

19 December 2016

Mr David Lawson  
*Sent by Email Only: Fyi.org.nz*

Dear Mr Lawson

### **Request for Information – Review Training Manual**

We write further to your request for information, made 13 November 2016 and I apologise for the delay in responding. We note that parts of your request are made under section 23 of the Official Information Act 1982. Whilst we are of the view that this section may not necessarily apply in the circumstances/context of a decision made in response to a request for official information previously made by you, we respond to you as follows. Please note Mr Pollock is the outgoing Chief Executive, and I am currently Acting CEO.

The Reviewer Training Manual that was provided to you was the document that was considered under the Office of the Ombudsman's complaint process, and is what is published on FairWay's website. Therefore, the document as it stood and as applied under the investigation was supplied to you. Further, this is the current version of the manual.

FairWay did not see that the Ombudsman's opinion meant that a qualifying statement or commentary had to be attached to release of the manual. The section of the manual as it pertains to the Official Information Act 1982 still applies and is relevant. We do note that it is intended that there will be a future update to the Reviewer Training Manual, which will cover all general updates that are required, and will likely include reference to the Ombudsman's comments – this has not yet been prepared.

The Ombudsman's opinion related to release of the Benchbook under the Official Information Act and the application or otherwise of section 2(6)(b) of the Official Information Act 1982. It made no comment or findings as to the application of ACC's Code of Claimants' Rights or the Privacy Act 1993.

It has always been FairWay's view that ACC's Code of Claimants' Rights does not apply to reviewers. FairWay has its own Service Charter which sets out the standards of service that customers can expect.

The position with the Privacy Act 1993 is distinct from the Official Information Act 1982. For that reason, there was no update to page 28 of the manual for the Privacy Act section. We attach a copy of the 2012 case note of the Office of the Privacy Commissioner which sets out the views and opinion of the Privacy Commissioner.

We would note that even though reviewers are not considered to be an agency for the purposes of the Privacy Act 1993, they are still required to adhere to standard information management processes and still be respectful of an individual's privacy. FairWay's customer service charter includes the expectation that customer's information will be kept private and confidential, and for FairWay to explain why we ask customers to provide certain information.

Under the Ombudsman's process FairWay only made submissions in relation to section 2(6)(b) of the Official Information Act. FairWay has not sought legal advice since the Ombudsman provided his opinion regarding release of the Benchbook. We trust this responds to your queries. You may contact the Office of the Ombudsman in relation to this response.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Rhys West', with a large, stylized flourish at the bottom.

**Rhys West**  
Acting Chief Executive