

07 February 2019



Anita Easton

fyi-request-9273-6cd0687a@requests.fyi.org.nz

Dear Anita

Your Official Information Act request, reference: 0053434

Thank you for your request of 18 December 2018, sent via FYI, asking for the following information under the Official Information Act 1982 (the Act):

- 1) *“Is it possible for ACC to record a gender other than female or male in your claims and client management system(s)?*
- 2) *What guidance do you currently provide to staff on how to record the gender of non-binary people? This restates a portion of my initial 3b which was not completely answered.*
- 3) *Do you have any advice, legal opinion or other documentation supporting the view that insisting a non-binary person choose either female or male before they can receive cover is not “gender-based discriminations in relation to either personal injury cover or entitlements”*
- 4) *Can you please provide documentation of the active engagement being undertaken with the Ministry of Health and Statistics New Zealand on this matter. Any proposed timeline for resolution would be particularly welcome.”*

Gender selection in ACC’s client management system

Is it possible for ACC to record a gender other than female or male in your claims and client management system(s)?

ACC’s client management system, Eos, requires the user to select a male or female gender as part of the claim registration process. The system does not have a non-binary option, and the field cannot be left blank.

Many of the claim forms ACC receive arrive electronically from providers. Electronic claim forms are filled in by the provider, with the provider themselves selecting the gender. The provider must select either male or female before the claim form can be submitted.

ACC staff have guidance when determining gender

What guidance do you currently provide to staff on how to record the gender of non-binary people?

As explained in our letter dated 18 December 2018 (Ref: 053207), where there is a record existing on Eos already for the client, we take the gender from that. If there is a NHI number provided, we can search the NHI record. Alternatively, we may call the submitting provider or the client to confirm. Occasionally we go by the client’s name.

In situations where a claim form is submitted with a different gender to what is already in our system, we follow up with the submitting provider. We can then change the gender listed in our system if it needs correcting.

Advice obtained regarding whether selecting a gender is not a barrier in relation to personal injury cover or entitlements is legally privileged

Do you have any advice, legal opinion or other documentation supporting the view that insisting a non-binary person choose either female or male before they can receive cover is not "gender-based discriminations in relation to either personal injury cover or entitlements"

ACC has sought and received advice with respect to whether insisting a non-binary person choose a gender before they receive cover is not gender-based discriminations in relation to either personal injury cover or entitlements. However, as this information is legally privileged, we are withholding it under section 9(2)(h) of the Act. We have considered the public interest in making the information available and have determined that it does not outweigh the need to maintain legal professional privilege.

It is important to remember that the decisions made regarding the treatments clients receive are not made based on the demographic information collected on the claim form, but on the recommendation of health professionals in relation to the clients covered injury.

The information we collect on the ACC claim form helps identify accident trends

ACC collects a small amount of general demographic information on the claim form submitted. The information we collect on claim forms allows us to identify accident trends, and helps us prepare accordingly for the types of injuries we can expect to see over the next year.

By collecting information such as age, gender and location of accident we can look at common accident trends and use them to influence our injury prevention campaigns. For example, the information we collect might tell us that older females are more prone to falls, meaning we look to target an injury prevention campaign about falls at older women.

ACC is actively engaging on the topic of gender identity

Can you please provide documentation of the active engagement being undertaken with the Ministry of Health and Statistics New Zealand on this matter. Any proposed timeline for resolution would be particularly welcome

ACC is a member, and Vice Chair, of the Health Information Standards Organisation (HISO), a Ministry of Health committee. HISO has been consulting on various aspects of identity through proposed changes to the National Health Index system and the Consumer Health Identity Standard; this includes changes to gender.

A summary of public feedback on the change is available to view online, and can be found at the following link: www.health.govt.nz/publication/summary-public-comment-received-proposed-changes-national-health-index-system-and-hiso-10046.

The public feedback received was considered at a HISO meeting on 1 November 2018. The meeting discussed the need to adopt a uniform, acceptable classification of gender that is acceptable to the LGBTIQ+ community. HISO decided that Statistics NZ, as the overarching standards body for government, should be responsible for addressing concerns expressed.

The excerpt below has been taken from the 1 November 2018 HISO meeting minutes, showing HISO's intention to liaise with Statistics NZ on gender identity work.

2. NHI proposed enhancements and Consumer Health Identity Standard

Action 1: Continue to liaise with StatsNZ and communicate the feedback we received about the gender identity standard.

Decision 1: Proceed to draft HISO 10046 Consumer Health Identity Standard enhancements relating to NHI number format, country code set and language code set, and develop an adoption plan.

ACC is continuing to raise the issue of gender identity with Statistics NZ, and we hope to be involved with Statistics NZ for future work on this topic. As such, there is no proposed timeline for resolution. Any further requests for information on gender identity should be directed to Statistics NZ as the agency responsible for this work.

We are happy to answer your 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 seek an investigation and review of this decision, by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

Yours sincerely



Emma Coats

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