders.

BAP comments and advice are subject to peer reviews, and second opinions are also means by which a BAP's interpretation of a report may be checked.

Additionally, the BAPs Annual conference provides a forum where they can present their work and receive feedback from their sector.

When sensitive information is released

13. *'When sensitive information is released (unauthorised by the client) by ACC (or their third parties) to employers which results in shame, horror and further trauma to clients and loss of employment contracts, how is this remedied?'*

14. *'Under law which agencies can clients go to for redress as ACC to date sees no wrong in their actions?'*

These questions ask for comment on hypothetical situations, and therefore ACC will not respond to these questions directly. See the above response to question five.

I can note that in cases where ACC has breached a person's privacy, ACC will endeavour to resolve the incident at source with the affected parties at the time it comes to their attention.

A client may also refer privacy related complaints to the Office of the Privacy Commissioner.

15. 'How does this kind of release of personal sensitive information stop happening? Perhaps it is tactical by ACC to further harm SCU clients receiving weekly compensation?'

This question also asks ACC to comment on a hypothetical situation, and therefore ACC will not respond to it.

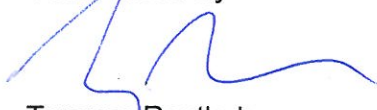
I can note that ACC takes its privacy obligations very seriously, and has robust policies to protect clients' information and ensure that disclosures to third parties are appropriate and in line with the Privacy Act 1993. Information on ACC's privacy policies are on its website under '*ACC and your personal information*'.

16. 'Surely if staff were treating clients as people this kind of trauma would not occur? Which staff member would authorise a report containing sensitive information about them to be released to their employer ACC?'

ACC discloses reports as required to enable a client's vocational rehabilitation (i.e. to help them return to work). This is managed by the client's case manager. ACC has a policy on this, which is consistent with the Privacy Act 1993.

Please contact me at terence.routledge@acc.co.nz if you would like discuss the information provided.

Yours sincerely



Terence Routledge
Senior Advisor, Government Services

Encl: *Job description for Branch Advisory Psychologists*

Position Description



POSITION TITLE	Branch Advisory Psychologist
BUSINESS GROUP	Claims Management
REPORTS TO	National Advisor Psychology and Mental Health
COVERAGE	Individual Employment Agreement

ABOUT ACC

ACC's vision is to be leading the world in injury prevention, care and recovery.

ACC's values are:

- Honour people as People
- Freedom to succeed
- Pride in what we do

ACC is the Crown entity set up under the Accident Compensation Act 2001 to deliver New Zealand's accident insurance scheme (the Scheme).

The purpose of the Scheme is to deliver no-fault personal injury cover for everyone in New Zealand, including overseas visitors. ACC's role is to manage the Scheme in a way that ensures the delivery of high quality services to clients and is financially sustainable for future generations.

ACC works to prevent injury, treat it when it occurs, and rehabilitate people back to productive life as soon as is practicable. The organisation is governed by a Board appointed by the Minister for ACC. All taxpayers, employers, self-employed people and motor vehicle owners contribute to the funding of the Scheme by paying levies.

POSITION PURPOSE

The purpose of the Branch Advisory Psychologist position is to provide a resource to the branches in the determination of mental injury cover, the early identification of psychological barriers to rehabilitation and to recommend appropriate interventions and direction in rehabilitation. An additional purpose is the training of claims management staff in psychological aspects of physical injury and sensitive claims

SCOPE OF POSITION

Direct reports: 0

Number of staff in cost centre: varies

KEY WORKING RELATIONSHIPS

Internal:

- Branch employee and managers
- All other ACC employees

External:

- Other BAP's, BMAs, TCMs and specialists
- Case Owners, Case Coordinators, Case Administrators and Team Managers
- Treatment providers
- Provider industry Associations and Colleges such as New Zealand Psychologist's Board, New Zealand College of Clinical Psychologists, New Zealand psychologist Society, Psychotherapy and Counsellor Associations, and DHBs
- Others who provide services or assistance to ACC

KEY ACCOUNTABILITIES

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<p>To provide support to ACC staff in particular Case and Team Managers, to enable them to achieve ACC's strategic objectives</p>	<ul style="list-style-type: none"> • Undertake file reviews of claims referred by Case Owners to identify any psychological issues or factors that may be impacting rehabilitation. • Participate in branch panels and case conferences as requested to provide opinions on an individual or panel basis as required. • Prepare concise written summaries of the file reviews, including recommendations for overcoming barriers to rehabilitation, to discuss with the Case Owner. • Offer/seek solutions in cases where the Case Owner and claimant are unable to agree on a rehabilitation path to remove or reduce significant barriers to the claimant's rehabilitation. • Facilitate the development of action plans for the Case Coordinator/Case Manager to follow when dealing with the claimant. • Liaising regularly with Branch Managers to establish service requirements and review service delivery achievements. • Liaising with GPs and mental health service providers. • Liaising with Branch, Medical Fees and HPRMU staff to provide objective opinions on possible contributory factors which may explain a Health Provider being outside the accepted norms in provider profile benchmarking reports. • Providing both positive and negative feedback to providers about their performance on psychological contracts. When problems are identified, provide information about ACC processes that may assist them to improve sufficiently to meet best practise guidelines and contractual requirements. • Contact providers to provide positive feedback about the services being provided • Attending local provider meetings and workshops to provide presentations on ACC.
<p>Professional Input</p>	<ul style="list-style-type: none"> • Provide guidance and advice on neuro-psychological, psychological, or psychiatric reports as appropriate. • To view and provide input for every neuropsychological referral made by a Case Owner, and to routinely review every neuropsychological assessment • To contribute to decisions on cover for mental injury together with the Branch Medical Advisor, Team manager and TCM. • Provide advice and recommendations regarding evidence-based best practise approaches to assessment, treatment and rehabilitation for issues such as classification and formulation, chronic pain, cognitive and/or emotional difficulties and psychotropic medications. • Provide advice and recommendations related to both the assessment of and treatment interventions for traumatic brain injury particularly as they relate to cognitive and psychological sequelae and/or co-existing psychological disorders. • Provide assistance in understanding differential diagnosis in complex cases, with recommendations as to how the effects of different disorders may impact on rehabilitation.
<p>Supervision</p> <p>To utilise skills to assist with development of Corporate policy and processes</p>	<ul style="list-style-type: none"> • Engage in regular supervision provided by an external psychologist with specific expertise in areas such as chronic pain, pain management, traumatic brain injury, sensitive claims and rehabilitation. • Participate in Corporate Office Projects as requested. • Utilise expertise to identify psychological issues that require updating so they conform to current psychological practice.

<p>To ensure cases being presented to review and appeal have sufficient and appropriate psychological opinion to support the decision</p>	<ul style="list-style-type: none"> • Review files and provide robust psychological analysis of claimant's situation prior to review or appeal. • Attend review hearings as necessary to ensure ACC's case is accurately represented from the psychological aspect.
<p>To provide and facilitate support to Psychology Adviser Colleagues</p>	<ul style="list-style-type: none"> • Providing assistance with difficult or unusual cases as requested. • Supporting new or inexperienced Psychology Advisers. • Sharing of workload with other Psychology Advisers when required • Make available expertise in specific psychology fields to other Psychology Advisers.

BEHAVIOURAL COMPETENCIES

BEHAVIOURAL COMPETENCY	FOCUS AREAS
<p>Customer Focus</p> <p>Demonstrating Customer Focus is about acting with the customer in mind (internal or external) and ensuring the customer is at the centre of everything we do</p>	<p>Level 3</p> <p>Seeks customer input to improve outcomes</p> <ul style="list-style-type: none"> • Builds collaborative relationships with customers over a period of time • Demonstrates in-depth customer insights and adjusts approach to different customers • Role-models a positive attitude to customer problems • Identifies obstacles to good customer service and takes accountability for resolution • Gets first hand customer information and uses it to improve products and services
<p>Motivation to Achieve</p> <p>Motivation to Achieve is about being action-oriented and responding positively to challenges and opportunities</p>	<p>Level 3</p> <p>Uses research and innovation to improve business outcomes</p> <ul style="list-style-type: none"> • Measures own performance and/ or leads others to achieve high performance objectives • Takes an innovative approach; thinks of new ways to improve the business or to fix problems • Makes specific changes in the system or in own work methods to improve performance • Uses research, feedback and information to advance performance • Utilises networks to achieve business outcomes

<p>Teamwork</p> <p>Teamwork is about working together constructively and putting the team ahead of individual success</p>	<p>Level 2</p> <p>Builds a cohesive team environment</p> <ul style="list-style-type: none"> • Acknowledges the value of others' contributions; celebrates and communicates the success of others • Avoids "reinventing the wheel" and uses networks to achieve goals • Makes a conscious effort to understand other points of view and engages in constructive dialogue • Gives constructive feedback to team members • Sets a positive example by contributing to team discussions in a constructive manner (recognising that some people find speaking in a group more difficult than others) • Accepts responsibility for team results • Resolves conflict in a timely manner that is respectful of differing viewpoints and ensures that teamwork and trust is maintained • Is clear about roles and responsibilities in the team • Is aware of own behaviours and how they impact on others • Is committed to building 'One ACC'
<p>Leadership</p> <p>Leadership is about providing clear direction and building commitment within the team to achieve ACC objectives</p>	<p>Level 3</p> <p>Articulates a core sense of purpose</p> <ul style="list-style-type: none"> • Encourages engagement and productivity across teams and business groups • Understands the structure and culture of different groups at ACC and adjusts own behaviour based on this knowledge • Is agile and adapts own tactics • Uses a range of leadership styles to encourage engagement and productivity • Employs strategies for minimising the stress of others • Inspires others to challenge the status quo constructively • Is aware of strengths and areas of development and uses these to make good decisions to achieve business objectives

ESSENTIAL EXPERIENCE AND QUALIFICATIONS

- Registered Health Professional – Clinical Psychologist essential.
- Current Annual Practising Certificate and evidence of indemnity insurance.
- Experience in professional coaching and mentoring, ability to create win-win solutions and conflict resolution skills.
- Ability to analyse information and provide robust, defensible recommendations. Excellent written and oral communication skills.
- Good understanding of the ARCI legislation, policy and procedures.