

LET'S TALK ABOUT SPRAINS STRAINS & OTHER CLAIMS

ACC CLAIM MANAGEMENT FOR EMPLOYERS



PRESENTED BY MANAGE GROUP LTD



INTRODUCTION

Welcome to our world.

Our aim with this e-book is to make claims simple for you. We share insights and short cuts. Sometimes we go in a bit more detail where we think it is required. Overall though, we share our knowledge and expertise.

Why are we doing this?

Claims cost money. A lot of money both operationally and through penalties on your ACC levies (Experience Rating). A lot of employers are gifting ACC money because, well, they rely on ACC to look after everything. Sadly, this is not smart. ACC is not geared to look after employers. The legislation is all about the person... the individual. The perception is that employers have minimal say and it is easier to let ACC just do its thing.

It irks us to see this, so we are doing something about it.

We hope you enjoy using this e-book as much as we enjoyed creating it.

The Manage Team

WHY MANAGE CLAIMS

“Sprains, Strains & Other Claims Webinar. Thanks – great info session.”

DEREK RANKIN
MINISTRY OF
HOUSING &
URBAN
DEVELOPMENT

What's the
real cost of
a claim?

If you have enough workers, no issues with recruitment, no injuries at work, no injuries from outside of work impacting your business... then this e-book is not for you.

Our experience tells us that we want to manage claims in order to manage:

- Worker welfare
- Absenteeism
- Bogus claims
- Operational expenses
- ACC penalties

It would be great if in an accounting sense there was an expense item labelled 'claim costs'. All costs relating to a claim would be listed there including time wastage, operational impact, administrative costs, labour hire costs, training & supervision, etc. Most of all, we would want to include the 'hassle factor cost' and the 'opportunity cost' – as in, what else could we have done with that time and / or money?

If this was visible, we would not need this e-book! ACC would be a lot more proactive for employers and there would be a lot more efficiencies in businesses as a whole.

HOW TO MANAGE CLAIMS

“We worked with Manage Group on some challenging claims that had been incorrectly put against our Company’s ACC ratings. Martin and the Manage Group’s teams’ professionalism, integrity and knowledge made the whole process of creating a case for ACC very easy. Their help and guidance on the recommended documentation to present to ACC was spot on and lead to us winning our cases. Our ACC levies were readjusted therefore saving our company a lot of unnecessary costs. We highly recommend Martin and his team and will definitely work with them again.”

JANE BEEL
SKEVINGTONS

Understand the Data: managing claims in a way, starts with a retrospective approach. Understanding the type of injuries that you have had; how well they are actually managed to date (i.e. what is the delay between the day of the injury versus when the worker got help; what is the average time off, etc); how claim information is looped back into your health & safety practices to prevent injuries from happening in the first place; etc.

When we look at the data, we also look at what claims could / should not sit under the business from an ACC Experience Rating perspective. Just because there was a workplace claim, this does not automatically mean you should be liable for this claim under Experience Rating. Welcome to the ACC legislation! More on this further on.

We typically find that across all industries, over 60% of claims are musculoskeletal (sprains and strains). These should be treated very differently than say a broken bone, or a burn.

Know who you
are employing

You get the
results within
48 hours.

ACC Pre-Employments: after 10 years of doing this stuff, it still staggers us that a lot of employers have not heard of this or have but choose to not use it. ACC provides you the employer with a new candidates ACC history on recruitment. The candidate provides consent and in fact, actually drives the process. What you receive is a summary of claims information i.e. the type of claim, date of claim, etc. The turn-around time is approximately 48 hours.

The candidate phones ACC on 0800 080 273. ACC will set up the worker on their MyACC account where they can request the Pre-Employment. They enter your work email you have given them and voila, you will receive a copy within the 48 hours.

In our little world, this is a no-brainer. You want to know who you are employing and if they are capable of doing the job you are employing them for. There are other reasons as well such as the next two actual case studies highlight.

Case Study A: chap in Christchurch has less than one page of claims so that was pretty good. The claims he did have were 5 broken bones in his hands, 6 concussions, several broken noses, etc. Interesting. Either he is a professional fighter... and not very good, or he is a scrapper. It ended up he is a scrapper and has a few challenges with authority. Possibly not the best employee for you?

“Manage Group were engaged by Evolution Traffic Management Ltd to review our workplace claims. They used their deep knowledge of ACC process, and our historic data, to find claim anomalies and make practical recommendations. This assisted our inhouse team to manage claims, improve our experience rating, and ultimately to improve our management of risk, and health and safety.”

DES O'BRIEN
NATIONAL
HSEQ
ADVISOR

Case Study B: chap in Northland had over 10 pages of claims. There is probably not a bone in his body that hadn't been broken. Lovely chap, by all accounts very positive references etc. The only thing is that outside of work he does rodeo and motor cross, hence all the claims. The chance that he will be away from work due to non-work reasons would be quite high.

The ACC Pre-Employment process also gives an insight into future claims that could be historical / reaggravation. Without evidence, you can never have this conversation but with the ACC Pre-Employment form, you at least have evidence that can support a conversation.

ACC Medical Authorities: an absolute must if you want to proactively manage claims. Without this form, which by the way is an ACC form, you cannot speak with ACC about your worker due to confidentiality and privacy. With this form, you can speak freely and frankly with anyone including ACC, medical fraternity, physio, voodoo practitioner, anyone that is privy to and part of the rehabilitation journey.

For us, this is a prerequisite to do claims. It makes things a lot tougher without it.

Allied Health v Doctors: we mentioned earlier about sprains and strains. NZ businesses have a large tendency to send workers to the Doctor for a sprain or a strain. This typically results in that worker receiving a referral to a physio (Allied Health) and a medical certificate for 7 days off.

Why not send the worker directly to a physio instead?

Not only will this result in a treatment on the first visit (rather than a referral to see someone else), but it also removes the incessant scribbling of a medical certificate that in most cases is not needed or warranted.

You the employer pays for the privilege of receiving a medical certificate in that you pay 80% of the first week's wage. If time off is not actually needed, what are you paying this for?

An argument we do hear is that a physio could misdiagnose. Okay, so could a doctor. Team, both are trained specialists and educated. In sprains and strains, a physio is more educated than a doctor as this is their area of specialty – hence a doctor referring to a physio! A physio will do their assessment and like a doctor, will refer to other specialists / solutions where required (i.e. x-rays).

Medical
Certificates are
not a legal
requirement for
employers.
ACC needs them
to pay weekly
compensation
after day 7.

Triaging claims is very beneficial in your business.

Get the right solution at the right time.

Triage: for clients where we manage their claims, we do a triage. What that means is when a claim happens, we will assess what / who the best solution is. Sprains and strains will be referred to a physio. Anything more severe i.e. burns and breaks will likely be referred to A&E.

Rehabilitation Policy: like health & safety, you have a policy that sets out how you do things. Rehabilitation should be no different. You need your workforce to understand your expectations and what happens if the expectations are not met.

The policy should cover everything from reporting incidents (as per health & safety), the use of a triage function, the use of Allied Health, your expectations on medical certificates, etc. We also recommend being clear on what happens if a worker lies about their injury either happening at all, or it happening outside of work.

ACC EXPECTATIONS

“Sue and the team at Manage Group have provided us expert advice on a number of occasions. Many thousands have been saved through using their service and following their expert advice. Sue’s methods are clear and concise, allowing us to stay hands off but well informed throughout the service. Thank you Sue and Manage Group.”

GLEN CLARK
FINANCE
MANAGER @
CARUS

ACC re-introduced Experience Rating in 2011. We say re-introduced as we had it in the 1980’s and 1990’s.

The intent of Experience Rating is to place the onus of managing claims onto the employer. Employers who manage it well receive discounts on their ACC levies, and those who do not, receive penalties.

All that seems fair and reasonable. Except... ACC does not educate the employer on how to manage claims.

That’s okay, that’s where we come in.

Medical Certificates: ACC is legally required to obtain a medical certificate from a claimant before they can pay weekly compensation from day 8 of incapacitation. That is the only legal requirement for medical certificates.

ACC no longer has to contact you regarding payroll data as it can access that directly from Inland Revenue.

So, in a lot of cases, ACC no longer needs to reach out to you the employer with workplace claims.

“The ACC Claims workshop was very informative & I learnt a lot. I highly recommend Marty & Sue”

**AISHA DAVIDSON
ELEVATE CRANES
TRUCKS SERVICES**

This is quite disappointing as if ACC did reach out, they would actually learn a lot regarding a claim, what alternative duties you have, etc.

ACC’s new claims framework labelled “Next Generation Case Management” that was introduced in 2019, in our opinion, is not geared towards helping the employer either. There are enough challenges under this framework to provide timely and accurate support to the actual claimant let alone anyone else.

The model is heavily geared towards self-help, predominately online via the “MyACC” portal. ACC no longer provides designated Case Managers. Rather, claimants are encouraged to dial into the 0800 call centre where caseloads are shared. This means that for any call centre staff member to help, they have to familiarise themselves with the file first. It is fair to say that the level of service let alone timely and accurate deployment of interventions is severely diminished.

In fact, at the time of preparing this e-book, there are substantial delays in decision making by ACC on claims. Sadly, we are dealing with real people who need the help. Yet ACC, through its drive to cut costs, are severely impacting claimants.

Employers are also impacted as extended time frames equals more days off impacting Experience Rating - aka more penalties.

ACC CLAIMS CHALLENGES

We referenced that just because a workplace claim took place, it does not necessarily have to impact your Experience Rating.

Below is a list of what claims can be challenged. Please note, and this is very important – that with the exception of the first point, none of this impacts the workers entitlement with ACC. This is only about who should be liable. You the employer or ACC in general.

With the exception of bogus claims, none of this impacts the worker's entitlement with ACC. This is all about who should be liable. You the employer or ACC in general.

- **Bogus Claims:** claims that either did not actually happen, or did not happen at work. There are several rules around this however, most claims can be challenged successfully.
- **Pre-existing Injuries:** past injuries that are the cause of the current injuries. The ACC pre-employment process discussed above is very useful in this space.
- **Repetitive Strain Injuries:** a lot of blue-collar injuries are repetitive strain injuries especially involving shoulders. If the worker has been with you for say less than 4 years, there is scope to have days-off in part allocated to past employers.

“Key Skills have been working with Manage for most of 2021 and we have had some amazing results so far. Their knowledge of how ACC works and their expertise around working with them has been invaluable, it’s saved us heaps of both time and money!”

**AILSA ATKINS
KEY SKILLS
RECRUITMENT**

- **Motor Vehicle Claims:** claims involving motor vehicles (not just cars) should sit under the ACC’s Motor Vehicle Account. We pay levies via our registrations and petrol into this account which funds all claim costs related to motor vehicle injuries. Again, there are rules of course like the vehicle must be in the act of conveying, however, we challenge a lot of claims in this space.
- **ACC not following process:** one of the more entertaining ways to challenge claims. ACC is a large organisation that is constantly going through change (restructure). This typically and often results in ACC not following its own process and legislative requirements.

As an example, in 2020, ACC did not always mail out the workplace injury confirmation letter to employers. Seems benign however, the letter sets out the employer’s review rights which is a legal thing ACC has to do. So by not sending out these letters, that claim should not legally sit under that employer so should not impact your Experience Rating.

So simple really.

ACC due diligence falls under Sections 54 & 56 of the Legislation.

Other areas we challenge ACC on include:

- ACC not doing “due diligence” before accepting a claim as a workplace claim.
- ACC allocating days off to an employer for other medical things the worker might be dealing with that have nothing to do with the actual injury.
- ACC not being fair and reasonable in its approach to rehabilitation i.e. excessive days resulting from a sprain or a strain.

FORMAL ACC CHALLENGES

You have 90 days from the day the injury was accepted by ACC as a workplace injury to challenge that injury. This is called the 'Jurisdiction Period'.

Note that as an employer you cannot challenge the worker's entitlement... ever!

As an employer, you have 90 days from the date of the claim acceptance to challenge the decision. The ACC letter confirming the workplace injury is usually considered that date. As noted on page 12, if you have never received that letter, you can see the complications this creates further down the line.

Note that as an employer you cannot challenge the worker's entitlement... ever!

The legislation does not allow this and it really doesn't matter how annoyed you are when George was seen playing footy on the weekend when he was supposed to be suffering from a bad back.

If you choose to challenge entitlement, you will lose.

To challenge ACC, we typically suggest doing this formally. This means that you state you disagree with the decision and wish for ACC to review it. This sets the scene for it to be escalated to a third party – an independent mediation company called ICRA or Fairway Resolution.

Our Online Compliance Toolkit has all the templates, policies, processes and so much more to allow you to manage your claims. We also cover Health & Safety.

To visit

[Click Here](#)

On your request for a review, ACC is legally obligated to peer review its own decision. We don't see ACC changing its mind very often here so don't be surprised to hear that ACC have done their review and agrees with its original decision.

ACC has 90 days after this to book in a day / time with one of the two mediation companies. This locks your case in for a formal review hearing. This is good.

There are several steps that the mediation company will go through. The outcome is binding on all parties but not on future review challenges. This is different to a District Court where the decision can impact future cases by setting a precedent.

Case Conference: short 30 minute catch up with all parties to confirm the crux of the argument, that all parties understand the process, agree on a date for the hearing, etc. The mediator who we refer to as the Reviewer, will manage this process.

Submissions: once the hearing date is set, you and ACC will be required to prepare submissions. Sounds nasty but it's not too bad. It basically sets out both parties arguments. Please note you will be required to do the first submission. ACC will then prepare theirs in response. You can submit again in response or wait until the actual hearing and do it in person.

Review hearings are formal yet relaxed.

We typically sit there with a collared shirt... and board shorts.

Review Hearing: although formal, it is relaxed. It will be done via video (i.e. ZOOM) and typically is done within the hour. You can also do it by phone. You present your case, ACC will counter, there will be a bit of back and forth, and you have the last say. The Reviewer is very good at managing this process.

Sometimes more evidence is required and the Reviewer will adjourn the hearing part heard. A date will be set for the follow up and you and ACC will be given precise dates for when additional information will be presented.

Decision: the decision is binding and if you disagree, you have 28 days from the date of the Reviewer's formal letter stating their decision. An appeal has to be lodged with the District Court.

We spend a lot of time at Review Hearings on behalf of clients and like the process. It is easier arguing legislation than emotive topics.

ACC has subsidies to help you challenge claims.

In total, they can add up to over \$700 dollars.

This typically means that you only pay between \$400 - \$600 to have a claim challenged.

Subsidies: The ACC legislation has a function whereby it provides a subsidy to you the employer to get assistance in challenging claims.

The Reviewer at the Review Hearing will ask if any costs are sought and we at that point submit this. The Reviewer will ask ACC if there is any objection. ACC can say no to costs being awarded. However, we only end up at review with genuine and legitimate cases and as such, ACC typically awards costs. If we chose to take the mickey then we would not be awarded costs and quite frankly that would be fair enough.

Costs are set out in legislation and cover the Review Application, Case Conference Attendance, Preparation of Submission, and Hearing Attendance. All up this comes to \$711.42 excluding GST. In most cases this will result in only a small charge to you for challenging a claim.

(<https://legislation.govt.nz/regulation/public/2002/0081/latest/DLM117456.html#DLM117456>)

RETURN ON INVESTMENT

Due to the nature of Experience Rating (ER), successfully challenging a claim will impact your ACC levies over a three-year period (Experience Rating Period).

The final saving will depend on your level of payroll and what levy rate you are on. The higher the payroll the higher the saving. The higher the levy rate the higher the saving. The higher the payroll and the higher the levy rate, jackpot.

Below is a random selection of clients where we challenged one claim for each. As you can see the savings are real and substantial. For our larger ongoing Claim Management clients, we challenge between 10 – 20 claims each per year. ER means Experience Rating.

ER % Before	ER % After	Client Cost	Actual Savings
10%	0%	\$400	\$9,633.07
40%	10%	\$400	\$4,897.83
40%	10%	\$400	\$3,738.05
10%	-10%	\$400	\$11,764.88
10%	0%	\$400	\$2,770.82
50%	30%	\$400	\$5,638.71

A claim will impact your ACC levies for three years (Experience Rating Period).

So having a claim removed can really benefit you.

INJURY PREVENTION

The best form of claim management is to not have to manage claims. Unfortunately that is not always achievable... but the good news is you can definitely reduce your claims.

Musculoskeletal claim can be managed so much better in NZ. A one-size-fits-all solution is not the way to go. Manual handling training has to be tailored to the industry, and to the employer's nature of work and claims profile.

Feedback Data: as already discussed, we use data a lot. In this case, it is about taking the claim information and feeding it back into your health & safety. We look at trends (i.e. 5 ankle sprains in the last month) and look at ways we can prevent them from happening.

Manual Handling: we discussed sprains and strains earlier in this e-book. Sprains and strains management is closely linked to manual handling training. Sounds all a bit too easy doesn't it but the data supports this strongly. Focus on your industry specific biomechanics and tailor manual handling training to that. As an example, scaffolders need very different manual handling training than those working in distribution.

Beers & Panadol: Kiwi's are a frustrating breed of people sometimes especially in dealing with injuries. Comments like "she'll be right mate" or "yeah nah, I'll take a few panadol and a couple of beersies". This all comes back to your Rehabilitation Policy and your expectations.

Kiwi employees have this belief that they will not get ACC if they hurt themselves at home, so will claim it as a workplace injury instead.

Work v Non-Work Injuries: although the former only impacts your ACC levies, they both cost you operationally. Our recommendation is to cover both in your claim management. Simple reason is that most non-work injuries become work injuries anyway. There is a strong belief in our national psyche that we don't get ACC if we hurt ourselves at home. And we are surprised when claims end up becoming workplace claims!

By covering both work and non-work claims you remove this stigma and you and your workers will both be better off for it.

VOCATIONAL REHABILITATION

The best form of case management is not having to manage any claims at all.

As an employer, you can ask for vocational rehabilitation services and there is no cost for this, and it does not impact your Experience Rating under the \$500 Medical Cost part.

The purpose of the Vocational Rehabilitation Service (VOC) is to help a Client remain at work, return to work, find new work or become work ready. ACC will consider whether to provide outsourced vocational rehabilitation to any Client who has suffered a personal injury for which they have cover and is either entitled or likely to be entitled to weekly compensation.

The type of services provided include:

- Facilitating the Client's recovery within the workplace and return to work.
- Identifying and designing duties for the Client to allow an early return to work.
- Identifying and providing rehabilitation that ensures the Client can safely perform their duties.
- Enabling the Client to achieve self-management of their return to work where appropriate.
- Forging the link between the Client's employer, treatment Providers and ACC.
- Arranging appropriate retraining and placement in alternative employment.
- Providing work specific functional rehabilitation to address functional barriers that are preventing a return to work.

The focus of vocational rehabilitation follows the following two tier approach. Firstly,



If this is not possible then the following will apply



The reality is, if you do not want the worker back in your business, the first set of outcomes are going to be hard to achieve.

Without direct input, it will take over six months before the second set of outcomes are implemented, if not longer. This means there will be over 180 days added to your Experience Rating.

Our view is that, let's focus on the likely outcome instead of a desired outcome according to ACC.

MYACC

Your direct portal into ACC for both invoice and claims information.

MyACC is a must if you want to manage your overall ACC risk.

It is a dedicated portal for your business (or individual) that holds all your invoices, payment plan information, any subsidies you may have (related to health & safety), and lists all the claims that are lodged against your business.

To sign up to this (it's free) click or copy this link <https://business.acc.co.nz/login/> and follow the instructions. It is all quite straight forward.

Welcome to MyACC for Business

Manage your business account online:


- Update your contact and business details to get the correct invoice first time
- Download your invoices
- Check what you owe and pay by credit card, online payment or direct debit
- See your work-related employee claims and costs covered by ACC
- See subsidies your business is eligible for
- View a timeline of your transaction history



Sign in

 Sign in with RealMe

 Sign in with Google

 Sign in with Microsoft

Register new business account

ACC & COVID

Yes there is a link.

Major vaccination side effects are usually excluded from health insurance plans, as these are typically covered by ACC.

The injury must be clearly caused by the vaccination and must not be a normal side effect.

As such, minor effects such as inflammation around the injection site are unlikely to be covered. However, more serious conditions such as cellulitis, septic arthritis or anaphylaxis due to vaccination are more likely to be covered.

New Zealanders that suffer severe reactions to COVID-19 vaccines will receive coverage for medical bills, treatment, and income assistance (where applicable).

At this point, there are several COVID-19 vaccines approved by MedSafe (<https://www.medsafe.govt.nz/COVID-19/status-of-applications.asp>).

Source [click here](#).

ACC covers
COVID
vaccination
complications.

ACC covers
workers who get
COVID whilst at
work as this is a
workplace
injury.

INDUSTRY COMPARISON

Ever wondered how your business compares to others in the same industry with claims?

Are you performing better or worse?

What are others paying in ACC compared to you?

We have access to a large range of ACC Experience Rating and Claims data going back seven years.

We take this information and model where you sit in comparison. We also model your claims and can accurately advice what your Experience Rating will be in 2024, 2025 and model 2026.

The table below is the Experience Rating information for the scaffolding industry. As you can see, there is at least one scaffolding company who is receiving a 40% discount and another who is paying a 75% loading. More than double! For 2022, the max loading is 100% and there is also a death penalty added. Double ouch.

Scaffies	Lowest	Median	Highest
2017	-24.70%	-2.90%	47.23%
2018	-34.76%	-2.39%	42.93%
2019	-22.15%	-2.15%	42.05%
2020	-20.36%	-2.38%	53.59%
2021	-40.00%	-10.00%	75.00%

We can accurately model your Experience Rating for 2024, 2025 & 2026.

The starting point for Experience Rating is not zero. It is -50% for larger employers as that is what you will receive if you have minimal claims. So any lost discount from -50% and you are gifting ACC money.

THANK YOU

Well done, you have made it.

The key learnings from this e-book are four-fold.

1. You are gifting ACC money when you do not manage your workplace claims.
2. Just because there is a workplace claim, this does not automatically mean it should sit under your Experience Rating.
3. Data is king. Your current claim profile and that of your industry, should help shape your claim management.
4. We do not like Medical Certificates. Please start using physios and stop using doctors as your first intervention.

As a parting gift we invite you to check out our Online Compliance Toolkit. Here you will find all the policies, processes, factsheets, templates, etc for you to manage your claims.

The Toolkit also covers Wellness, Health Monitoring, a massive list of Safe Operating Procedures for you to use, and much more.

From all of us, we wish you a happy claims journey.

The Manage Team.

Sign up to the
Online Toolkit

[Click Here](#)