

# Accident Compensation Corporation Model Litigant Policy

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## Nature and purpose of the policy

1. This policy has been developed by the Accident Compensation Corporation (ACC) in order to better inform the public about the principles ACC applies to litigation.
2. This policy is intended to reflect existing law and ACC practice. It sets out ACC's interpretation of the phrase 'model litigant', which can have varying meanings. It does not impose on legal practitioners, or on other individuals, additional legal or professional obligations, nor does it create obligations under the Code of ACC Claimants' Rights.
3. This policy is not legally binding. It is not enforceable in any court or tribunal, in the statutory review process set out in Part 5 and Part 11 of the Accident Compensation Act 2001, or in any alternative dispute resolution process.

## The policy's scope

4. Lawyers engaged in civil litigation on behalf of ACC, whether in-house or external, are expected to act in accordance with the principles set out in this policy.
5. This policy does not apply to lawyers engaged in criminal litigation on behalf of ACC. The principles governing the conduct of criminal litigation are contained in the Solicitor-General's Prosecution Guidelines.
6. This policy does not apply to people conducting reviews under Part 5 and Part 11 of the Accident Compensation Act 2001, or in any other alternative dispute resolution process.

## The Policy

7. ACC will act as a model litigant when it conducts, or is involved in, litigation. This means ACC will:
  - 7.1. Act with complete propriety, honestly, fairly and in accordance with the highest professional standards;
  - 7.2. Deal with litigation promptly and efficiently, without causing unnecessary delays or expense;
  - 7.3. Consider and, if appropriate, initiate alternative means of avoiding or resolving litigation, applying common sense solutions to litigation;
  - 7.4. Act responsibly in its use of public funds on litigation, consistent with ACC's obligations as a responsible steward of the ACC Scheme;
  - 7.5. Not take inappropriate or unfair advantage of an unrepresented opponent, or of an opponent who lacks the resources to litigate a legitimate claim;
  - 7.6. Not contest matters which it accepts as correct;
  - 7.7. Not take unmeritorious points for tactical reasons;

- 7.8. Not pursue litigation unless it considers it has reasonable prospects of success, or it considers the litigation is otherwise justified in the public interest.
8. This policy does not limit ACC's discretion to take all legitimate steps open to a private individual in conducting litigation to act firmly and properly to protect its interests and/or the integrity of the ACC Scheme including, but not limited to:
- a) Testing and defending claims made against it;
  - b) Litigating to clarify the law, including test cases;
  - c) Enforcing costs orders and seeking to recover costs;
  - d) Relying on legal professional privilege, other forms of privilege, or claims for public interest immunity;
  - e) Pleading limitation and other defences;
  - f) Seeking security for costs;
  - g) Opposing unreasonable, oppressive or vexatious claims or processes;
  - h) Opposing applications for leave (or special leave) to appeal;
  - i) Opposing any applications arising from an opponent's failure to comply with a court or tribunal's rules or directions;
  - j) Requiring opponents to comply with procedural obligations;
  - k) Declining to settle litigation when settlement will not satisfy ACC's objectives;
  - l) Applying to strike out causes of action, defences or proceedings ACC considers are untenable, vexatious or abusive.

### **Status of the Policy**

This policy was approved and adopted by ACC on [TBC] following consultation with [TBC].

This policy will be formally reviewed by ACC's General Counsel [TBC]. Interim revisions will be approved by ACC as and when required.

### **Who is responsible for the policy**

ACC's General Counsel is primarily responsible for ensuring compliance with this policy. Any compliance issues should be referred to ACC's General Counsel.