

**The ACC related services the firm provides includes:**

- Assistance with cover decisions
- Assistance with decisions concerning entitlements
- Assistance with obtaining appropriate rehabilitation support and returning to work
- Representation and advice:
  - At meetings with ACC and/or Partnership Programme employers and their agents
  - During the claims process
  - During vocational independence processes
  - At review and/or appeal
  - At mediation
  - During fraud investigations

**Challenging an ACC decision**

1. ACC Reviews

If you are unhappy with a decision ACC has made, you may be able to lodge an application for a review of their decision. An application must be lodged within 3 months of ACC making their decision. If it is not, a late application will not be permitted unless you can prove certain 'extenuating circumstances' exist. We recommend that you involve us early in the process of lodging an application for review.

A 'review hearing' is then scheduled by Dispute Resolution Services Limited (DRSL). DRSL operates independently of ACC. It offers a specialist review service for people who are unhappy about decisions made by ACC. A review hearing must be scheduled for a date within 3 months of the date the review application was lodged unless agreed otherwise. A review hearing is a formal process where both sides meet with an independent and unbiased reviewer.

On your behalf, we will draft written legal submissions to support your case, and create a bundle of all relevant evidence for the hearing. In some cases, we will require further evidence from an independent assessor, such as a doctor, surgeon, or occupational therapist. We will draft referral letters to such assessors, asking them to answer specific questions to support your case.

Occasionally ACC will settle a case before it is heard by the reviewer. In this case, we can negotiate for ACC to pay some of the cost of our legal fees as part of the settlement.

At the review, both parties are given the chance to present their argument supporting their case. You may be asked questions by the reviewer, ACC, or we may ask you to speak to give evidence supporting your claim. Once everyone has had the opportunity to speak, the reviewer will conclude the hearing. A reviewer has 28 days from the day they conclude to make their decision. They will send their decision in writing, by post.

Any decision made by the reviewer is binding. They can make a range of decisions; including upholding the original ACC decision or overturning it, and include decisions about money and payments and costs.

We estimate that our fees for an ACC review may cost approximately \$2,000 to \$5,000 +GST. These costs can increase or decrease depending on the complexity of your case and/or the amount of time spent on it. An assessor may also charge for their evidence. We can request that ACC pays some of the costs of our legal fees and some of the costs of getting an assessor to give evidence. The Injury Prevention, Rehabilitation, and Compensation (Review Costs and Appeals) Regulations specify the exact amounts you can claim from ACC following a review hearing. **You can claim these costs whether you are successful or not, so long as you brought the case reasonably.** Please see pages 4 to 5 for the exact amounts you may be able to claim from ACC.

Many clients who come to us qualify for Legal Aid funding. You may have to pay some or all of the funding back depending on your financial status. Please see page 3 for further information about whether you may qualify for legal aid assistance.

During the review process, you should keep your medical certificates up to date. If you are successful at review, to pay you backdated weekly compensation, ACC will require medical certificates dated back to when your weekly compensation was suspended.

## 2. District Court Appeals

If you are unhappy with a review decision you can appeal by applying to the District Court, within 28 days of the review decision. We also recommend that you involve us early in the process of lodging an appeal.

A District Court hearing is much more formal than a review hearing. It will be held at the District Court and is a re-hearing of the case; with the leave of the Court, new evidence can be adduced if necessary. Each party will draft written legal submissions.

Occasionally ACC will settle a case before it is heard by a Judge. In this case, we can negotiate for ACC to pay some of the costs of our legal fees as part of the settlement.

If a settlement is not reached, the appeal is then heard in front of a Judge. Both sides are given the opportunity to present their argument. The Judge does not make his or her decision immediately, and in fact may take a number of months to issue a decision.

If you are not satisfied with the decision of a District Court appeal, you may be able to appeal to the High Court on matters of law (not fact). However, this is very rare; you will need to be granted leave to appeal. We can provide you with more information about appealing to the High Court.

We estimate our fees for a District Court appeal to be approximately \$3,000 to \$7,000 +GST. Costs may increase or decrease depending on how complex the appeal is and the amount of time spent on it. We may or may not gather further evidence. You may be able to claim "costs" (legal fees and expert reports/opinions) from ACC, **but only if you are successful at appeal.** Costs awarded by the Court for legal fees and disbursements, typically range from \$1,000 to \$3,000. Reasonable costs for expert reports/opinions can also be recovered from ACC.

You may also qualify for legal aid assistance for your District Court appeal. You may have to pay some or all of the funding back depending on your financial status. Again, please see the fact sheet on page 3.

## Qualifying for Legal Aid

Before we begin to act for you and provide you with advice, you will either need to apply for legal aid and be approved, or complete and sign the billing forms for our firm. This letter should help clarify whether you would qualify for legal aid. We have set out information about qualifying for legal aid below:

To qualify for legal aid, the maximum level of income you can be earning is:

- \$22,366 per year for a single applicant
- \$35,420 per year for an applicant with a spouse or partner, or with 1 dependent child
- \$50,934 per year for an applicant with a spouse or partner and one dependent child, or two dependent children
- \$57,880 per year for an applicant with a spouse or partner and 2 dependent children, or three dependent children
- \$64,678 per year for an applicant with a spouse or partner and 3 dependent children, or four dependent children.

The maximum level of “disposable capital” is \$3,500. Disposable capital includes a person’s total assets (houses, cars, stocks, investments etc.), after deducting any debts a person has (mortgages, loans, etc.). Any resources of a person’s spouse or partner are treated as the applicants. However, not included is any car used principally as a person’s means of transport for domestic purposes, or a person’s household furniture, appliances, tools of trade, and personal clothing. The first unmortgaged \$80,000 of the family home is also excluded from the disposable capital calculations. Any unmortgaged amount above \$80,000 of a person’s family home will be included in the disposable capital calculations. They will also consider any debts that may be owed within the next 6 months.

Ultimately, the Legal Aid Service will decide whether you qualify for legal aid by assessing your total income and assets.

Please note, you may have to repay some or all of your legal aid, depending on how much you earn, and what property you own. The financial information you give on your application form is used to work out whether you have to pay anything. You will be told the maximum amount you have to repay when you are told if you have been granted legal aid. If you are a beneficiary with no assets, it is unlikely that you will have to repay any of your legal aid.<sup>1</sup>

If you think you may qualify for legal aid, please let us know. We can provide you with the legal aid forms that need to be completed. We can assist you with completing the forms.

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<sup>1</sup> This information is taken directly from the Legal Aid website. Please see [www.justice.govt.nz/services/legal-aid](http://www.justice.govt.nz/services/legal-aid) for more information.

## Costs recoverable for a Review Hearing

If you dispute a decision, and the matter proceeds to a Review hearing, there are certain costs and expenses the Reviewer can award, regardless of whether you win or lose the review. The Reviewer will award these costs as long as he or she believes that the review was reasonably brought.

The maximum amounts the Reviewer can award are set out in Schedule 1 of the Injury, Prevention, Rehabilitation, and Compensation (Review Costs and Appeals) Regulations 2002.

The following table is from the Regulations:

Item	Rate (\$)	Maximum award (\$)
Applicant's or another person's representation <sup>1</sup> —		
<ul style="list-style-type: none"> <li>(a) preparation and lodging of application for review under section 135</li> </ul>		116.94
<ul style="list-style-type: none"> <li>(b) participation in a case conference on behalf of applicant or another person before review hearing</li> </ul>		58.47
<ul style="list-style-type: none"> <li>(c) other preparation of case for review</li> </ul>		350.83
<ul style="list-style-type: none"> <li>(d) appearance at hearing on behalf of applicant or another person—</li> </ul>		350.83
<ul style="list-style-type: none"> <li>(i) 1st hour of hearing (or part thereof)</li> </ul>	175.41	
<ul style="list-style-type: none"> <li>(ii) 2nd hour of hearing</li> </ul>	29.23 per 15 minutes	
<ul style="list-style-type: none"> <li>(iii) later hours of hearing</li> </ul>	14.62 per 15 minutes	
All relevant and reasonably necessary reports for applicant or another person by any registered specialists <sup>2</sup>		935.54
All relevant and reasonably necessary reports prepared for applicant or another person by a person with a recognised qualification to express a competent view on a matter in issue (for example, a person undertaking an occupational assessment, an architect, or a general medical practitioner)—		
<ul style="list-style-type: none"> <li>(a) if only 1 report is provided</li> </ul>		467.77
<ul style="list-style-type: none"> <li>(b) if 2 or more reports are provided</li> </ul>		701.65
at the following rates:		
<ul style="list-style-type: none"> <li>(a) 1st hour (or part thereof) of preparation</li> </ul>	175.41	
<ul style="list-style-type: none"> <li>(b) 2nd hour of preparation</li> </ul>	43.85 per 15 minutes	
<ul style="list-style-type: none"> <li>(c) 3rd hour of preparation</li> </ul>	29.23 per 15 minutes	
Other expenses reasonably incurred by applicant or another person, or on behalf of an applicant or other person, associated with a hearing (for example, transport to a hearing or time off work for an applicant, another person, representative, or a witness or support person such as		584.71

Item	Rate (\$)	Maximum award (\$)
whanau support; disbursements such as photocopying, childcare, or telephone charges)—		
for telephone charges (when the Review is heard on the phone) within this category	64 cents per minute	
for transport within this category	0.29 per kilometre for private transport	

- 1 - Awards for items under this heading may be made in respect of 1 representative only.
- 2 - As defined by regulation 3.