

9 February 2016

Lee M

[fyi-request-3527-0327ecaa@requests.fyi.org.nz](mailto:fyi-request-3527-0327ecaa@requests.fyi.org.nz)

Dear Lee M

### Official Information Act Requests

Thank you for your Official Information Act 1982 (OIA) request of 6 January 2016, entitled “Changes to ACC45 claim forms”. ACC’s response to your questions is set out below.

#### Questions 1-3

You referred to a previous OIA response uploaded to the [www.fyi.org.nz](http://www.fyi.org.nz) website by ACC (<https://www.fyi.org.nz/request/1713/response/6307/attach/3/OIA%20David%20Nicholas%20Reply.pdf>) and asked:

- 1. What is the purpose of ACC claimants being required to sign ACC45 forms? Please provide the fullest possible explanation.*
- 2. Why must a treatment provider only lodge an ACC45 form with the ACC after the claimant has authorised the claim being lodged*
- 3. Are ACC claims authorised by claimants signing the manual and/or electronic ACC45 forms, and is there any difference in the wording of the declaration used on the manual ACC45 forms compared to that used on the electronic ACC45 forms? If so, can you please provide scanned copies of both declarations (manual and electronic).*

The requirement in regard to claim lodgement is that ACC clients or their authorised representatives must either:

- physically sign an ACC45 paper form, or
- provide a digital signature, through the lodging treatment provider, on an electronic ACC45.

The requirement for providers to obtain authorisation before lodging a claim on a person’s behalf is set out in section 49 of the Accident Compensation Act 2001.

The legislation requires authorisation by clients before lodgement. The information required on the electronic form is the same as the paper version but may be laid out slightly differently. Attached is a document that contains the declaration wording from ACC45s.

#### Question 4

- 4. Can you please provide copies of all internal and external policies, procedures, guidelines, rules, communications (including Memo’s, letters, e-mails and faxes), meeting Agenda and Minutes, and any other written words created pursuant to 28 May 2014 and stored in hardcopy or electronically which relate to the subject of any and all ACC forms that require claimant authority to access and share personal health information. This is to include all draft and final changes considered, proposed, recommended and/or made to any and all ACC forms that require claimant authority to access and share personal health information.*

Your question is extremely broad and appears to incorporate a substantial amount of information that ACC holds.

In terms of “any and all ACC forms that require claimant authority to access and share personal health information”, this includes approximately 15 forms and over 300 template letters.

Following the District Court decisions *Powell v ACC* [2014] NZACC 89 and *K v ACC* [2014] NZACC 90 in March 2014, ACC launched a comprehensive review of its authority process and forms. This included a project to replace the ACC167 *Authority for the collection and disclosure of information* form with the ACC6300 *Authority to collect medical and other records* form, as well as reviewing and considering any related changes to all other forms and template letters.

The creation of the new form and review of the wording relating to authority required consultation with external parties including advocates, providers and vendors. Any information related to your request that mentions these parties will require consultation with them before it can be released to you.

ACC also has an ongoing project to update and review its entire Forms, Letters and Fact Sheets stock, which includes any related documents that refer to client access to personal information. Finally, there are numerous policies, procedures and guidelines that include how to use all these forms, which could potentially come into the scope of your request.

### ***ACC’s interim response***

Due to the range of information that your question encompasses, ACC has prepared and attached some high level documents that relate to your query, including:

- ACC Memo for April Board
- ACC Board paper ‘Authority to collect information’ May 2014
- Advocates Representation Group meeting file.

Redactions have been made to these documents to: withhold staff names under Chief Officer level (in accordance with section 9(2)(a) of the OIA); to maintain legal professional privilege (in accordance with section 9(2)(h) of the OIA); and to protect the confidentiality of advice tendered by officials (in accordance with section 9(2)(f)(iv) of the OIA). The reason for redaction will be noted against each redacted paragraph.

Please note that the document provided to answer questions 1-3 regarding the ACC45 declaration wording, also provides information to answer question 4. Also note that documents relevant to this request may be found in ACC’s response to one of your previous FYI requests, found at this address <https://www.fyi.org.nz/request/3499-acc-principles-in-how-a-client-s-authority-is-used#incoming-11156>.

### ***Refining the scope***

As discussed above, there are a significantly large number of documents to work through.

We respectfully ask you to refine the scope of your original question 4 request. This could include narrowing it to one particular authority form, and/or reducing the type of documents you are seeking (e.g. final versions, policies, guidelines, etc).

Please let us know by return email to [GovernmentServices@acc.co.nz](mailto:GovernmentServices@acc.co.nz) by **22 February 2016** whether you wish to refine the scope of your original question 4 and how you wish to refine it.

ACC considers that it will take approximately four months to search for relevant material, abstract, collate, copy, transcribe and supervise access to all the documents that potentially fall in to the scope of your question 4 request. Should you wish to retain your original

wording, ACC will require an extension under section 15A(1) of the OIA to respond to it. This means that the information should be provided to you by **10 June 2016**.

**ACC is happy to answer your questions**

If you have any questions about the information provided, ACC will be happy to work with you to answer these. You can contact us at [GovernmentServices@acc.co.nz](mailto: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 to refuse or consider charging for your request. 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*

**Government Services**

*Enc. ACC45 Declaration wording for OIA request  
ACC Memo for April Board  
ACC Board paper 'Authority to collect information' May 2014  
Advocates Representation Group meeting file*

## ACC45 Patient Authorisation & Declaration Wording

### Online ACC45 (eACC45)

#### Provider Declaration Onscreen

DECLARATION
<b>Treatment provider declaration</b>
I certify that, on the date shown, I have personally examined the patient and that in my opinion the condition is the result of an accident. I also certify that the patient (or their representative) has signed the <a href="#">Patient Declaration and Consent</a> and has authorised me to lodge the claim on their behalf

#### Patient Authorisation & Declaration - As Part of Printed Claim

Patient Copy of Injury Claim		ACC ACCIDENT COMPENSATION CORP To Support Your Recovery
Claim Number -		
<b>Patient Details</b> Name Date of birth Gender NHI No. Ethnicity Home phone Mobile phone Home address Postal address Employment status Occupation Usual work type	<b>Referral(s)</b> Referral for Suggested treatment	
<b>Accident Details</b> Accident at work? Employer Employer address Motor vehicle accident? Accident date Location Scene Sport Activity Accident description	<b>Fitness for Work</b> Fully unfit for work Fit for some work	
<b>Injury Diagnosis</b> Diagnosis code description Side Diagnosis comments test Employment related gradual process? Treatment injury? Consultation with Consultation date	<b>PATIENT AUTHORISATION AND DECLARATION</b> <b>COLLECTING YOUR MEDICAL AND OTHER RECORDS</b> <b>Why we ask for your authority to collect your medical and other records</b> To establish cover and/or assess your entitlement to compensation, rehabilitation and treatment, we may need to collect medical and other records about you from a third party, such as your General Practitioner (GP), other medical professional, employer, or other government agencies. We need your authority to collect them. <b>These records could include:</b> <ul style="list-style-type: none"><li>• medical reports</li><li>• details of your accident</li><li>• medical history relevant to your claim</li><li>• specialist reports and assessments</li><li>• your employment details and history</li><li>• income and tax records.</li></ul> In each case, we'd only seek records that are or may be relevant to your claim during the life of your claim. We'll comply with the Privacy Act 1993, the Health Information Privacy Code 1994 and the Accident Compensation Act 2001 when collecting, using and managing personal information. You have the right to access any information we hold about you. You can also ask us to correct the information we hold about you. For more details see ACC's privacy notice at <a href="http://www.acc.co.nz/privacy">www.acc.co.nz/privacy</a> .	
	<b>PATIENT AUTHORISATION AND DECLARATION</b> <b>I authorise:</b> <ul style="list-style-type: none"><li>• ACC to collect medical and other records which are or may be relevant to my claim</li><li>• the treatment provider to lodge this claim for me.</li></ul> <b>I declare:</b> <ul style="list-style-type: none"><li>• that the information I have given in this form is true and correct.</li></ul>	

## Patient Consent

ACC45 number:  
Patient:



### PATIENT AUTHORISATION AND DECLARATION

#### COLLECTING YOUR MEDICAL AND OTHER RECORDS

##### Why we ask for your authority to collect your medical and other records

To establish cover and/or assess your entitlement to compensation, rehabilitation and treatment, we may need to collect medical and other records about you from a third party, such as your General Practitioner (GP), other medical professional, employer, or other government agencies. We need your authority to collect them.

These records could include:

- medical reports
- details of your accident
- medical history relevant to your claim
- specialist reports and assessments
- your employment details and history
- income and tax records

In each case, we'd only seek records that are or may be relevant to your claim during the life of your claim.

We'll comply with the Privacy Act 1993, the Health Information Privacy Code 1994 and the Accident Compensation Act 2001 when collecting, using and managing personal information. You have the right to access any information we hold about you. You can also ask us to correct the information we hold about you.

For more details see ACC's privacy notice at [www.acc.co.nz/privacy](http://www.acc.co.nz/privacy).

### PATIENT AUTHORISATION AND DECLARATION

I authorise:

- ACC to collect medical and other records which are or may be relevant to my claim
- the treatment provider to lodge this claim for me.

I declare:

- that the information I have given in this form is true and correct.

Patient to sign here or legal  
guardian or representative \_\_\_\_\_

Date \_\_\_\_\_

Authorised representatives  
name \_\_\_\_\_

Authorised representatives  
relationship to patient \_\_\_\_\_

**Paper ACC45**

Patient Declaration – on front of form

EMPLOYER NAME AND ADDRESS

**PART C: PATIENT AUTHORISATION AND DECLARATION**

*I have read and understood the Important Information and the Patient Authorisation and Declaration on the reverse of the patient copy of this form*

Patient to sign here or legal guardian or representative  \_\_\_\_\_ Date  /  /   
DAY MONTH YEAR

Provider Declaration – on front of form

**PART F: TREATMENT PROVIDER DECLARATION**

*I certify that, on the date shown, I have personally examined the patient and that in my opinion the condition is the result of an accident. I also certify that the patient (or their representative) has signed the Patient Authorisation and Declaration and has authorised me to lodge the claim on their behalf.*

ACC PROVIDER NUMBER

DEMOSTRATION ONLY: NOT FOR OFFICIAL USE

## **PATIENT** Collecting your medical and other records

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### **Why we ask for your authority to collect your medical and other records**

To establish cover and/or assess your entitlement to compensation, rehabilitation and treatment, we may need to collect medical and other records about you from a third party, such as your General Practitioner (GP), other medical professional, employer, or other government agencies. We need your authority to collect them.

These records could include:

- medical reports
- details of your accident
- medical history relevant to your claim
- specialist reports and assessments
- your employment details and history
- income and tax records.

In each case, we'd only seek records that are or may be relevant to your claim during the life of your claim.

We'll comply with the Privacy Act 1993, the Health Information Privacy Code 1994 and the Accident Compensation Act 2001 when collecting, using and managing personal information. You have the right to access any information we hold about you. You can also ask us to correct the information we hold about you.

For more details see ACC's privacy notice at [www.acc.co.nz/privacy](http://www.acc.co.nz/privacy).

## **PATIENT AUTHORISATION AND DECLARATION**

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I authorise:

- ACC to collect medical and other records which are or may be relevant to my claim
- the treatment provider to lodge this claim for me.

I declare:

- that the information I have given in this form is true and correct.

# Memorandum



TO	§9(2)(a) Chief Privacy Officer and Change Director
CC	§9(2)(a) Strategic Manager, Privacy
FROM	§9(2)(a) Principal Advisor, Privacy
DATE	30 April 2014
SUBJECT	ACC167 form in the Independent Review

## The ACC167 as referenced in the Independent Review

### Recommendations summary

- There is no specific mention of the ACC167 in the 44 main recommendations.
- There are, however, supplementary recommendations ('IPP/HIPR Compliance Recommendations') around IPP/HIPR 2 and IPP/HIPR 3 that relate to consent.

<b>IPP/HIPR 2</b>	<p>ACC should review its processes and forms for seeking consent to collect and disclose information to ensure that they are consistent with best legal and privacy practices and take account of ACC's clients interests.</p> <p>ACC should establish processes to allow for detailed ongoing stakeholder consultation on the development and implementation of consent processes.</p> <p>Subject to the above, ACC should make its forms and consent processes:</p> <ul style="list-style-type: none"><li>• As specific as possible to a claimant's circumstances.</li><li>• Address the need to renew consent from time to time.</li><li>• Consider the circumstances in which consent may be withdrawn (for future disclosures) and the consequences.</li><li>• Not cover collection or disclosure of personal information where ACC does not need consent and instead provide information about such collection or disclosure in appropriate language, formats and locations</li></ul> <p>(See also Recommendation 3 and 6).</p>
<b>IPP/HIPR 3</b>	<p>ACC should review the way in which it provides privacy information to its clients as required by IPP/HIPR 3 and best practice, to ensure it is consistent across forms and channels, is comprehensive and takes account of client's different information needs at different points in their claims process. Unless it can meet best practice other ways ACC should adopt a layered notice approach and should develop a detailed privacy policy on all aspects of its privacy commitment, its handling of personal information and its privacy complaint handling processes and make sure this is generally available to clients and members of the community.</p> <p>(See also Recommendation 3 and 6)</p>



- The main discussion on the ACC167 was contained in chapter 8.8 which talked about ACC's approach and performance through the lens of the IPPs and HIPRs.
- The supplementary recommendations in 8.8 were intended to assist in implementing the main recommendations but also raise issues not considered elsewhere in the Independent Review.
- The main compliance risks highlighted by the Independent Review team were in relation to security (IPP5/HIPR 5) and disclosure (IPP11/HIPR11). However they did note that:
 

[...] there is also room for significant change at the critical point of entry of personal information to ACC systems. ACC's practices in relation to the collection of personal information could be improved both in terms of communications with clients and in ensuring it only collects, or receives information that is relevant and necessary for its functions and activities.

### **Discussion IPP 2/HIPR 2:**

- The Review team mentioned that the challenge from a privacy perspective is that the consent forms (ACC167 and ACC45) are broad – which make it more difficult for individuals to understand what will happen to their personal information and therefore to make informed choices. In particular, the team noted client stakeholder concern at this.
- There were issues with:
  - the breadth of the consent form, making it difficult to know with certainty who ACC might contact for information or to whom it might be provided
  - the general description of the nature of personal information collected or disclosed does not provide clients with a clear picture of what sort of information will be collected.
  - ACC's policy on the life of consent – essentially the life of the claim – and whether this is fair, and understood by ACC staff and clients
  - the process, if any, to withdraw consent
  - inconsistency in staff reports of the consent process
  - whether it should include collection of information for research and statistics.
- The Review team noted that while the consent forms may be considered to comply there was an opportunity for a better practice review.

### **Discussion IPP 3/HIPR 3**

- The Review team did not identify significant compliance issues in respect to IPP 3/HIPR 3 but suggested there were "some minor gaps" in meeting its requirements, for example:
  - the ACC167 does not specifically identify information as being voluntary or mandatory or set out the consequences of not providing the information.
  - the ACC167 description of usual disclosures is very broad; it would be difficult for claimants to get a realistic picture of what disclosures will happen in their particular case.
  - the form does not mention usual disclosures for data-matching, health system payments, other government interests or disclosures in the context of review of appeals.

### Stakeholder input

- The other major area of discussion on the ACC167 was from external stakeholder interviews.
- The ACC167 is mentioned as a key area of concern, in particular:
  - the use of 'etc' with reference to obtaining and using health information (NB. this has been removed from the form currently in use)
  - various attempts had been made to discuss the form with ACC but stakeholders felt they had not been listened to
  - that ACC was collecting more medical information than was needed to assess the specific claim and that such information had been used as grounds for denying compensation.

## Action we took to address the Independent Review recommendations

- Recommendation 3.8 states that ACC should:

3.8 Complete a holistic review of the personal information [notices] provided to clients via all channels and at all stages in their interactions with ACC to ensure that:

- it is consistent
- provides sufficient detail to inform their decisions and actions
- takes account of current best practice in privacy notices, for example using layered notices and giving “just-in-time” privacy prompts.

- In November 2013, recommendation 3.8 of the Independent Review was closed off. The recommendation was closed because ACC had:
  - completed a detailed analysis of interactions with clients and the privacy notices available to clients, which identified a number of improvement opportunities and gaps.
  - found that ACC’s current privacy policy and notice was inadequate and inconsistent with best practice as recommended by the IAPP, OPC and Global Privacy Enforcement Network Internet Privacy Sweep of May 2013
  - uploaded a new layered privacy notice on ACC’s website (and internally on our intranet), that follows the layering concept; Layer 1 makes high level statements about ACC’s data protection process. Layer 2 provides further detail, linking from key words in Layer 1
  - presented the privacy policy and notice to members of the Advocates Representation Group in October 2013, who provided positive feedback on the layout and content
  - completed more specific policies based on the IPPs, to provide further guidance to staff on our privacy requirements. (Note these awaiting uploading to our intranet.)
- In particular, the closure recommendation noted that:

[...] work will begin in early 2014 to ensure that the ACC45 claim lodgement form and the ACC167 consent form, in combination with the privacy notice and policy, provide satisfactory detail to customers and clients about ACC’s information practices, particularly during their first encounter with ACC. Given the significance of these changes, it is likely that these will be delivered as part of the Privacy Pillar within the Shaping our Future Programme.

## Action we had in train to revise the form

- As stated in the recommendation 3.8 closure document, work on the consent process was a priority and was underway. However, it was considered that it was fundamental to set ACC’s privacy notice and policy in place first to use as a basis for our information management.
- Work already complete included:
  - a workshop run by Information Integrity Solutions on 20 March that explored the consent process, specifically the ACC45 and ACC167
  - a 3 April idea definition on the consent process with the objective to implement some quick win improvements to ACC’s current forms and communications regarding the collection, storage and use of information, producing:
    - a new notice informing clients of how and why ACC collects, stores and uses their information to manage their claim. This would be included as an insert with the cover letter for the individual’s claim.
    - an updated version of the ACC167 form that aligns to current corporate style guides and clearly delineates between notice and consent.

## Board Paper

**Title** ACC's authority to collect information

**Status** Decision  Information  Consideration

**Agenda Item** 3.3

### 1 Purpose

1.1 This paper outlines:

- Judge Powell's findings on the use of the ACC167 *Authority for the Collection and Disclosure of Information* form
- actions underway to revisit ACC's processes to gain client authority to collect their personal information
- ACC's process for providing information to employers for pre-employment checks.

### 2 Alignment to Strategic Direction

2.1 One of ACC's strategic drivers is to ensure the protection of personal information held by ACC, and an outcome measure of this strategic driver is to improve our privacy maturity. This paper updates the Board on ACC's work to review and improve our maturity in the way we collect information and gain client authority to do this.

### 3 Recommendations

3.1 It is recommended that the ACC Board:

- (a) **Note** that ACC has work underway to review its processes for gaining client authority to collect personal information, and key results of this work include:
  - i. replacing the ACC167 *Authority for the Collection and Disclosure of Information* form
  - ii. amending the ACC45 *Injury Claim Form* and other associated forms
- (b) **Note** that ACC has processes in place to manage requests from prospective employers for client information.

## 4 Background

4.1 At present, authority for ACC to collect a client's personal information is primarily obtained through the ACC45 and ACC167:

- **ACC45** – filled out at the initial consultation with the client's treatment provider, and is the mechanism by which a client makes a claim to ACC for cover and entitlements
- **ACC167** – given to claimants at a later stage, initiated by ACC, for the purpose of collecting and disclosing information to assess the claimant's ongoing right to entitlements.

4.2 In addition, there are approximately 15 other different forms which clients sign at different times to provide consent for ACC to collect information.

### **Authority and consent in the Independent Review**

4.3 As part of addressing the recommendations of the Independent Review of ACC's Privacy and Security (**Independent Review**) ACC completed a holistic review of notices provided to clients to ensure they were consistent and sufficiently detailed. Privacy notices communicate an organisation's privacy policies to customers and are commonly found on a business' website.

4.4 This review led to the development of a new privacy notice designed to follow international best practice, which is now available on ACC's website in eight languages. The notice and accompanying privacy policy were presented to members of the Advocates Representation Group (**ARG**) in October 2013, who provided positive feedback on the layout and content. In addition, more specific policies based on the Information Privacy Principles (**IPPs**) were completed to provide further guidance to staff on privacy.

4.5 The Independent Review also made supplementary recommendations around IPPs 2 and 3 that relate to client consent.<sup>1</sup> In particular the Independent Review noted that ACC's practices could be improved in terms of client communication and in ensuring ACC only collects, or receives information that is relevant and necessary for its functions and activities.

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<sup>1</sup> Supplementary recommendations were intended to assist in implementing the main recommendations but also raise issues not considered elsewhere in the Independent Review.

- 4.6 Taking account of the supplementary recommendations, and using the privacy notice and policy as a base, work began in early 2014 to ensure that clients were provided with satisfactory detail about ACC's personal information processes when providing consent to ACC, including when completing the ACC45 and ACC167 forms.

### **Judge Powell's decisions**

- 4.7 In March 2014, Judge Powell considered two cases against the Corporation that were brought by ACC clients who had had their entitlements ceased when they refused to sign the ACC167.<sup>2</sup> The key issue was whether a failure to complete the ACC167 by itself constituted a failure to comply with the requirements of the Accident Compensation Act 2001 (the Act).
- 4.8 Judge Powell found that failure to complete the ACC167 could not be seen as an unreasonable refusal to comply with the requirements of the Act. He concluded that the authorisation requested in the ACC167 to collect "information", was broader than that mandated by section 72(1)(c) of the Act, namely authorisation for the collection of "medical and other records that are or may be relevant to the claim".
- 4.9 Judge Powell noted that there were a number of options available to ACC, including:
- (a) ensuring any authority is consistent with section 72(1)(c) of the Act
  - (b) if a wider authority is sought, ensuring that authority is specific in regard to client's legislative obligations and what can be enforced under legislation by ACC if authority is not provided
  - (c) enabling specific agreements on consent between individual clients and ACC.

## **5 Review of ACC's processes to gain client authority**

- 5.1 As discussed above, work was underway to review whether clients were able to make informed decisions when providing authority for ACC to collect and use their personal information. Following Judge Powell's decisions, this work was accelerated.
- 5.2 This is a programme of work that impacts on most elements of the claims management process. Implementation will require systematic and structured changes to how ACC gains authority to collect personal information from clients. These changes will also impact on the operational processes that rely on this information. Given the scale, a project has been established to ensure effective delivery.

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<sup>2</sup> The judgments relate to decisions made by ACC in 2009 and do not reflect current practice.

5.3 In the interim, staff have been advised to continue using the ACC167 until the new processes and forms are finalised. However, there were clear instructions to not suspend entitlements where a client failed to complete the ACC167.

### **Client awareness of the ACC's processes**

5.4 A key issue with gaining authority is the client's awareness of ACC's processes. Some stakeholders complain that they give consent to do a broad range of things, but that ACC is not transparent in how information is collected, what ACC requests from third parties, or how the information is used.

5.5 ACC's processes that are perceived as being hidden therefore need to become more transparent and more customer-centric. For example, if more information is needed on a claim after a period of non-activity of at least three months, staff should check that the client is still comfortable with the authority form held on file.

5.6 To address this issue, ACC has established principles for gaining client authority, as represented in the diagram in **Appendix 1**. The principles represent the continuous cycle of gaining client authority, requesting, receiving and using records, and communicating with the client throughout the whole process.

### **Over-collection of information**

5.7 One issue under review is to determine best practice for ACC staff who receive information that is not relevant to the particular claim. Efforts have been made in recent years to ensure that requests to providers are extremely clear in what is required to make a decision. However, it is still necessary to address:

- what to do with irrelevant information relating to a claimant but not directly related to the injury that is received unsolicited by ACC
- information that does not specifically relate to an injury but could impact on the client's successful rehabilitation
- provider workloads to enable the editing of information before it is sent to ACC, or alternatively coping with many different requests about clients as more information is required.<sup>3</sup>

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<sup>3</sup> ACC will work through representative associations to achieve this.

## 6 Updating ACC's authority forms

6.1 As discussed, ACC accelerated work to review its authority processes. A significant outcome is the replacement of the ACC167 with a new form, the ACC6300 *Authority to Collect Medical and Other Records*. The ACC6300 has been drafted with external advice from <sup>s9(2)(h)</sup> [REDACTED] and Information Integrity Systems (IIS), co-authors of the Independent Review. <sup>s9(2)(h)</sup> [REDACTED]  
[REDACTED]

6.2 The table below sets out key differences between the ACC167 and ACC6300:

ACC167 refers to:	ACC6300 refers to:	Rationale for change
Information	Medical and other records	The term 'information' was rejected as too broad by Judge Powell. The reference to 'medical and other records' aligns with statutory language
Collection, use and disclosure	Collection only	It is not necessary for clients to authorise ACC's use/disclosure of their information as long as ACC's use/disclosure aligns with the purpose for which the information was collected. However, best practice is to obtain authority for use/disclosure as it is needed, and following periods of inactivity on the claim
Providing authority to use information for evaluation of ACC's services, research into injury prevention, and effective rehabilitation	Collection is specifically for medical and other records relevant to the claim. No reference to collecting information to use it for research and evaluation purposes.	Although the Act enables collection for these purposes, there is a risk that including it in the ACC6300 may be seen as an unreasonably broad request.
Authority is given to collect use and disclose 'all information' about the client, about 'all aspects' of a claim	Specifies the authority is for collecting 'medical and other records' then lists the types of records that ACC may collect. Also specifies that ACC will only seek records that are or may be relevant to a claim	The specificity about the type of information collected aligns with the supplementary recommendations of the Independent Review and reflects statutory language.
No reference to alternative types of consent outside of the ACC167	Clients are advised to talk to their case manager about alternative ways to provide authority, other than signing the ACC6300	Providing alternatives aligns with Judge Powell's recommendations for a new process
Information about privacy rights were contained in a separate information sheet	More information is available by talking to ACC and viewing ACC's privacy notice online	A transparent and customer-centric approach is necessary to improve communication with clients. A physical copy of the privacy notice will also accompany the ACC6300

## **Consultation with ARG**

- 6.3 Supplementary sections in the Independent Review mentioned that the ACC167 was an area of concern with some stakeholders. In particular, stakeholders felt that ACC was collecting more medical information than was needed to assess the specific claim and that such information had been used as grounds for denying compensation. It was this type of complaint that ultimately led to Judge Powell's findings.
- 6.4 A further complaint was that stakeholders felt they had not been listened to when they attempted to discuss the ACC167. With this history in mind, ACC undertook to seek feedback from ARG in the development of the ACC6300.
- 6.5 Following email consultation, the members of ARG expressed a desire to have a group discussion about the ACC6300, to express their concerns and provide feedback collectively.
- 6.6 An ACC-ARG meeting is scheduled for 22 May 2014 with the key goal to reach agreement in principle to launch the ACC6300. You will be updated on the outcome of this discussion at the May Board meeting.

## **Implementation and transition to the ACC6300**

- 6.7 Launch of the ACC6300 will be accompanied by training on the form's use and relevant new processes. Trainer packs with presentations, discussion sheets and frequently asked questions have been prepared and the online policy manual has been updated.
- 6.8 In the transition period, ACC will not replace all of the ACC167 forms on existing files. However, clients will be asked to sign an ACC6300 form:
- if they raise concerns about a previous consent they provided
  - if ACC seeks further information on a file, and the client expresses a discomfort with their existing consent after questioning by staff.
- 6.9 New processes will allow clients to modify the consent they provide to ACC, as long as this will enable staff to appropriately manage the claim. Staff are being instructed to accommodate this request by:



- discussing with the client why ACC needs medical and other records
- allowing the client to outline their concerns about ACC collecting these records
- noting the client's specific consent to ensure a consistent approach in future.

### **Revision of other forms**

6.10 The ACC45 is being considered for revision; not only of its wording, but whether specific client authority to collect information is actually needed at lodgement.

6.11 <sup>s9(2)(h)</sup> [REDACTED]  
 [REDACTED] Authorisation is only required if additional information is needed from third parties. In practice, this means that the Health Provider would only need to obtain the client's authority to provide initial claim lodgement information to ACC, and lodge the claim on the client's behalf. <sup>s9(2)(h)</sup> [REDACTED]  
 [REDACTED]

6.12 An identified risk with amending the ACC45 is its widespread use as a claim lodgement form in both printed and electronic form. Complex logistical and technical considerations mean that implementing a new ACC45 with related processes could take several months to complete.

6.13 In addition to the ACC45, there are 15 other forms that seek client consent to collect information, which will need to be aligned with any changes as a result of the ongoing review of ACC's authority processes.

### **Consultation with providers**

6.14 As mentioned, the ACC45 has widespread manual and electronic use around New Zealand. Specific consideration will be given to the impact of amendments to ACC's authority processes on treatment providers, especially GPs at the initial claims lodgement stage.

### **External communications**

6.15 ACC provided a brief background about the ACC167 issue for customers and providers on the ACC website. An 0800 helpline was launched on 15 April 2014 to assist callers who have concerns and queries about providing authority. As at 20 May 2014, the 0800 helpline had received 119 calls (68% of these were received in the first 10 days of operation).

6.16 Targeted messaging is being prepared for health provider groups, with the launch to coincide with final implementation of the ACC6300. This messaging will take into account any changes to the ACC45 and other forms of which health providers will need to be aware.

## **7 Pre-employment checks**

7.1 Employers request information from ACC about prospective employees for the purpose of making recruitment decisions.

7.2 ACC has a process to ensure full compliance with legislation and ensure clients are aware of the types of information being released to third parties who request claim history information. This process is necessary to accommodate the growing number of requests for such information: approximately 36,000 in the financial year to date.

7.3 ACC considers these requests under the Official Information Act 1982 (OIA). ACC is required to respond to these requests, but will withhold information from release where section 9(2)(a) of the OIA applies.<sup>4</sup> Types of information withheld by default include:

- mental injury as a consequence of physical injury claims
- declined claims
- treatment injury claims
- claims occurring more than ten years ago
- sensitive claims
- claims regarding dependants of accidental death claims
- self-harm claims.

7.4 ACC can release claim history information relating to the above claim types, but only with express authorisation from the client concerned. In this case, as the information is particularly sensitive and private, it is policy to only give it to the client concerned. It is the client's choice whether they pass this on to the prospective employer or recruitment agency.

7.5 ACC has a standard form that prospective employers and recruitment agencies can use to request client claim history information. It expressly states the type of information that will be released, and that the above seven claim types will not be

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<sup>4</sup> Section 9(2)(a) enables information to be withheld where it is necessary to protect the privacy of natural persons.

disclosed unless expressly authorised by the client. Clients sign this form giving consent for ACC to release the information to their employers.

7.6 Once express authorisation is obtained from the client, ACC releases limited claim information, including:

- claim number
- cover status (will say Accept because declined claims are not disclosed by default)
- date of accident
- injury description (eg sprain of shoulder/upper arm).

7.7 Both the requestor and client receive a copy of the above information. Previously the information was sent to the client to forward to the prospective employer. However, this caused operational issues, including delays, and the practice was stopped.

7.8 The seven claim types listed in paragraph 7.3 above are not disclosed to a requestor unless the client expressly authorises it. In this case, ACC will always provide the information to the client directly.

7.9 If the client does not authorise the release of their claims history information, it will not be released to the requestor.

7.10 s9(2)(f)(iv) [Redacted]

s9(2)(a) [Redacted]  
s9(2)(a) [Redacted]

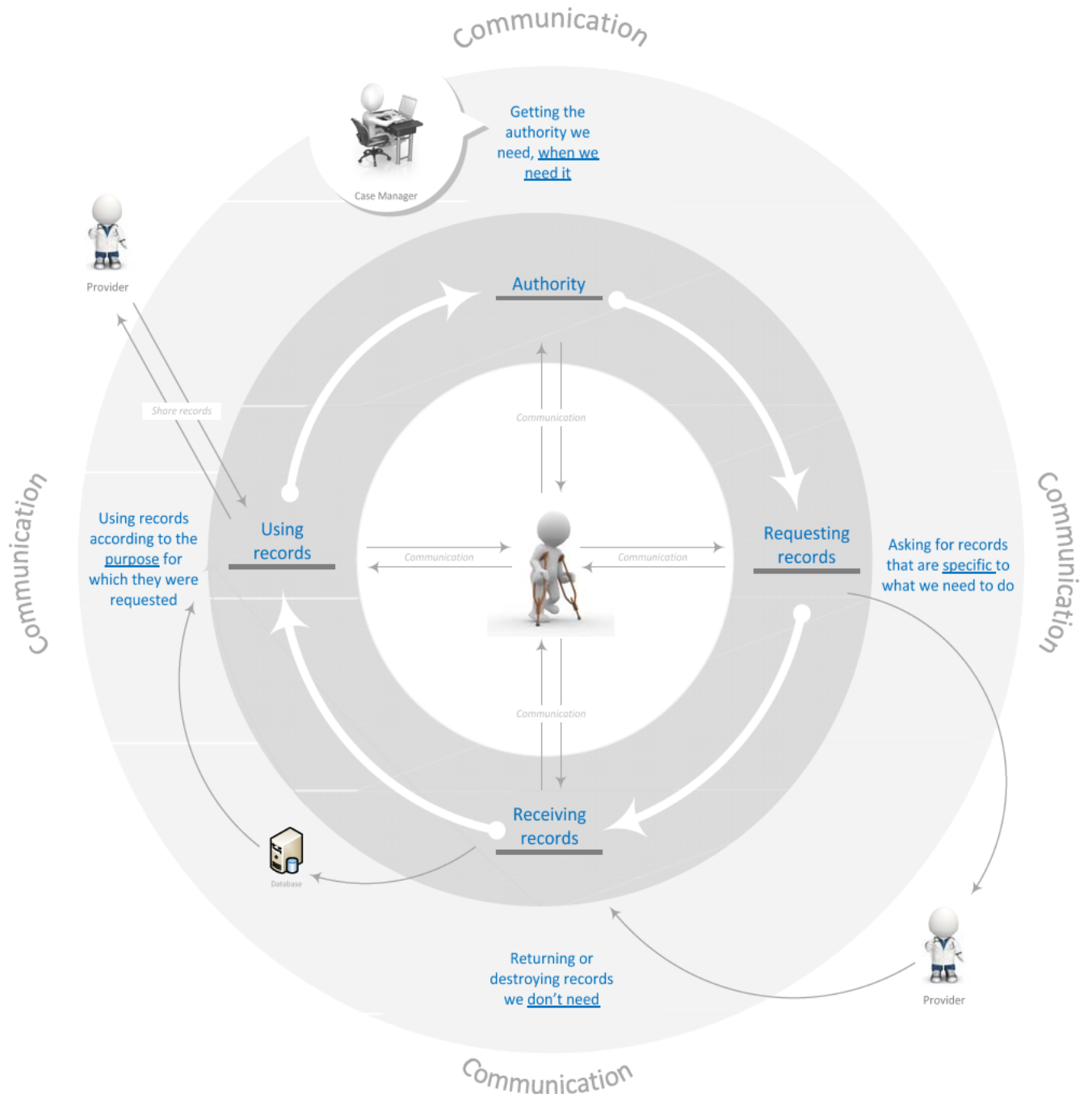
Sid Miller  
General Manager, Claims Management

## Appendix 1

# Authority Principles

*How we want to work.....*

*Communicating clearly & openly with the client so there are no surprises.*



















































## 3.3 – Agree resolution to issues that can be addressed today

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<p><b>1 Alternative ways of providing authority:</b> The form says to contact ACC if you want to discuss alternative ways of providing authority. This is placing an unnecessary burden on the client to raise this question with ACC and doesn't give clients enough detail to make a decision whether to sign the form or not. The form should name and describe the alternatives (e.g. case by case) and make it easy for clients to select which method they are using (e.g. check boxes for "blanket consent" and "case by case consent" or putting "for example on a case by case basis" on the form)</p>	<p>Form</p>	<p>Important to keep option for full consent so the form is workable for the majority of claimants</p> <p>Add one or two sentences that let people know they can choose a different type of consent, with a second sentence explaining what "case by case" means</p> <p>The choice has to be explicit and well explained to the client</p> <p>Need to make it clear that people don't have to sign this form because they have a choice of other options</p> <p>It's not enough to have information about options on the website</p>

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<p><b>2 Injury description:</b> The Claim Number is not sufficient for clients to know which injury(s) this consent relates to. Therefore the form should include a space for the injury description to be put</p>	<p>Form</p>	<p>The form may be sent to people who aren't clinical or may not have the right to know what the injury is (in some circumstances)</p> <p>Diagnoses can change throughout the life of the claim. If this happens, does it mean the authority is now not valid?</p> <p>Putting date of accident on the form would enable the client to relate the consent to the right claim</p> <p>Date of accident could be a "bridging solution" until issues around read codes etc. Are resolved at which time the description could be put on the form</p> <p>ACC needs to examine feasibility of this because they need to understand the risks. ACC will explore any other solutions to the problem and come back with a recommendation based on what is feasible and what isn't at this point in time</p>

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<p><b>3 Duration of consent:</b> The form should allow the client to specify how long they give ACC consent for. The client should be able to specify whether the consent is for a number of months or for the life of the claim</p>	<p>Form</p>	<p>Agree with principle, but want to limit the number of variants that could result from the form so it remains practical, therefore would be keen to fix the duration to one fixed time</p> <p>The choice of timeframe should be offered to people who are going through the alternative consent process</p> <p>ACC intends to “front-foot” the conversation about the clients comfort with the previously signed consent through the life of the claim (e.g. Every 12 months)</p> <p>Look at adding a sentence to the 6300 clarifying the consent is valid for the life of the claim</p>

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>4 List of types of information:</b> The form currently lists a number of pieces of information ACC can use this consent to collect, but described these as “These records <i>could</i> include:”. This doesn’t give any certainty to clients as to what they are consenting to and leaves the door open for abuse. It should say “These records include”	Form	Remove “could”

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>5 Information requests:</b> When ACC requests information from medical professionals they seem to submit broad requests – e.g. “All information relevant to the client’s knee injury”. These requests should be more specific so they are only asking for information relevant to what they need to assess the client’s injury	Process	The “requesting records” principle requires ACC to be very specific about what is being requested and why. Some letters have been changed already. ACC is aware of this and will ensure that all the letters ACC uses aligns with this principle.

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>6 Unrequested information:</b> When ACC receives more information than they asked for, they are able to browse and store the information, breaching a client's privacy – especially with respect to sensitive medical topics. Unrequested information should be destroyed or returned immediately	Process	Addressed by ACC's principle around receiving information. Part of the training that will be rolled out to reinforce this principle.



# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>7 ACC45 &amp; other forms</b> The ACC45 has a consent on it which is potentially a duplicate of this consent. The ACC45 & other forms needs to be consistent with the new form	Process	Agree. ACC is looking at how the new form fits into the broader picture to make sure for example the new form isn't decoupled from the ACC45.

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<p><b>8 Who we collect information from.</b> The form should specify that information such as tax records will be requested from IRD and WINZ even though ACC doesn't technically need authority to do this. This will ensure the client is more fully informed.</p>	Form	<p><b>ACC agrees in principle but needs to look at the implications</b></p> <p>Update form to include WINZ and IRD / tax records in the listed items so that the form is for the complete authority ACC requires &amp; client is fully informed</p>

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>9 “We can let you know about the types of records we need to collect”</b> – The form should say that we <b>will</b> let you know and this should be reinforced in the process so that clients are told in advance of requests being sent out	Form & Process	The principles around communication intend for ACC to have conversations with clients about what is being requested and why.  Changing the form to “will” ensures ACC is having the conversations the principles intends them to

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>10 Section 5.</b> The section on “How we will use your medical records” is too far down the page below the signature. The relevant pieces of this section should be higher up the page so clients can be fully informed before signing	Form	Move Section 5 above the signature box.

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<p><b>11 “the other purposes authorised in the Accident Compensation Act 2001”</b> – The form shouldn’t be used to get permission to collect information for other purposes. Clients think they are signing this form to help them with their claim, but this sentence allows ACC to use information for broader purposes which clients won’t necessarily understand the implications of. Specific consent to use client information for this purpose should be obtained explicitly</p>	Form	<p>Take from “How we’ll use your information” down to the second bullet point in Section 5 out of the form.</p> <p>If ACC wants to use information for other purposes, gain consent separately because putting it on here doesn’t segment between the client’s journey through the claim and broader scheme management</p>

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>12 Security of information during transport –</b> Information transported from the doctor to ACC needs to be secure and should not be done digitally unless it is encrypted	Process	s9(2)(f)(iv) [REDACTED] [REDACTED] [REDACTED] [REDACTED]

# Agree resolution to issues that can be addressed today

Issue	F/P	Agreed resolution
<b>13 Requesting information from employer</b> – The employer shouldn't automatically be told the nature of the injury unless it is work related	Process	This is the current practice. ACC can share the current practice with ARG.