



13 October 2023

AS Van Wey

fyi-request-23363-eeaff239@requests.fyi.org.nz

Kia ora AMy

Your Official Information Act request, reference: GOV-027820

Thank you for your email of 9 October 2023, in response to our 3 October email, where we recommended that you make your request of 30 September (GOV-027820) to ACC using your own email account.

You reiterated your preference that our response be made via the FYI website. You also asked some additional questions, for all of which you provided some contextual information. We have therefore recorded your request as consisting of the following questions:

Request 1: Please provide the information via this website, as I had requested, and as you had implied you would provide once you had the relevant information.

Request 2: Please provide the scope of practice that those ECA's were contracted to provide services for.

Request 3(a): Please provide the evidence that those physicians had a valid practicing certificate with the Medical Council of NZ at the time of their ECA reports.

Request 3(b): Please provide me with the number of instances for each physical year since 2013, where ACC sought and obtained ECA reports from physicians in areas outside their scope of practice, and /or from persons who were not permitted to practice medicine in NZ (e.g., did not hold a current practicing certificate). We know the number is at least two, as I've just named two instances in the last year.

Request 4: For each of the physical years since 2013, the number of times ACC sought ECA advice without first:

- (1) notifying the claimant that they were seeking an ECA as required under ACC's policies, the Act, the Code, and the Privacy Act 2020; and*
- (2) providing the claimant with a list of options of ECA's, as required under ACC's policies, the Act, the Code and other legislation (See HDC Code of Consumer Rights Regulations 1996); and*
- (3) seeking the claimant's consent to disclose records, as required under ACC's policies, the Code, the Privacy Act, and the HDC Code of Consumer Rights; and*
- (4) without having first discussed with the claimant what information ACC had obtained, and from whom, and provided that information to the claimant, as required under ACC's policies, the Code, and the Privacy Act.*

We know the number cannot be zero, because lodged 8 privacy complaints on 10 October 2022 alone, and followed up with additional complaints on the following days and months.

Request 5: For each of the financial years, since 2013, please provide me with the number of instances where ACC

- (1) obtained information from third parties without first obtaining the informed consent of the claimant (specifying what information they were seeking and from whom),*
- (2) disclosed unrelated information to third parties (e.g., ECA's, ICRA, FairWay, external lawyers),*
- (3) made inaccurate or false statements to claimants about what information they held to the claimant, FairWay or others, and*

*(4) withheld the relevant information from medical assessors, claimants, ECA's, ICRA, and or FairWay; and
(5) sought information from the wrong persons.*

In accordance with section 15(1AA) of the Official Information Act 1982, we are treating your 9 October request as a new request that replaces your request of 30 September 2023 (which had replaced your request of 16 September). Accordingly, the time limit for making a decision on your request has been adjusted to 7 November 2023.

However, we have decided to make a decision on your first three questions now (requests 1 to 3(a)). We will be in touch with you regarding the remaining questions in due course.

Decision on requests 1 to 3(a)

We are concerned that the disclosure of information onto a publicly accessible website in response to requests that cite specific ACC claims could reveal information that relates to those ACC claims and the individual client(s). Furthermore, we cannot verify the requestor's identity, and their right to receive this information, against our records.

Noting this, we are refusing questions 1, 2 and 3(a) under section 9(2)(a) of the Act, to protect the privacy of natural persons. In doing so, we have determined that the public interest in making the information available does not outweigh the privacy interests.

As noted in our email of 3 October 2023, you can make a new request for this information by contacting ACC directly via your own email address.

If you have any questions about this response, please get in touch

You can email me at GovernmentServices@acc.co.nz. If you are not happy with this response, you can also contact the Ombudsman via info@ombudsman.parliament.nz or by phoning 0800 802 602. Information about how to make a complaint is available at www.ombudsman.parliament.nz.

Ngā mihi



Sara Freitag
Acting Manager Official Information Act Services
Government Engagement