

Summary

Objective

To be covered under the Accident Compensation Act 2001 (AC Act) a mental injury must be both:

- a personal injury. See the AC Act 2001, Section 26
- a clinically significant behavioural, cognitive or psychological dysfunction. See the AC Act 2001, Section 27.

Owner

[Name withheld]


Expert

Policy

1.0 Personal injury

- a** The following types of mental injury fall within the definition of a personal injury:
- mental injury caused by physical injury
 - mental injury caused by certain criminal acts
 - work-related mental injury.

2.0 Clinically significant

- a** For ACC to accept that a mental injury is “clinically significant” it will usually:
- b** be diagnosed using one or more of the following standardised systems:
- Diagnostic and statistical manual of mental disorders - fourth edition - text revision (DSM-IV-TR)
 - Diagnostic and statistical manual of mental disorders - fifth edition (DSM-5)
 - See DSM-IV-TR to DSM-5 for a summary of the differences between the two editions
 - International classification of diseases - 10th Revision (ICD-10)
 - Psychodynamic diagnostic manual (PDM)
 - Diagnostic classification of mental health and developmental disorders of infancy and early childhood – Revised (DC:0-3R)
-  Mental health definitions - DSM-IV-TR to DSM-5
- c** be diagnosed by a mental injury assessor who has:
- a qualification which meets at least level 8 (post-graduate) of a New Zealand Qualifications Authority (NZQA) recognised course or its equivalent, with a focus on:
 - assessment, classification and formulation in psychopathology
 - abnormal psychology
 - skills in using two or more models of therapeutic intervention
 - the consequences of: sexual abuse/assault; and/or physical injury; and/or workplace trauma
 - the use of psychometric tools (if using psychometrics)
 - a minimum of two years' full-time equivalent post-graduate supervised clinical experience in one or more of the areas of mental injury covered by ACC
 - met the supervision requirements of the professional bodies to which they belong
 - met the cultural competency requirements of the professional bodies to which they belong.
- d** There are some circumstances under which a mental injury will not be diagnosed using one of the above standardised systems. In these circumstances, the assessor must evidence that the mental injury is nevertheless a 'clinically significant behavioural, cognitive or psychological dysfunction'.


3.0 Mental consequences

- a** Under the 1972 and 1982 AC Acts, ACC provided cover for the physical and mental consequences of an injury or the accident.

See:

- AC Act 1972, Section 2
- AC Act 1982, Section 2.

(If a person has cover for physical injuries under the 1972/82 Acts, it's not always clear whether ACC should treat a subsequent claim as one for 'mental injury' under the AC Act 2001, or for 'mental consequences' under the 1972/1982 Acts. If clarification is needed, contact Legal Services.)

 AC Act 1972, Section 2

<https://www.westlaw.co.nz/maf/wlnz/app/document?docguid=17979b2c4e02711e08eefa443f89988a0&isTocNav=true&tocD>



4.0 Mental injuries to clients under 16

- a** Children under the age of 16 are not eligible to have the impairment effects of a mental injury assessed, for lump sum only, unless there are compelling reasons. This is because long-term mental impairment effects cannot be accurately established.

See the AC Act 2001 Schedule 1, Part 3, Clause 57.



AC Act 2001 Schedule 1, Part 3, Clause 57

https://www.westlaw.co.nz/maf/wlnz/app/document?docguid=lf6788013b3d11e18eefa443f89988a0&tocDs=AUNZ_NZ_LE

5.0 Mental injury assessments

- a** A mental injury assessment must be carried out by a qualified assessor. See the AC Act 2001 Schedule 1, Part 3, Clause 58. ACC can ask clients to undergo assessments.



AC Act 2001 Schedule 1, Part 3, Clause 58

https://www.westlaw.co.nz/maf/wlnz/app/document?docguid=lf6787f83b3d11e18eefa443f89988a0&tocDs=AUNZ_NZ_LE

6.0 Deciding apportionment for lump sum or independence allowance for mental injury

- a** So that we can determine the amount of a lump sum or independence allowance, we consider the recommendations of a qualified assessor about what proportion of a client's mental injury is:
- related to conditions covered by ACC
 - not related to conditions covered by ACC.

The assessor deducts any impairment that they think has not resulted from the covered injury from the whole of the person's impairment, which leaves the portion that is used to calculate the amount of support. This is known as apportionment.

For a client to be eligible, at least 10% of their impairment must be claim-related.

Resources for determining apportionment are the:

- Operational guidelines for impairment assessments for lump sum compensation and independence allowance
- ACC User Handbook to the AMA Guide to the Evaluation of Permanent Impairment 4th edition.



Impairment assessment services - operational guidelines
