

## **New Research calls for Personal Injury Commissioner Warren Forster (Barrister and Researcher)**



Changes including establishing a Personal Injury Commissioner are needed to help the hundreds of thousands of injured New Zealanders whose claims are declined each year by ACC, important new research has found.

The Law Foundation-backed research, published today, also calls for change to the way ACC determines injury causation. The authors say that ACC's narrow, legalistic application of the causation tests, which determines whether ACC will help someone, is shutting out many legitimate claimants and shifting costs to injured people and other institutions.

Lead author Warren Forster says his research team estimates that between 200,000 and 300,000 New Zealanders are denied ACC cover, treatment or support each year, more than triple ACC's own estimate of 70,000.

“We are at a tipping-point in how our society deals with injured people. We have lots of personal injury services, but they are not working as they should because injured people don't know how to navigate them. Our report discusses changes needed to redress the balance - the question is whether the political leadership is there for the change, or whether this report will end up in the too-hard basket,” he says.

ACC's injury causation tests are inherently arguable and difficult to apply, the authors say, but unsuccessful claimants who challenge ACC's decisions find themselves pitted against a huge, billion-dollar specialist Crown agency. This undermines the original intent of the scheme and the problems it sought to solve.

“ACC is currently trying to change what New Zealanders expect from it. But our report concludes that it should be other way around – we should change ACC to make sure it does what New Zealanders expect it to do. This will better help injured people and, in the long run, it will reduce the economic, social, and personal costs of injury to society.”

The report says ACC is out of step with the wider network of institutions managing injury in New Zealand. Further, its systems and policies are incredibly complex and difficult to navigate, making a Personal Injury Commissioner necessary to help claimants: “We need an institution that's an expert on ACC, but isn't controlled by ACC,” Warren says.

The authors have drafted legislative amendments to the Accident Compensation Act and a Personal Injury Commissioner Bill to start the conversation for change. The research was conducted with the generous support of the New Zealand Law Foundation and the University of Otago Legal Issues Centre.

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