

18 May 2016



Lee M

fyi-request-3796-4ccf908a@requests.fyi.org.nz

Dear Lee M

Official Information Act Request

Thank you for your email of 9 May 2016.

Your request

In light of our response to your request dated 22 March 2016, you asked for the following information, under the Official Information Act 1982 (the Act):

“a copy of the ‘relevant legislation’ that supports your advice that ‘Fairway Resolution Limited is not subject to the Code of ACC Claimants’ Rights.’”

Our response

FairWay Resolution Limited (FairWay) is an independent, Crown-owned company. It is registered and searchable on the Companies Office. It is not a division or part of ACC.

A range of dispute resolution services are offered by FairWay to the wider public and private sector market. It has its own Customer Service Charter.

Complaints about dealings with FairWay can be made via their website www.fairwayresolution.com.

The Ministry of Business, Innovation and Employment is responsible for monitoring a range of Crown entities and agencies – including FairWay.

ACC is one of FairWay’s clients. Other FairWay clients include the Ministry of Justice (Family Dispute Resolution) and the New Zealand Telecommunications Forum (Telecommunication Dispute Resolution).

Under Part 5 of the Accident Compensation Act 2001 (AC Act), ACC is required to provide an independent review service to enable binding outcomes on both ACC and ACC’s clients.

FairWay offers ACC reviews as one of its services. It is an independent contractor of this service; however, ACC retains the right use other suppliers to provide dispute resolution services.

As a provider of reviewers for ACC reviews, FairWay (and its contracted reviewers) must act independently; comply with the principles of natural justice; exercise due diligence in decision-making; and adopt an investigative approach with a view to conducting any review in a timely and practical manner (see sections 138, 139 and 140, AC Act).

FairWay, in undertaking its role as a reviewer, mediator or facilitator in respect of disputes arising between ACC and any one of ACC’s clients, *is not* acting as an

agent of ACC (refer section 39(b), AC Act); and *is not* providing a service on behalf of or authorised by ACC (refer section 39(c), AC Act).

Further, FairWay's review service extends to decisions made under the Code of ACC Claimants' Rights (the Code) about an ACC claimant's complaint.

Accordingly, this means FairWay does not fall within the definition of 'Corporation' for the purposes of the AC Act and thus is not subject to the Code.

The AC Act – and in particular, the sections referred to above – support the position/view that FairWay is not subject to the Code.

As all current New Zealand legislation is publicly available via www.legislation.govt.nz, we decline to provide a copy of the AC Act in accordance with section 18(d) of the Act.

Queries or concerns

If you have any questions, ACC will be happy to work with you to answer these. You can contact us at GovernmentServices@acc.co.nz or in writing to *Government Services, PO Box 242, Wellington 6140*.

You have the right to complain to the Office of the Ombudsman about our decision. You can call them on 0800 802 602 between 9am and 5pm on weekdays, or write to *The Office of the Ombudsman, PO Box 10152, Wellington 6143*.

Yours sincerely

Government Services