

11 August 2021

Peter Russell

fyi-request-16219-38646f35@requests.fyi.org.nz

Tēnā koe Peter

Your Official Information Act request, reference: GOV-012979

Thank you for your email of 27 July 2021, asking for the following information under the Official Information Act 1982 (the Act):

Will ACC provide compensation for vaccine injury or death resulting from any vaccine whether or not it is administered as a treatment for disease or as a prophylactic measure?

Will ACC provide compensation for vaccine injury or death resulting from any vaccine whether or not it is administered by registered healthcare professionals or non-healthcare professionals who have been trained in administering vaccines, such as members of the New Zealand Defence Force?

Your request for information

Under the Act, a distinction exists between a request for information already known and held by an agency (official information), versus a request for an agency to form an opinion or provide an explanation or comment, and thus create new information to answer a request (not official information).

Your questions are asking ACC to provide an opinion and is therefore not considered to be requesting official information under the Act. Accordingly, we are refusing to respond to your questions.

Further information about official information requests can be found in the Ombudsman's guide *Making official information requests*. This is available on their website, [here](#).

ACC cover for treatment injuries

Injuries resulting from vaccinations are referred to as treatment injuries. ACC provides cover for treatment injuries in accordance with section 32 of the Accident Compensation Act 2001 (the AC Act), which you can view [here](#). Under this section, a person is eligible for treatment injury cover if they have suffered a person injury (which can include disease, gradual process or infection) caused by treatment, and the injury was not a necessary part, or ordinary consequence, of treatment. As such, whether a vaccine is used for a treatment of disease or as a prophylactic measure does not determine whether a person may be eligible for treatment injury cover.

Administration of vaccines

Section 32(1)(ii) of the AC Act states that a treatment injury means a personal injury suffered by a person receiving treatment from, or **at the direction of**, 1 or more registered health professionals.

Specifically, in relation to the COVID-19 vaccination, I refer you to the Medicines Amendment Regulations 2021 (the Regulations), which came into force on 28 May 2021. The Regulations cover the authorisation of vaccinators for COVID-19. [Section 44AB](#) states:

*A person authorised as a COVID-19 vaccinator must, at all times while performing the tasks authorised under these regulations, work under the clinical supervision and **direction of a suitably qualified health practitioner.***

Given the above, ACC can consider vaccine-related treatment injury claims for cover in cases where the vaccine is administered by an authorised vaccinator/at the direction of 1 or more registered health professionals.

Necessary Part or Ordinary Consequence of Treatment Policy

This [guidance](#) is used when assessing a treatment injury claim to help determine whether the injury suffered by a client was a necessary part or ordinary consequence of the treatment provided.

If you have any questions

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



Sasha Wood

Manager Official Information Act Services
Government Engagement & Support