

Version
as at 28 October 2021



Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002

(SR 2002/390)

Pursuant to section 44 of the Injury Prevention, Rehabilitation, and Compensation Act 2001, the Minister for ACC gives the following notice.

Contents

	Page
1 Title	1
2 Code of ACC Claimants' Rights approved	1
Schedule	1
Code of ACC Claimants' Rights	

Notice

1 Title

This notice is the Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002.

2 Code of ACC Claimants' Rights approved

The Code of ACC Claimants' Rights set out in the Schedule is approved.

Schedule

Code of ACC Claimants' Rights

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Part 1: Introduction

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This notice is administered by the Accident Compensation Corporation.

1.1: Background

This Code of ACC Claimants' Rights (this **Code**) has been established under sections 42 to 44 of the Injury Prevention, Rehabilitation, and Compensation Act 2001 (the **Act**).

This Code confers rights on claimants and imposes obligations on ACC in relation to how ACC should deal with claimants.

This Code comes into force on 1 February 2003, and a complaint can be made under this Code from that date. A complaint cannot be made under this Code about any dealings ACC had with a claimant prior to 1 February 2003.

1.2: Purpose of Code

The purpose of this Code is outlined in section 40(1) of the Act. The Act states that the purpose of this Code is to meet the reasonable expectations of claimants (including the highest practicable standard of service and fairness) about how ACC should deal with them. This includes—

- (a) conferring rights on claimants and imposing obligations on ACC in relation to how ACC should deal with claimants; and
- (b) providing for the procedure for lodging and dealing with complaints about breaches of this Code by ACC; and
- (c) providing for the consequences of, and remedies for, a breach of this Code by ACC; and
- (d) describing how and to what extent ACC must address situations where its conduct is not consistent with, or does not uphold, the rights of claimants under this Code; and
- (e) explaining a claimant's right to a review of a decision made under this Code about a claimant's complaint.

Section 40(2) of the Act provides that:

The rights and obligations in the Code—

- (a) *are in addition to any other rights claimants have and obligations the Corporation has under this Act, any other enactment, or the general law; and*
- (b) *do not affect the entitlements and responsibilities of claimants under this Act, any other enactment, or the general law.*

This means that claimants' obligations, responsibilities, and entitlements, as set out in the Act, do not change. In addition, claimants retain their rights and responsibilities under any other enactment or the general law, including that which governs the Health and Disability Commissioner, the Human Rights Commission, the Office of the Ombudsmen, and the Office of the Privacy Commissioner.

In summary, the purpose of this Code is to meet the reasonable expectations of claimants about how ACC should deal with claimants. This Code is not about cover, or the type and level of entitlements that ACC is obligated to provide, as these continue to be prescribed by the Act.

1.3: Spirit of Code

This Code encourages positive relationships between ACC and claimants. For ACC to assist claimants, a partnership based on mutual trust, respect, understanding, and participation is critical. Claimants and ACC need to work together, especially in the rehabilitation process. This Code is about how ACC will work with claimants to make sure they receive the highest practicable standard of service and fairness.

1.4: Application of Code

In all its dealings with claimants, ACC must ensure that its actions are consistent with, and uphold, the rights of claimants as provided for in this Code by applying the highest practicable standard of service and fairness.

Accredited employers, and persons acting as agents of ACC or on behalf of ACC, must also comply with this Code in their dealings with claimants.

The provision of treatment services is not covered by this Code, and continues to be covered by the Code of Health and Disability Services Consumers' Rights. In addition, any treatment and disability services purchased by ACC are covered by the Health and Disability Sector Standards and the Health and Disability Services (Safety) Act 2001.

Complaints about the quality of health and disability services continue to be covered by the Code of Health and Disability Services Consumers' Rights.

Any disputes about cover and entitlements, including treatment and compensation, are not covered by this Code, and continue to be addressed by the mechanisms under the Act.

1.5: Definitions

In this Code—

ACC means the Corporation as defined in section 39 of the Act, and **we** and **us** have a corresponding meaning

Corporation, as defined in section 39 of the Act, includes—

- (a) an accredited employer
- (b) a person acting as an agent of the Corporation
- (c) a person who provides services (excluding treatment) to claimants on behalf of or authorised by the Corporation

you means a claimant, as defined in the Act, and **your** has a corresponding meaning.

Part 2: Rights and obligations of this Code

The 8 rights of claimants, with ACC's corresponding obligations, are as follows:

Right 1

You have the right to be treated with dignity and respect.

- (a) We will treat you with dignity and respect.
- (b) We will treat you with honesty and courtesy.
- (c) We will recognise that you may be under physical, emotional, social, or financial strain.
- Right 2* You have the right to be treated fairly, and to have your views considered.
- (a) We will treat you fairly.
- (b) We will listen to you and consider your views.
- (c) We will take into account, and be responsive to, any impairment you may have.
- Right 3* You have the right to have your culture, values, and beliefs respected.
- (a) We will be respectful of, and responsive to, the culture, values, and beliefs of Māori.
- (b) We will be respectful of, and responsive to, all cultures, values, and beliefs.
- Right 4* You have the right to a support person or persons.
- (a) We will welcome you and your support person(s) provided that the safety of all involved can be assured.
- Right 5* You have the right to effective communication.
- (a) We will communicate with you openly, honestly, and effectively.
- (b) We will respond to your questions and requests in a timely manner.
- (c) We will provide you with an interpreter when necessary and reasonably practicable.
- (d) We will provide information in a form which you can access, and in a timely manner.
- Right 6* You have the right to be fully informed.
- (a) We will provide information on how to make a claim for cover and entitlements.
- (b) We will keep you fully informed.
- (c) We will provide you with full and correct information about your claim, entitlements, obligations, and responsibilities.
- (d) We will inform you if your entitlements change.
- (e) We will give you information about how we provide services, and how to access them.
- (f) We will discuss expected time frames with you.
- (g) We will inform you of your review and appeal rights under the Act.

Right 7

You have the right to have your privacy respected.

- (a) We will respect your privacy.
- (b) We will comply with all relevant legislation relating to privacy.
- (c) We will give you access to your information, in accordance with legislation.

Right 8

You have the right to complain.

- (a) We will work with you to address problems and concerns.
- (b) We will inform you about options available for resolving problems and concerns.
- (c) We will inform you about the complaints process, and the normal time frames for dealing with complaints.

Part 3: Addressing problems and concerns; and lodging and dealing with complaints

This Code sets out a framework for addressing and resolving problems and concerns at the local level, and then a process to be followed for complaints, in the event that any problem or concern cannot be resolved at the local level.

3.1: Overview

A claimant can either—

- (a) raise a problem or concern at the local level, which will be addressed and resolved at the local level without a decision being made; or
- (b) lodge a complaint with the complaints service at any time, regardless of whether a problem or concern has been raised at the local level, and in that case a decision will be issued.

3.2: Procedure for addressing and resolving problems and concerns

A claimant can raise a problem or concern about ACC's compliance with this Code. The problem or concern should be raised at the local level with the person the claimant is dealing with at ACC, or that person's manager.

ACC will work with the claimant to address and resolve problems and concerns, and to find a way forward. At this point, ACC will advise the claimant of—

- (a) what steps have been taken in relation to the claimant's problem or concern; and
- (b) the procedure for lodging a complaint if the claimant is not satisfied with the resolution.

The claimant can decide whether to lodge a complaint.

3.3: Procedure for lodging a complaint

A complaint concerning this Code should be lodged with the complaints service. The complaints service is part of ACC, and will deal with, and make decisions on, these complaints. The complaints service will act in a fair and impartial manner, taking the evidence, and the claimant's and ACC's views into consideration.

A complaint can be lodged with the complaints service at any time, regardless of whether the claimant previously raised a problem or concern with the person the claimant is dealing with at ACC, or that person's manager.

The claimant may complain orally or in writing.

ACC may decline to investigate where a complaint is correctly dealt with by another agency, such as the Health and Disability Commissioner. In these circumstances, ACC will advise the claimant of appropriate agencies that may be able to assist.

Any dispute about cover and entitlements, including treatment and compensation, is not covered by this Code, and continues to be addressed by mechanisms under the Act.

3.4: *Procedure for dealing with a complaint*

The complaints service will—

- (a) acknowledge receipt of the complaint in writing; and
- (b) advise the claimant about the complaints process and normal time frames for dealing with the complaint; and
- (c) comply with all of the other relevant rights in this Code when dealing with complaints; and
- (d) investigate the complaint; and
- (e) advise the claimant of any issues, such as entitlements, that are not matters for this Code and advise who the claimant should contact to seek resolution of these issues.

If, in the course of investigating a complaint against ACC, issues of the performance of an employee or employees of ACC arise, these will be dealt with under the normal human resources policy and processes within ACC, having due regard to employment law. These issues will *not* be dealt with under the auspices of remedies available under this Code.

3.5: *Making a decision*

The complaints service will issue a decision on the complaint. The decision will be in writing and will advise—

- (a) whether ACC has breached this Code; and
- (b) the reasons for that decision; and
- (c) if a breach has occurred, what, if any, of the remedies or actions identified in Part 4 are appropriate.

In addition, the decision will specify that the claimant has the right to a review of that decision, as in Part 6.

Part 4: Remedies available under this Code

Upon a finding that there has been a breach of this Code, the complaints service may, where appropriate, direct ACC to—

- (a) provide a written or oral apology;
- (b) forward a written explanation of the situation:

- (c) meet with the claimant to consider the claimant's views and achieve resolution, accompanied by the claimant's support person(s) where requested:
- (d) forward information to the claimant, in an appropriate form, which explains—
 - the claim and related entitlements
 - review and appeal rights
 - any appropriate legislation, services, and the expected time frames:
- (e) provide the claimant with access to the claimant's file:
- (f) facilitate communication by ensuring a response is given to questions and requests:
- (g) provide interpretation services.

In addition, the complaints service may, where appropriate, recommend other remedial actions as required.

Part 5: Addressing situations

In addition to the remedies in Part 4, ACC will address the wider implications of breaches that arise by—

- (a) analysing and monitoring issues arising from the complaints process; and
- (b) identifying concerns with operational policies and processes; and
- (c) subsequently undertaking and remedying concerns associated with operational policies and processes as appropriate; and
- (d) informing the claimant that the situation has been addressed.

Part 6: Claimant's right of review

If a claimant disagrees with any decision made by ACC under this Code about a complaint, the claimant can apply for a review of that decision. ACC will provide information about the review process to the claimant. The review process is set out in sections 133 to 148 of the Act. The Act includes, among other things,—

- (a) the manner in which an application must be made; and
- (b) the manner in which ACC must deal with the application; and
- (c) ACC's duty to secure an independent reviewer; and
- (d) the role of the reviewer; and
- (e) the reviewer's duty to act independently; and
- (f) conduct of the review hearing; and
- (g) decisions the reviewer can make.

**Part 7: An appeal cannot
be lodged to the District
Court**

Under the appeal provisions in the Act, there is no right to appeal a review decision made under this Code because section 149(3) of the Act provides that:

However, neither a claimant nor the Corporation may appeal to the District Court against a review decision on a decision by the Corporation under the Code on a complaint by the claimant.

Any rights of review and appeal, in relation to cover and entitlements, continue under the Act.

Schedule Part 8: revoked, on 28 October 2021, by regulation 61 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

Dated at Wellington this 4th day of December 2002.

Ruth Dyson,
Minister for ACC.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 5 December 2002.

Notes

1 *General*

This is a consolidation of the Injury Prevention, Rehabilitation, and Compensation (Code of ACC Claimants' Rights) Notice 2002 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247): regulation 61