



ACC Reviews

What you need to know

FairWay Resolution Limited
Tā te Hinengaro Tōkeke Whakatau

Our role

FairWay Resolution Limited (FairWay) offers a specialist review service for people who do not agree with decisions made by ACC. This independent and impartial service is provided by experienced reviewers, who deliver binding decisions based on a thorough assessment of all of the evidence presented.

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Find us online at
www.fairwayresolution.com

Welcome

FairWay is an independent specialist conflict management company. FairWay organises Accident Compensation Corporation (ACC) reviews for people who do not agree with a decision or outcome of their ACC claim. It's important you clearly understand what to expect in the review process and how it all works. This booklet will guide you through the process.

If you have any questions about the review, please contact FairWay. Please also visit our website: www.fairwayresolution.com. You'll also receive letters from us that will keep you up-to-date with the progress of the review.

Haere Mai

He kamupene motuhake ngaio mō te whakatau wenerau a Whakatau Tōkeke. Ka whakahaere a Whakatau Tōkeke i ngā arotake ACC mō ngā tāngata kāore e pai ki a rātou tētahi whakatau, putanga rānei o tā rātou kerēme ACC. He mea nui kia āta mārama koe ki te tukanga arotake me ana whakahaere. Mā tēnei pukaiti koe e arataki i te tukanga.

Mēnā he pātai āu mō te arotake, whakapā ki a Whakatau Tōkeke. Haere hoki ki tā mātou paetukutuku: www.fairway0.com. Ka whiwhi reta hoki koe i a mātou kia hou rawa ai tō mōhio ki te kauneke o te arotake.

Mēnā kei te hiahia āwhina koe ki te whakamāori i ēnei mōhiohio ki roto i te reo e hiahia ana koe, whakapā mai ki tō mātou tari pātata rawa.

Please contact us with any questions you have about your hearing options.

欢迎辞

FairWay 是一个独立的专业解决纠纷的公司。如果有人向ACC索赔并对所获得的决定或结果不满，FairWay 会为他们安排 ACC 复审。重要之事是你需要清楚地了解对复审过程应该有什么期待以及复审是如何进行的。本手册将向您介绍复审过程。

如果您对复审有什么疑问，请与 FairWay 联系。也请访问我们的网站 www.fairwayresolution.com。我们会通过信件及时向您通报复审进展情况。

如果您需要帮助将这些信息内容翻译成中文，请与我们联系最近的办公室联系。

Turou

E kamupani kite maata ma te angaanga takake koia anake ua, te FairWay (te Putuputu'anga Tauturu Tau Meitaki no te Au Taumaro'anga). Na te FairWay e teatea-mamao ana i te au akara'anga matatio akaou'anga a te ACC, no te aronga tei kore i mareka i te tika'anga, me kore ra, i tei tupu ki ta ratou pati'anga keremi (claim) ki te ACC. E mea puapinga maata e, kia marama meitaki koe i te ka tupu me raveia te akara'anga matatio akaou'anga, e te tu o te au akanoonoo'anga me raveia teia. Na teia puka meangiti e tauturu i te arataki akamarama ia koe na roto i te akanoonoo'anga te ka raveia.

Me e au uianga taau no runga i teia akara'anga matatio akaou'anga te ka raveia, me ka tika, kapiki'ia atu te FairWay. Me ka tika katoa, atoro'ia atu te roro uira atuitui: www.fairwayresolution.com. Ka tae katoa atu tetai au reta mei konei atu ia matou kia koe, no te akapapu kia kite koe e, te akapeea nei te akara'anga matatio akaou'anga e raveia nei.

Me ka inangaro tauturu koe kia uri'ia teia tuatua akakitekite e tuku'ia atu nei ki roto i te reo tinamou taau i anoano, me ka tika, kapiki'ia mai to matou opati vaiata atu kia koe.

환영합니다

FairWay 는 독립적인 분쟁 조정 전문 회사입니다. FairWay 는 ACC 청구에 대한 심사 결정이나 결과에 불만이 있는 분들의 ACC 재심 작업을 맡아 처리합니다.

재심이란 어떤 것이고 또 어떻게 진행되는지 명확히 이해하는 것이 중요합니다. 이 책자는 여러분께 재심 절차 전반에 대해 안내해 드리는 자료입니다.

재심에 대해 궁금한 사항이 있으시면 FairWay 로 문의해 주십시오. 또한 저희 웹사이트 www.fairwayresolution.com 도 참조하시기 바랍니다. 저희는 당사자에게 편지를 보내 현재 재심이 어떻게 진행되고 있는지 계속 알려 드릴 것입니다.

이 안내정보가 한국어로 되어 있지 않아 이해에 어려움이 있으시면 가까운 저희 사무소로 문의해 번역 지원을 요청하십시오.

Fakafe'iloaki

Ko e FairWay pe ko e Kautaha ki hono Fakalelei'i 'o ha Ngaahi Fetūkuaki, ko ha kautaha makehe tu'u tau'atāina ia ki hano fakalelei'i 'o ha ngaahi fetūkuaki. 'Oku fokotu'utu'u 'e he FairWay 'a hono vakai'i 'o e ngaahi keisi 'a e ACC ma'a' e kakai na'e 'ikai ke nau fiemālie ki he ola pe tu'utu'uni na'e 'oange 'e he ACC 'o fekau'aki mo 'enau 'eke totongi huhu'i'. 'Oku fu'u mātu'aki mahu'inga 'aupito ke' ke mahino'i 'a e ngaahi me'a ke ke 'amanaki atu 'e fakahoko 'i hono toe vakai'i 'a ho'o keisi', founa 'oku fakahoko 'aki' pea mo e anga 'o 'ene ngāue'. 'E tatakoe 'e he tohi' ni 'i he founa ngāue 'e fakahoko'.

Kapau 'oku 'i ai ha'o fehu'i fekau'aki mo e founa ngāue' ni, kātaki 'o fakafetu'utaki ki he FairWay. 'E lava foki ke ke 'a'ahi ki he'emaue uepisaiti': www.fairwayresolution.com. Te ke ma'u foki mo e ngaahi tohi meiate kima'utolu, 'o fakahā atu ai 'a e tu'unga 'oku 'i ai 'a e fakatonutonu'.

Ka 'oku' ke fiema'u ha tokoni ki hono liliu lea 'o e fakamatala' ni ki ha fa'ahinga lea pē 'oku' ke fiema'u, kātaki 'o fakafetu'utaki ki homau 'ōfisi ofi taha'.

स्वागतम्

फेयरवे लिमिटेड एक :वत's विशेषज्ञ विवाद समाधान कंपनी है। फेयरवे ऐसे लोगों के लिए एसीसी (ACC) समीक्षाएं आयोजित करती है जो अपने एसीसी (ACC) दावे के परिणाम या किसी निर्णय को लेकर असंतुष्ट हैं। समीक्षा बिया में क्या अपेक्षित है और यह किस प्रकार कार्य करती है, आप द्वारा इसे स्पष्ट रूप से समझना महत्वपूर्ण है। यह बुकलेट, आपको पूरी बिया की जानकारी दान करेगी।

यदि समीक्षा को लेकर आपका कोई प्रश्न है, तो कृपया फेयरवे से संपर्क करें। कृपया हमारी वेबसाइट www.fairwayresolution.com पर भी पधारें। आपको हमारी ओर से पऽ भी प्राप्त होंगे जिनसे आपको समीक्षा की गति की ताजा जानकारी मिलती रहेगी।

यदि आप अपनी इच्छित विशिष्ट भाषा में इस सूचना सामग्री के अनुवाद में मदद चाहते हैं, तो कृपया हमारे निकटवर्ती कार्यालय से संपर्क करें।

Talofa lava

O le FairWay o se kamupani tuto'atasi fa'apitoa lea mo tali mo fa'aseā ma faitioga. O le FairWay latou te fa'atulagaina ni iloiloga mo le ACC mo tagata e lē o fiafia i ni fa'ai'uga po'o i'uga o ni talosaga. E tāua lou malamalama lelei i ni vaega o lo'o fa'apea ona mana'omia i le toe faiga o iloiloga pe fa'apefea ona fa'atinoina. O lenei tusi o le a fa'asinoina atu ai le fa'atinoga ia te oe.

Afai e i ai ni au fesili e tusa ai ma le iloiloga, fa'amolemole fa'afeso'ota'i le FairWay. Fa'amolemole fo'i asiasi atu i la matou itulau i le upega o feso'ota'iga www.fairwayresolution.com. O le a e mauaina fo'i ni tusi mai ia matou o le a fa'ailoa atu ai āluga o le iloiloga.

Afai e te mana'omia se fesoasoani e fa'aliliu ai nei fa'amaumauga i se tasi o gagana o lo'o e mana'omia, fa'amolemole fa'afeso'ota'i se matou ofisa lata ane.

Overview of how the ACC review process works

ACC provides accident cover for all New Zealand citizens, residents, and temporary visitors to New Zealand. In return people cannot sue for personal injury, other than for exemplary damages.

If you are injured and a request is made for ACC to cover the costs of your treatment, you will be allocated a case file. If during the course of your case you feel ACC has made a decision that you don't agree with, you can apply for a review with ACC, which will then be forwarded to FairWay.

You must apply to ACC for a review within three months of the date of its decision. In special circumstances, ACC can extend this time, but you should not rely on this.

An ACC review is a legal process where both sides meet with an independent and unbiased reviewer. The reviewer considers all of the information that has been provided and makes a decision. This includes upholding the original ACC decision, modifying the original decision, or overturning it, and can also include decisions about costs and payments. Any party may choose to have a lawyer or advocate represent them during a review, but representation is not required.

Any decision made by the reviewer is binding. People who disagree with the review decision can make an appeal by applying to the District Court, where applicable, within 28 days of the review decision.

Facilitation, mediation or conciliation may also be an option for resolving the dispute. If you would like more information about any of these, please contact us. Please also see the **Frequently asked questions about review** section of this booklet (page 21) for additional information on these processes.

THE REVIEW PROCESS

STAGE 1 – ACC ISSUES DECISION



STAGE 2 – FAIRWAY RECEIVES THE FILE



STAGE 3 – HEARING



The step-by-step review process

STEP 1

A review application is lodged with ACC.

You can apply for a review if you are:

- a client (or representative) with an ACC decision on a claim
- an employer challenging cover for a work injury
- a client (or representative) who believes there has been an unreasonable delay by ACC in making a decision
- a levy payer disagreeing with the levy paid or payable
- a registered health professional or organisation disputing involvement in an injury caused by medical error (for decisions relating to claims lodged with ACC prior to 1 July 2005).

STEP 2

ACC acknowledges the application and sends the claim file to FairWay.

Once you have applied for a review, you can expect a response from ACC within a month – please contact ACC if you have not heard from them by then.

STEP 3

FairWay contacts the parties when it receives the file.

STEP 4

A FairWay resolution coordinator arranges the date, time, venue and other details of a hearing. This may be done by phone, fax or email, or with a letter of confirmation.

FairWay must make the arrangements for a hearing date within three months of the review application, but the hearing may not necessarily occur within three months. The review hearing itself will happen on whatever date that all parties agree with, or if they cannot agree, the reviewer will set a date.

STEP 5

ACC gives copies of the documents that were used to make the decision about the claim (often the claimant's file) to everyone involved.

STEP 6

If necessary, a case conference is held to address particular matters before the hearing. Case conferences are discussed in more detail later in this booklet (page 13).

STEP 7

The hearing takes place. Or, if the parties agree, a decision is made without a hearing. In that case, the reviewer bases their decision on the written information provided by the parties. This is called a decision made 'on the papers'.

STEP 8

The reviewer makes a decision within 28 days of the close of the hearing.

STEP 9

FairWay sends copies of the decision to all parties, and if applicable, will include information about the right of appeal to the District Court.

Appeal rights are discussed in more detail later in this booklet.

Remember: You must apply to ACC for a review within three months of the date of its decision.

The cost of the review process

Applicants do not pay a fee to FairWay to handle their reviews. However, applicants need to cover their own expenses related to preparing for and attending the review. Some costs may be reimbursed, if the reviewer awards costs to the applicant. The specific amounts of money that can be awarded, and the types of costs covered, are set out in the Review Costs and Appeals Regulations 2002 (as amended).

Costs that may be covered:

Under the legislation, a Reviewer may award contributions towards some of the expenses incurred during the review process.

Awards may include contributions towards:

- **Legal Fees** – the cost of using a lawyer or an advocate to represent you at the hearing
- **Medical reports** - the cost of a medical report obtained for the purposes of the review hearing
- **Travel** – the cost travelling to the review
- **Other expenses** - costs for other expenses such as photocopying, child care, telephone charges or time away from work.

If you want specific information about costs please check with your representative, get in touch with FairWay, or visit the legislation.govt.nz website. A list of helpful websites, including one for the current costs regulations, is found at the end of this booklet.

The people involved in a review

When you apply for a review there are a number of people involved. This is an explanation of their roles.

THE APPLICANT

The applicant is the person who has applied for a review of an ACC decision. The applicant's role is to establish their claim – to explain their case to the reviewer.

This includes:

- complying with the reviewer's instructions and directions
- working with the resolution coordinator
- sending any written submissions to:
 - the ACC representative
 - FairWay
 - other parties to the hearing.

Written submissions are the parties' arguments in the case. Written submissions are helpful to the reviewer and to the other parties. They may also help the applicant in thinking through how they would like to present their arguments at the review hearing.

Written evidence may include specialist assessments, doctors' reports, other medical opinions, costs information, and other documents which help establish the applicant's case.

You are welcome to email your written evidence and/or submissions to us. Please email them to submissions@fairwayresolution.com and:

- include the word "Review" followed by your review number and the applicant's last name in the subject line
- indicate what you are sending.

Your email can also include attachments.

Case conferences before the review hearing

Case conferences aim to take care of any particular matters before the review hearing itself, so that the review can go to hearing and be conducted promptly, efficiently, and fairly. The reviewer decides whether a case conference is appropriate and contacts all the parties (usually by phone) to talk about things like:

- Does everyone understand the issues in the review?
- Is everyone ready to proceed? If not, to set deadlines for having everything ready.
- Does anyone have special needs in relation to the hearing?
- Was the review application lodged more than three months after the date of ACC's decision?

They may also discuss whether the parties would, instead of a review hearing, prefer a decision 'on the papers' (a decision based on documents provided by the parties).

After the case conference, all parties are sent a summary of the case conference, including written confirmation of any agreements reached and decisions the reviewer has made.

THE REVIEWER

The reviewer is an expert in accident compensation law and other relevant legislation and is responsible for the overall conduct of the review. The reviewer holds the hearing, makes directions to the parties, and holds case conferences when needed. The reviewer's role is to be independent and impartial in deciding whether ACC's decision was correct.

The reviewer looks at all of the information and evidence that has been provided, and makes a fresh decision. This can include upholding the original ACC decision, modifying it, or overturning it. The reviewer may also make decisions about costs and payments.

THE RESOLUTION COORDINATOR

When a party gets in touch with FairWay about an ACC review, the first person they come into contact with will be a resolution coordinator. The resolution coordinator makes all the arrangements for review hearings and is involved throughout the process. Resolution coordinators can help explain the process and what to expect next, but they cannot give advice relating to the review – it is important that they are impartial and unbiased.

ACC

An ACC representative will also attend the hearing, either in person or by telephone. ACC's role is to explain its decision to the reviewer. Like the applicant, this includes:

- complying with the reviewer's instructions and directions
- working with the resolution coordinator
- sending any written submissions to:
 - the applicant
 - FairWay
 - other parties to the hearing.

OTHERS INVOLVED IN THE REVIEW

Others may participate in the actual hearing, such as witnesses and representatives. They are discussed in more detail in the **Preparing for the review hearing** section of this booklet (page 14).

Preparing for the review hearing

The applicant's job is to establish their claim and explain their case to the reviewer. Before the hearing, the applicant needs to be clear about why they lodged the review application. The applicant will also have to think about what documents and people they will need to help support their case. Any party may have a representative (eg a lawyer or advocate) help them prepare their case and represent them at the hearing. Let the representative know the date of the review hearing as soon as possible, so that they have time to prepare the case.

If you would like to have a witness or witnesses give evidence, please let the reviewer and other parties know at least 14 days before the hearing date. The names of the witnesses will need to be provided as well as details about what the witnesses' evidence will be.

Providing evidence and submissions

Submissions

Submissions are the reasons or points you wish to make to support your case. Submissions can be made in writing or verbally at the time of the review hearing. While submissions are not a compulsory part of the review process, we do recommend them as they help everyone to understand one another's point-of-view. Written submissions also provide you with an opportunity to prepare and express your reasoning in advance of the review hearing.

Evidence

All parties to the review can present evidence (both written and oral, such as with a witness) at the hearing. Parties providing additional written evidence should make the evidence available to all parties to the review and to FairWay as soon as it becomes available so that everyone has adequate time to prepare. Where possible, this means that written evidence should be provided at least 14 days before the hearing.

- Any person giving oral evidence may be asked to take an 'oath' or 'affirmation' (promise to tell the truth).
- Written evidence can be an affidavit or declaration – which is a written and signed statement that has been witnessed by a solicitor or a Justice of the Peace – or be unsworn, such as a letter or note signed and dated by the writer, but not necessarily witnessed.
- Written evidence may include specialist assessments, doctors' reports, other medical opinions, costs information, and other documents which help establish the applicant's case.

If evidence or written submissions are presented for the first time at the review hearing, it may lead to the hearing being adjourned part-heard. Adjourning a review hearing 'part-heard' is discussed in **The review hearing** section of this booklet (page 15).

The review hearing

Hearings are usually quite informal. Each reviewer decides on their own way to conduct the hearing, although they must always act independently, act promptly, and comply with legislation.

Hearings usually happen in this order:

1. The reviewer welcomes everyone and explains the process.
2. The reviewer establishes what the review is about.
3. All parties and their representatives are given a chance to speak in turn, as directed by the reviewer. As discussed earlier, people who are giving evidence may need to take an 'oath' or 'affirmation' (a promise to tell the truth).
4. The reviewer can ask questions of the parties or witnesses at any time, and will direct when the parties may ask questions of each other. The reviewer may also request parties' representatives to ask appropriate questions. The reviewer may also say that questions should be asked through them.
5. The reviewer will ask about costs.
6. The reviewer either closes the hearing or adjourns it, keeping it open. If the hearing is adjourned, then additional instructions will be given. This is called adjourning the review hearing 'part-heard'.
7. All review hearings are recorded from start to finish.

If you would like to have a witness or witnesses give evidence, please let the resolution coordinator and other parties know at least 14 days before the hearing date.

Hearing options for Māori and Pasifika applicants

FairWay acknowledges Māori as tangata whenua. We offer hearing options for Māori applicants that respect and recognise the value of Kaupapa Māori.

Hearing arrangement options for Māori applicants can include:

- conducting the hearing in Te Reo Māori
- holding the hearing on a marae, subject to certain requirements
- acknowledging Māori tikanga (protocol) and providing access to assistance from local Pae Arihi as part of conducting the hearing
- arranging to have the hearing conducted by a specially appointed Māori reviewer.

FairWay recognises the special relationship of Pasifika peoples to New Zealand. Hearing arrangement options for Pasifika applicants can include:

- conducting the hearing in the relevant Leo Pasifika (Pacific language)
- allowing family and elder support
- holding the fono (hearing) at an appropriate community venue, subject to certain requirements
- arranging to have the hearing conducted by a specially appointed Pasifika reviewer.

Privacy policy statement

This statement applies to FairWay and all of its business units and services. FairWay is committed to managing your personal information in accordance with the principles of the Privacy Act 1993.

WHAT IS PERSONAL INFORMATION?

*Personal information is information about a living human being which identifies, or is capable of identifying that person.*¹ In your interactions with FairWay this may range from your contact details to details about your dispute. It may include information that you have provided to FairWay, and information that others have provided with your consent.

SHARING YOUR INFORMATION

FairWay does not give information about you to other government agencies, organisations or anyone else unless any of the following applies:

- One of the reasons we obtained the information was to give it to someone else, for example, you are a party to proceedings.
- You have consented.
- It is required or authorised by the Privacy Act 1993 or by any other law.
- It will prevent or lessen a serious and imminent threat to public health or safety or to somebody's life or health.
- The information is to be used in a way that will not identify you; or it is to be used for quality assurance, statistical or research purposes and will not be published in a way that will identify you.

COLLECTION OF PERSONAL INFORMATION

FairWay collects personal information directly from you about your dispute, and from others to whom you have provided consent to send your personal information to us.

Please refer to FairWay's website privacy statement for how we collect information when you visit our websites.

USE OF PERSONAL INFORMATION

FairWay uses your personal information primarily in relation to resolving your dispute. Our secondary purpose includes use of your personal information to improve service delivery and performance management through business analysis, process improvement, and marketing. FairWay only uses aggregated or de-identified personal information, unless operationally impossible.

DISCLOSURE OR TRANSFER

FairWay discloses or transfers your personal information to parties involved in the disputes as required, for performance management and monitoring of service delivery, or as authorised by law.

INFORMATION PROTECTION

FairWay keeps your personal information only for as long as it is necessary to carry out our conflict management functions, and as required by law. FairWay will keep your information in a secure environment.

YOUR CHOICES

If you want to check the personal information that FairWay has about you, or receive a copy of that information, you can contact us by phone (04 918 4900), by fax (04 918 4901), by email (fairwayinfo@fairwayresolution.com), or by post to:

Privacy Officer
FairWay Resolution Limited
PO Box 2272
Wellington 6140

On providing proof of your identity, FairWay will provide access to the personal information FairWay keeps about you within a month of the request, free of charge. If appropriate, you may have the information amended. If FairWay is not responsible for the information you are looking to access or correct, FairWay will redirect you to the appropriate party. Where information is not amended, following a request, a note regarding your request will be attached to your file.

For more information, see: The Privacy Commissioner's website www.privacy.org.nz

EXCEPTIONS

ACC reviewers, through the process of conducting a review, are acting in the nature of a tribunal. Because of this, it may be necessary for them to collect, use and disclose information for the conduct of the review. The reviewer has a statutory duty to comply with the principles of natural justice, and so needs to ensure that all parties to the review have the same information. This means that a reviewer may provide information to a party to the proceeding.

The review hearing is recorded to comply with the reviewer's statutory duty to record the evidence and to assist with the reviewer's decision making. The recording can also be used for quality control purposes and in the event of any investigation. Both parties can request access to the audio recording of the review. FairWay will prepare a transcript of the reviewer's decision to the District Court, and ACC then provides this to the Court.

Complaints about FairWay – ACC Review Process

If you wish to make a complaint, please complete the complaint form. We will do all we can to help you, and your feedback or complaint will help us to improve our systems and processes. If your concern relates to information about your case our Complaints Investigator will ensure this is sent to our Service Delivery Team.

You can make a complaint about:

- the conduct of the people who handled your case
- the service we gave to you (you may wish to refer to our Customer Service Charter available on our website).

To complain about the service we gave to you, please give specific details about what occurred.

How to make a complaint

Online: Fill in the online complaint form and send it to FairWay
Email: Send an email to fairwayinfo@fairwayresolution.com
Post or Fax: Download the form from our website, fill it in and send or fax it back to us. Our postal address is:
PO Box 841
Christchurch 8140
Fax: 03-962 9001

If a representative or support person is making the complaint on your behalf please let us know and we will ensure that we have the correct authority to contact that person.

Our Complaints Investigator will let you know when we have received your complaint. We will consider your complaint, will consult with the appropriate people and let you know the outcome. This will generally happen within 15 working days. We will let you know if we need more time to carry out an investigation.

In some cases we may wait until your case is concluded before investigating. This is to ensure the independence of the dispute resolution process. We will let you know if this needs to happen. If you remain unhappy with FairWay's response, you can contact the Office of the Ombudsman.

Frequently asked questions about reviews

Who can attend the review hearing?

Legal representatives and support people

Any party can bring someone to the hearing to speak on their behalf. This can be anyone that they authorise to speak for them, such as a solicitor, professional advocate, union representative, family member, or a friend. If you are planning to use a lawyer or professional advocate, it is important to hire them as early as possible after applying for the review, to avoid potential delays. This will also give legal representatives as much time as possible to prepare for the hearing.

You can also bring along a support person, such as someone from your family/whānau. Please let the reviewer and other parties know at least 14 days before the hearing date if you plan to have a support person with you, including the name of the support person.

Witnesses

Both parties can bring witnesses to the hearing to support their case. Witnesses must be ready to be asked questions by the other parties. As discussed earlier, if you would like to have a witness or witnesses give evidence, please let the resolution coordinator and other parties know at least 14 days before the hearing date. The names of the witnesses will need to be provided as well as details about what the witnesses' evidence will be.

Experts

Both parties can ask experts (such as a doctor or technical expert) to provide evidence at the hearing. A written statement of this evidence should be sent to FairWay as early as possible before the hearing, but at least 14 days before the hearing.

Interpreters

People can give evidence at the hearing through an interpreter, such as a language or sign language interpreter, if the reviewer thinks it is necessary. If you want to use an interpreter you should let FairWay and the other parties know as soon as possible before the hearing.

Observers

On rare occasions observers can attend hearings (usually for training purposes), but they can only stay if all of the parties give permission. Everyone will be told who the observers are and why they are at the hearing. Observers cannot participate in the proceedings and are not officially recorded as being there.

Note: Unlike appeals to the District Court, review hearings are private. Neither the public nor the news media are entitled to be present.

WHERE ARE REVIEW HEARINGS HELD?

Review hearings take place in over 25 towns and cities around New Zealand (www.fairwayresolution.com/got-a-dispute/acc-disputes-and-reviews/acc-hearing-venues). In the main centres, hearings are held at least every week. In the provincial areas, reviews usually happen once a month. Where the review hearing is held will affect the date that it can be held on.

In most cases the venue for the hearing is the FairWay review centre that is closest to where the applicant lives. Hearings will be held in FairWay offices, or other venues that are appropriate, such as conference rooms.

HOW LONG DOES THE REVIEW HEARING TAKE?

Hearings are usually scheduled in one-hour time blocks – some only take a few minutes while others take much longer. It is important to allow plenty of time for delays on the day of the hearing.

CAN A REVIEW HEARING TAKE PLACE BY PHONE?

Yes. Case conferences, and the hearing itself, may take place by teleconference, where all or any of the participants attend over the telephone. The reviewer makes the final decision about whether this will happen. Anyone can ask to attend a hearing via telephone by making a written request, with reasons, at least 10 working days before the hearing.

IS THE HEARING RECORDED?

Yes. Reviewers are required under ACC legislation to keep an accurate record of the evidence given at the hearing. For this reason, all hearings are recorded on a digital audio recorder. The hearing recordings are kept for two years for appeal purposes.

WHAT BEHAVIOUR IS EXPECTED?

Disruptive behaviour is not tolerated. Everyone at the hearing is expected to be courteous and follow the reviewer's instructions. This includes not interrupting when someone else is speaking, and behaving appropriately.

If someone behaves inappropriately, the reviewer can:

- ask them to leave the room
- adjourn the hearing briefly if time permits, to allow the person time to regain their composure
- end the hearing and make their decision on the material that is already available.

A security guard may also be present at the hearing.

WHAT IF YOU DO NOT ATTEND THE HEARING?

If someone does not turn up at the hearing and does not have a reasonable excuse, the reviewer can make their decision anyway. If any of the parties say in advance that they do not intend to come to the hearing, the reviewer will make a decision in their absence.

If you planned to attend the hearing, but cannot, for example, because of illness or an emergency:

- get in touch with FairWay before the hearing to let them know that you cannot attend, or
- get someone to go to the hearing for you and ask the reviewer to reschedule.

Note: If the reviewer decides the hearing date cannot be rescheduled, or in the reviewer's opinion should not be adjourned, the process will continue without you.

CAN A REVIEW HEARING BE ADJOURNED?

Yes. If the review hearing is adjourned, that means it will be delayed. If anyone cannot come to a hearing on the scheduled date, they need to let FairWay know in writing before that date to explain why and ask for the hearing to be delayed.

You should clearly explain:

- why you cannot attend the hearing (for example, because of a family bereavement or illness)
- the earliest date you are available for a new hearing.

The reviewer will then consider the request and whether any of the other parties either agree or disagree with the delay. The hearing can only be delayed – 'adjourned' – by the reviewer. If the hearing is adjourned, FairWay will send a letter to all parties explaining why. In most cases, a new hearing date will be provided.

It's important to note that **not all requests to adjourn a review hearing are granted**, and everyone should be prepared to go ahead with the hearing on the scheduled date. If the parties cannot agree to a hearing date and time, the reviewer will choose a new date and time.

Please note that adjourning the review hearing before it has started is different from adjourning a review hearing that has already started. If the review hearing has already started and is adjourned by the reviewer, that is called a 'part-heard' adjournment and is discussed in the **The review hearing** section of this booklet (page 15).

CAN A REVIEW BE WITHDRAWN?

Yes. If the applicant does not want to carry on with their review application, it can be withdrawn. This can be done at any time before the hearing. The applicant does not have to give a reason why.

To withdraw a review, the applicant must write to their ACC case manager or FairWay's resolution coordinator to let them know that the review is withdrawn. A phone call beforehand is also a good idea.

WHAT OTHER DISPUTE RESOLUTION OPTIONS ARE AVAILABLE?

FairWay also provides alternative dispute resolution services such as facilitation, mediation, and conciliation. All parties must be agreeable to their use before one of these alternative services can be used.

WHAT ABOUT INFORMATION AND PRIVACY ISSUES?

Everyone involved in the hearing is entitled to see all the information the reviewer used to make their decision. FairWay keeps this information confidential.

If the hearing involves cover for a work-related injury, relevant information from the applicant's file may be shown to their employer (or to previous employers if they could be affected by the decision).

Remember to notify us as your contact information changes, so FairWay can ensure your information is always delivered to the correct address.

The decision and appeals

THE REVIEW DECISION

The reviewer decides whether the original ACC decision was right, wrong, or needs to be changed. They may also decide on costs that can be awarded, and make decisions about any payments you may or may not be entitled to.

There are three formal decision types:

- **Dismiss the application for review.** This means ACC's original decision stands. Costs may be awarded if the reviewer finds that the applicant acted reasonably in lodging the review application.
- **Modify ACC's decision.** The reviewer can decide to modify the original decision or elements of the decision. If any costs have been requested, the reviewer will award them, consistent with the costs regulations.
- **Quash ACC's decision.** The reviewer can either overturn ACC's decision, or tell ACC to make a new decision according to the reviewer's instructions. If any costs have been requested, the reviewer will award them, consistent with the costs regulations.

The reviewer must make a decision within 28 days of closing the review hearing, and will provide it to you and the other parties in writing. The reviewer's decision is binding on all parties, and the reviewer cannot accept other information or evidence once the hearing is closed.

Once the reviewer has issued their decision, FairWay is no longer involved with the case. However, if you disagree with the decision, in most cases you can request an appeal to the District Court.

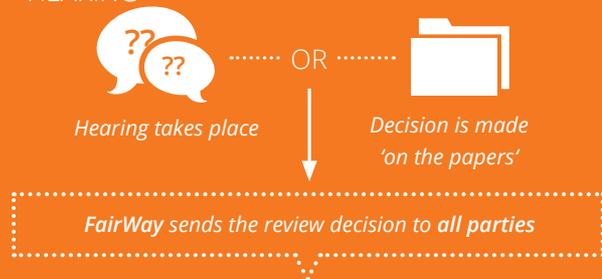
THE PROCESS OF REVIEW THROUGH TO APPEAL

STAGE 1 – ACC ISSUES DECISION

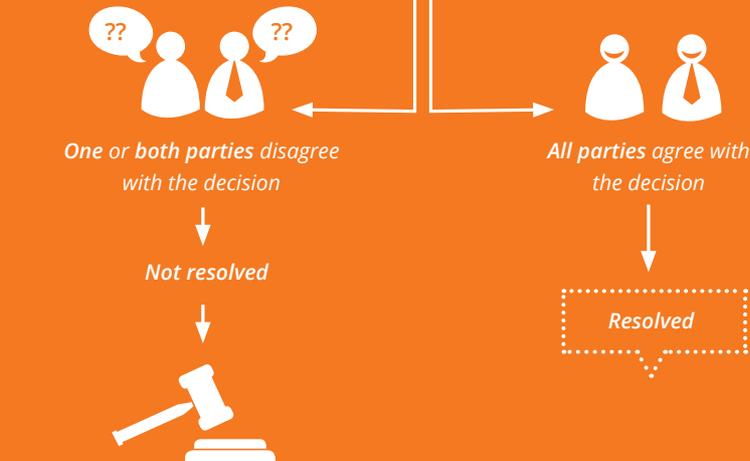


STAGE 2 – FAIRWAY RECEIVES THE FILE

STAGE 3 – HEARING



THE APPEAL PROCESS



Where applicable, any party can appeal against the decision to the District Court

Learn how to apply pg 27

APPEALING A REVIEW DECISION

Disagreements about the review decision

Parties who disagree with the review decision can appeal to the District Court in most cases. This must be done within 28 days of the review decision being issued. The District Court may accept late appeals, but only if there are special circumstances.

The parties who can appeal review decisions

Any party directly affected by the review decision can appeal. This could be:

- an ACC client
- an employer disputing cover for a work injury
- a registered health professional or organisation disputing their involvement in an injury caused by medical error (but only for decisions relating to claims lodged with ACC prior to 1 July 2005, when the treatment injury provisions became effective)
- a levy payer regarding levy payable
- ACC.

Please note that review decisions about decisions issued by the Office of the Complaints Investigator on Code of ACC Claimants' Rights issues cannot be appealed.

HOW TO APPEAL THE REVIEW DECISION

Complete a Notice of Appeal form available from the District Court.

When completing the form, include:

- what part of the review decision you disagree with
- why you think the review decision is wrong, and
- what result you would like from the appeal
- a copy of the review decision to the form.

Send your appeal to:

ACC Appeals District Court Registry
Tribunals Unit
Private Bag 32-001
Featherston Street
Wellington 6146

Please check the Ministry of Justice website for the most up to date information about the appeals process: www.justice.govt.nz/tribunals

For case law and appeal decisions, visit www.fairwayresolution.com/got-a-dispute/acc-disputes-and-reviews/case-law-and-appeal-decisions

Related information

HELPFUL WEBSITES

- The review process is also described on our website: www.fairwayresolution.com
- The ACC process is outlined on its website: www.acc.co.nz
- Translation services are available through the Department of Internal Affairs: www.dia.govt.nz

Other helpful websites include:

- Ministry of Justice: www.justice.govt.nz
- Information on appeals: www.justice.govt.nz/tribunals
- Community law centres: www.communitylaw.org.nz
- Courts of New Zealand: www.courtsofnz.govt.nz
- New Zealand legislation (ACC and costs legislation): www.legislation.govt.nz
- Citizens Advice Bureau: www.cab.org.nz

Disclaimer

The information in this booklet covers all areas of the ACC review process, and while it is thorough, you may also want to contact an appropriately qualified professional such as a lawyer or professional advocate for detailed advice about your specific case. Citizens Advice Bureaus and Community Law Centres can be good places to start.

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FairWay Resolution Limited
Tā te Hinengaro Tōkeke Whakatau