

11 January 2022



[REDACTED]

Tēnā koe [REDACTED]

**Your Official Information Act request, reference: GOV-016048**

Thank you for your email of 17 December 2021, asking for the following information under the Official Information Act 1982 (the Act):

*I would like the information that ACC has detailing that weekly compensation can be paid at any time for any period, providing the client has entitlement and eligibility to be in receipt of weekly compensation.*

*I would like detailed information that shows how ACC determines what time period weekly compensation can be paid for what assessments an individual must have and continue to have to get weekly compensation.*

*The pages from Promapp that advises a staff member how to determine the process of whether a client has entitlement and eligibility for a sensitive claim and the details around assessments and length of time for payments.*

**Our response**

Requests for weekly compensation are assessed on a case-by-case basis, taking into account information provided by the client, as well as their treatment providers. Requests are not treated differently based on the length of incapacity. Weekly compensation continues until a client is well enough to return to their regular pre-injury work or an alternative suitable role.

Before weekly compensation can be paid clients must produce a medical certificate confirming that they are unable to work because of their covered injury. The medical certificate can only be written by a registered GP, specialist, or nurse practitioner.

Attached are the below documents in an appendix.

- Eligibility Criteria for Weekly Compensation
- Eligibility to Weekly Compensation while on Unpaid Leave
- Definition of Incapacity Policy
- Establishing Date of First Incapacity (DOFI)
- Calculate Weekly Compensation
- NG Guidelines Client Welcome Conversation – Weekly Compensation and Employment
- Assess Loss of Potential Earnings (LOPE) – Sensitive Claims

Please note we have removed the names of staff as advised to you in our email of 23 December 2021.

Further information on weekly compensation is publicly available and can be found on the ACC website here: <https://www.acc.co.nz/im-injured/financial-support/weekly-compensation/#receiving-weekly-compensation>.

It is further noted that you have been previously provided with the policies '*Make Cover Decision for Mental Injury caused by Sexual Abuse*' and '*Mental Injury Policy*' in our OIA response GOV-014295 on 18 October 2021, along with '*Cover Criteria for Sensitive Claims Policy*' in our GOV-014276 OIA response on 20 October 2021. Please refer to these policies for further information on a client's entitlement and eligibility for a sensitive claim.

**How to get in contact**

If you have any questions, you can email your Recovery Partner at [REDACTED]

Nāku iti noa, nā



Sasha Wood

**Manager Official Information Act Services**  
Government Engagement & Support

## Summary

### Objective

Use this guidance to help you determine whether a client is eligible for weekly compensation from ACC under the Accident Compensation Act 2001. This policy applies to claims where the client became unable to work from 1 July 2010.

- 1) Eligibility criteria
- 2) Section 103 - Can the client do the job they were doing before they were injured?
- 3) Section 105
- 4) Extension of Earner Status
- 5) Eligibility
- 6) Review inability status periodically
- 7) Termination of an employment
- 8) Links to legislation

Owner [REDACTED]

Expert [REDACTED]

## Procedure

### 1.0 Eligibility criteria

**a** For a client to be eligible for weekly compensation from ACC, all the following criteria must be met:

- the claim for personal injury is accepted for cover under the Accident Compensation Act 2001, and
- ACC is responsible for managing the claim (that is, it is not a work-related personal injury suffered by an employee of an accredited employer), and
- the client has made a written or verbal application for weekly compensation, and
- the client is unable to work because of the personal injury under either section 103 or section 105.

### 2.0 Section 103 - can the client do the job they were doing before they were injured?

**a** Under section 103 of the Accident Compensation Act 2001, ACC must determine a client's inability to work – and therefore their eligibility to weekly compensation – by determining whether they could do the job they were doing before they were injured.

**b** The people who are eligible for weekly compensation include those who, at the time they suffered their personal injury, were:

- in employment and had earnings immediately prior to becoming unable to work as one or more of an employee, self-employed and shareholder employee; or
- on unpaid parental leave; or
- a recuperating organ donor and receiving payments under the Compensation for Live Organ Donors Act 2016; or
- in consecutive periods of unpaid parental leave and a payment period under the Compensation for Live Organ Donors Act 2016.

**c** In all cases, the client must have earnings immediately prior to becoming unable to work as one or more of an employee, self-employed and shareholder employee.

**NOTE** What if they are on unpaid parental leave?

Clients on unpaid parental leave at the time of their injury are deemed to be in employment for the purposes of Section 103.

**NOTE** What if clients are receiving organ donor compensation?

Clients who are recuperating organ donors under the Live Organ Donors Act 2016 are deemed to be earners if they:

- are injured during a payment period under that Act which was immediately preceded by a period of employment in which they were receiving earnings. Their inability to work is tested under section 103; or
- are injured during consecutive periods of unpaid parental leave and a payment period under the Live Organ Donors Act 2016. Their inability to work is tested under section 103; or
- had no earnings immediately prior to the organ donor payment period, they meet the timeframes under clause 43 of Schedule 1 at the commencement of the payment period. Their inability to work is tested under section 105.

### 3.0 Section 105

**a** We can't determine inability to work under section 103 for those clients who:


- have an extension of earner status under clause 43 of Schedule 1
- are a potential earner (LOPE) at the time he suffered his injury, they may be eligible for loss of potential earnings
- have purchased weekly compensation under section 223.

## 4.0 Extension of earner status

**a** Clients may have an extension of earner status under clause 43 of Schedule 1 because:

- leave payments that are liable for earner levy on ceasing employment extend the period of employment up to or beyond the date they became unable to work, or
- they became unable to work within 28 days after ceasing employment as an employee and had an employee job to return to within 3 months, or
- they became unable to work within 28 days after ceasing seasonal employment as an employee where they had been employed in the two previous seasons and the employer confirms that the client could reasonably expect to have been employed again within 12 months, or
- they became unable to work during a payment period under the Live Organ Donor Compensation Act 2016 and they satisfy the timeframes under clause 43 of Schedule 1 at the start of that payment period (as if that was the date they were unable to work).

**b** Please ask the client to sign the ACC165 Declaration of rights and responsibilities form, as described in the method for the initial interview, declaring that they understand their responsibilities for receiving weekly compensation.

 ACC165 Declaration of rights and responsibilities


---

## 5.0 Eligibility

**a** The rules for determining the level and duration of support are driven by:

- the dates when a client initially and/or subsequently became unable to work in the employment they held at that date (date of first incapacity 'DOFI', or date of subsequent incapacity 'DOSI')
- confirmation of ongoing inability to work.

**b** Refer to links below for additional information.


 Definition of Incapacity


---

## 6.0 Review inability status periodically

**a** When a client is eligible for weekly compensation it is important to continue to periodically review their inability to work.

**b** See the link below for additional information.

 Definition of Incapacity

 Establishing Date of First Incapacity (DOFI)

---

## 7.0 Termination of an employment

**a** If the employment a client held at DOFI/DOSI is terminated during the period that they are unable to work, they are still eligible for weekly compensation so long as they continue to be unable to work.

---


## 8.0 Links to legislation

 Accident Compensation Act 2001, section 103

[http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101458.html?search=ts\\_act%40bill%40regulation%40deeme](http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101458.html?search=ts_act%40bill%40regulation%40deeme)

 Accident Compensation Act 2001, section 105

[http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101462.html?search=ts\\_act%40bill%40regulation%40deeme](http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101462.html?search=ts_act%40bill%40regulation%40deeme)

 Accident Compensation Act 2001, Schedule 1, Clause 43, Weekly earnings if employment ended before commencement of incapacity

[http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM104879.html?search=ts\\_act%40bill%40regulation%40deeme](http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM104879.html?search=ts_act%40bill%40regulation%40deeme)

 Compensation for Live Organ Donors Act 2016

<http://www.legislation.govt.nz/act/public/2016/0096/latest/DLM4297829.html?src=qs>

---

# Eligibility to Weekly Compensation while on Unpaid Leave v15.0



## Summary

### Objective

Use this guidance to help you determine whether a client, who has become unable to work due to their injury while on unpaid leave, is an earner and eligible for weekly compensation. Use this guidance for claims where the client became unable to work from 1 July 2010.

- 1) Criteria to determine whether a client on unpaid leave is eligible for weekly compensation
- 2) Gathering earning details

Owner



Expert



## Policy

### 1.0 Criteria to determine whether a client on unpaid leave is eligible for weekly compensation

- a Unpaid leave is leave that an employee has chosen to take in agreement with their employer.
- b A client who is on unpaid leave from employee work when they become unable to work (date of first incapacity 'DOFI' or date of subsequent incapacity 'DOSI') is eligible to be classified an 'earner' and eligible for weekly compensation if:
  - DOFI/DOSI falls within the first 28 days of the unpaid leave period; and
  - the total period of unpaid leave taken by the person is not greater than three months in duration; and
  - the client has an ongoing employment relationship with the employer during the unpaid leave period; and
  - the client would have returned to their employment had it not been for their incapacity.

#### NOTE When does the 28 days start?

The 28 day period starts on the last day the client actually worked before going on unpaid leave.

In situations where the clients finished work, took paid leave, then unpaid leave (and then becomes unable to work while on unpaid leave), the 28 day extension does not start from the date the paid leave ends. It starts from the date last worked.

This is similar to extension of earner status under Accident Compensation Act 2001, clause 43. Clients can either extend earner status using annual leave, or the 28 day extension. Both periods must be applied concurrently, not consecutively.

#### Criteria for being an earner while on unpaid leave

- c The client may advise ACC that they were on unpaid leave at the time their inability to work started, ie DOFI/DOSI, Real Time Earnings (RTE) from Inland Revenue, or the ACC003 Employee earnings certificate form may indicate that the client did not have earnings immediately prior to DOFI/DOSI.
- d When considering whether the DOFI/DOSI falls within the first 28 days of the unpaid leave period, consider the client's normal pattern of employment in determining when the period of unpaid leave commences. This date may or may not be the day following the date last worked.

#### NOTE Examples

A Monday to Friday worker takes four weeks unpaid leave, from Monday 15 May. The worker's last day of work is Friday 12 May but the period of unpaid leave starts on Monday 15 May. If DOFI/DOSI falls within the 28 days from Monday 15 May to Sunday 11 June, the client may be eligible for weekly compensation.

A Monday to Friday worker takes two months unpaid leave from Wednesday 12 April. The worker's last day of work is Tuesday 11 April and the unpaid leave commences on 12 April. If DOFI/DOSI falls within the 28 days from Wednesday 12 April to Tuesday 9 May, the client may be eligible for weekly compensation.

- e In cases where the client becomes unable to work during a period of unpaid leave, contact the employer to confirm:
  - when the unpaid leave period commenced to determine whether DOFI/DOSI falls within the first 28 days of the unpaid leave period
  - what the duration of the unpaid leave period is that they agreed with their employee to determine whether the total period of unpaid leave from the date the inability to work started would have been greater than three months
  - that an on-going employment relationship existed or would have existed between the employer and the client during the unpaid leave period to confirm that the client would have:
    - retained that employment throughout the unpaid leave
    - returned to that job following the end of the unpaid leave period.
- f Use this information to determine whether or not the client is eligible for weekly compensation in line with the unpaid leave policy. Document your decision and reasons for the decision on Pathway or Eos and retain relevant information from the employer that supports your decision on the claim file.
- g If the person is on unpaid parental leave they may be eligible for weekly compensation, from the date they were due to return to work, from unpaid parental leave. See the guidance on 'Unpaid parental leave'.

#### Unpaid parental leave

---

## 2.0 Gathering earning details

- a For the purposes of collecting earnings details, DOFI/DOSI is deemed to be the date on which the client commenced unpaid leave.
  - b For minimum eligibility purposes, the average hours worked in the four weeks prior to DOFI/DOSI, are the hours worked in the four weeks before the date unpaid leave commenced.
- 

## 3.0 Determining whether a client on unpaid leave is unable to work

- a The test of 'incapacity' under section 105 of the Accident Compensation Act 2001 should apply if the client became unable to work while they were on unpaid leave. This is the same provision that applies for clients who had recently ceased employment and extension of employee status applies.
- b A client meets the test of 'incapacity' under this provision if they are unable to engage in employment for which they are suited by reason of education, experience or training, or a combination of these things.

**NOTE** What if the client does not meet the test of incapacity under section 105, but is unable to work in their current job?

In some cases, a client may be fit to work in a number of occupations because of their education, experience or training, but their injury prevents them from working in their current employment. In other words, they are not incapacitated under section 105, even though they are not fit to return to their current work.

Seek advice from Technical Services who can consider if it is more appropriate to consider whether the test of incapacity under section 103 should apply. This looks at whether the client is unable to engage in the employment for which they were employed when they suffered their personal injury.

---

## Summary

### Objective

This page provides you with the definition of 'incapacity' provided by the Accident Compensation Act 2001. A client's eligibility for weekly compensation depends on their inability to carry out employment.

Use this guidance to determine incapacity of a client, ie whether the client is unable, because of their personal injury, to engage in either:

- employment that they were in when they suffered the personal injury (section 103)
- work that they are suited for based on their experience, education, training, or combination of those things (section 105).

If a client is not incapacitated, then a client is not eligible for weekly compensation.

This guidance applies to incapacities that occurred from 1 July 2010.

- 1) Definition of incapacity
- 2) Determine incapacity under Section 103 of the Accident Compensation Act 2001
- 3) Determine incapacity under Section 105 of the Accident Compensation Act 2001
- 4) Links to legislation

Owner



Expert



## Policy

### 1.0 Definition of incapacity

- a** Section 6 of the Accident Compensation Act 2001 defines 'incapacity' as determined under either:
- Section 103 or
  - Section 105.

Sections 103 and 105 of the Accident Compensation Act 2001 only apply to the covered personal injury.

**NOTE Accident Compensation Act 2001, section 103**


The client is unable to engage in employment for which they were employed when the personal injury was suffered.

**NOTE Accident Compensation Act 2001, section 105**

The client is unable to engage in employment for which they are suited by reason of education, experience or training, or a combination of these things.

- b** Inability to work includes being absent from employment to get treatment for the personal injury if the treatment is:
- necessary for the injury
  - of a type that we, as the insurer, are liable to provide.

### 2.0 Determine incapacity under Section 103 of the Accident Compensation Act 2001

- a** Section 103 of the Accident Compensation Act 2001 applies if, at the time of the injury, the client is:
- an earner
  - on unpaid parental leave or
  - a recuperating organ donor.
- b** 'Incapacity' for these clients is determined by whether the personal injury restricts or prevents them, mentally or physically, from being able to perform their employment activities.
- c** To determine whether a client is unable to work due to the injury, refer to Determine incapacity - client employed at the time of injury.
-  Determine incapacity – client employed at the time of injury



### 3.0 Determine incapacity under Section 105 of the Accident Compensation Act 2001

- a** Section 105 of the Accident Compensation Act 2001 applies if, when the client became unable to work, they:
- were a potential earner
  - had a TimeOut cover policy
  - were not in employment, but had recently ceased employment and extension of employee status applies.
- b** 'Incapacity' for these clients is determined by whether the personal injury restricts or prevents them, mentally or physically, from being able to engage in employment for which they are suited by reason of education, experience or training, or a combination of these things.
- c** To determine whether the client is unable to work due to the injury, and what is suitable employment, refer to Determine incapacity – client has ceased employment, was potential earner or has TimeOut cover.

 Determine incapacity – client has ceased employment, was potential earner or has TimeOut cover

---

#### 4.0 Links to legislation

-  Accident Compensation Act 2001, section 103  
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101458.html>
  -  Accident Compensation Act 2001, section 105  
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM101462.html>
- 

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

## Summary

### Objective

Determining the date of first incapacity (DOFI) is important as it establishes when a client's first week period starts. Refer to this guidance to help you determine the first week period and establish the start of the client's weekly compensation.

- 1) Determining a client's DOFI
- 2) Time off work for treatment before certified as unable to work
- 3) No time off work for treatment before certified as unable to work
- 4) Client on leave
- 5) Statutory holidays

Owner





Expert



## Policy

### 1.0 Rules

- a** A client's date of first incapacity (DOFI) is the earlier of the first date that they:
  - were medically certified as unfit for work due to their injury
  - had time off work to receive necessary health care treatment for their injury.
- b** Each claim can have only one DOFI date.
- c** If the client has an injury, they will be medically certified as unfit for their employment from the date they were first off work due to this personal injury. This date is the DOFI.
  -  Definition of incapacity  
<https://go.promapp.com/accnz/Process/4a00b447-a198-4dee-9537-facfa9ff9376>
  -  Examples – determining DOFI - Reference  
<http://thesauce/team-spaces/chips/compensation/weekly-compensation/reference/incapacity-187/examples--determining-d>


### 2.0 Time off work for treatment before certified as unable to work

- a** If the client has taken time off work for treatment before the date they were first medically certified as unable to work, the date of that treatment is DOFI.
- b** This earlier date can only be used as DOFI if ACC is required, or allowed, to pay for the type of treatment they received.
- c** ACC also needs confirmation from the employer of any actual time taken off work.

### 3.0 No time off work for treatment before certified unable to work

- a** If the client has not had time off during work hours for necessary treatment, DOFI is the first date they were medically certified as unable to work.
- b** For example: a Monday to Friday worker:
  - suffered an injury after work on Friday
  - went to the doctor the next day, where they were certified unable to work from that day.The Saturday's date is the DOFI.

### 4.0 Client on leave

- a** If a client is on annual or other paid leave on the first day they are certified as unfit for work, this day is DOFI. This is regardless of whether or not the business was open at the time the client was on annual, or other paid leave.
- b** Determine DOFI as if they had not been on leave at the time.
- c** For example: A worker who normally works on Mondays:
  - is on leave on a Monday, when they suffer an injury
  - is certified as being unable to work from that day.The Monday date is the DOFI date.
- d** This also applies if the client is on unpaid leave when injured, provided they are accepted as being an earner. See Unpaid leave.
  -  Unpaid leave  
<https://go.promapp.com/accnz/Process/6b0e3eaa-4d40-41a7-bbb7-084a7fb81470>

## 5.0 Statutory holidays

- a DOFI is the first date the client was medically certified as unable to work.
  - b If a statutory holiday falls between the date that the client is certified as being unable to work and the day that they would have worked, if not for being unable to work due to the injury, DOFI is taken as the earlier date, ie the date they were certified as unable to work.
- 

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

## Summary

### Objective

The documents below are to be used for claims where the client becomes unable to work due to their injury from 1 July 2010. This information relates to ACC's application of the Accident Compensation (AC) Act 2001 from 1 July 2010.

- 1) Overview
- 2) Single employment at the date the client was unable to work
- 3) For the short-term period
- 4) For the long-term period
- 5) Multiple employment at the date the client was unable to work
- 6) For the short-term period
- 7) For the long-term period
- 8) Abatement
- 9) Indexation
- 10) Eligibility for an increase to the minimum full-time earner rate
- 11) Eligibility criteria
- 12) Full-time employment
- 13) Eligibility stops if employment would not be full-time

Owner



Expert



## Procedure

### 1.0 Overview

- a** The calculation of short and long-term periods of weekly compensation depends if the client held single or multiple employments at the date they first or subsequently became unable to work due to the injury (date of first incapacity 'DOFI' or date of subsequent incapacity 'DOSI').

Weekly compensation is subject to change through abatement and indexation.

### 2.0 Single employment at the date the client was unable to work


- a** If a client has only one employment type at the date they first or subsequently became unable to work due to the injury (DOFI or DOSI) and weekly earnings have been calculated, the bases for the short and long-term weekly compensation calculations are as follows.

### 3.0 Single employment - for the short-term period

- a** The base weekly compensation is calculated at 80% of weekly earnings.


Note: Employees and shareholder employees are not eligible for an adjustment to the minimum weekly earnings rate for the short-term period, if they have a low level of weekly earnings.

If the weekly earnings of a self-employed person fall below the minimum weekly earning rate, they may have their weekly earnings set at the minimum rate if, they are liable to pay the minimum annual earner levy. In this case, base weekly compensation is 80% of the applicable weekly earnings minimum rate, subject to abatement and indexation.

 Calculate Weekly Earnings – Self-Employed

#### 4.0 Single employment - for the long-term period

If the client's weekly earnings are...	then...
less than the minimum weekly earnings rate	<p>their weekly earnings can be set at the applicable minimum weekly earnings rate if they were either:</p> <ul style="list-style-type: none"> <li>• in full-time employment, ie worked an average of 30 hours per week in the four weeks prior to the incapacity</li> <li>• liable to pay the minimum annual earner levy</li> </ul> <p>base weekly compensation is 80% of the applicable minimum weekly earnings rate</p> <p>See Eligibility for an increase to the full-time earner rate</p>
above the minimum weekly earnings rate	base weekly compensation is calculated at 80% of weekly earnings

 For the long-term period.PNG

#### 5.0 Multiple employment at the date the client was unable to work

- a** If a client has more than one employment type at the date they became unable to work due to the injury (DOFI or DOSI), including more than one permanent employment, weekly earnings for each employment are calculated and then aggregated into one weekly earnings figure. The short and long-term periods for weekly compensation are calculated as follows.

#### 6.0 Multiple employment - for the short-term period


- a** Short-term base weekly compensation is calculated at 80% of weekly earnings.

If ...	and...	then...
one of the client's employments in the short-term period is self-employment	<ul style="list-style-type: none"> <li>• their weekly earnings for that employment are below the applicable minimum weekly earnings rate</li> <li>• they are liable to pay the minimum earner levy they are eligible to have their weekly earnings for that employment set at the minimum weekly earnings rate</li> </ul>	This weekly earnings figure is then aggregated with the weekly earnings from the other employment held at DOFI/ DOSI

 For the short-term period.PNG

## 7.0 Multiple employment - for the long-term period

If the client's aggregated weekly earnings are...	then...
less than the minimum weekly earnings rate	their weekly earnings can be set at the applicable minimum rate if they were either: <ul style="list-style-type: none"><li>• in full-time employment, ie worked an average of 30 hours per week in the 52 weeks prior to the incapacity</li><li>• Liable to pay the minimum annual earner levy</li></ul> base weekly compensation is 80% of the applicable minimum rate See Eligibility for an increase to the full-time earner rate.
above the minimum weekly earnings rate	base weekly compensation is calculated at 80% of weekly earnings

 For the long-term period2.PNG

## 8.0 Abatement

- a** Base weekly compensation can be reduced by abatement if the client receives earnings while they are unable to work or not fully working because of the injury.


## 9.0 Indexation

- a** On 1 July each year, an annual indexation is applied to weekly compensation. Minimum full-time earner rates are also adjusted on 1 July each year. If a client's weekly earnings are below the adjusted rate and they are otherwise eligible for an increase, their weekly compensation is increased from 1 July.

## 10.0 Eligibility for an increase to the minimum full-time earner rate

- a** Accident Compensation Act 2001, Schedule 1 Clause 42 sets the criteria for eligibility for an increase to the minimum rate after five weeks of the client's inability to work. Eligibility for an increase is only considered when all weekly earnings calculations have been aggregated into a single weekly earnings figure and the weekly earnings figure is below the minimum full-time earner rate.

See Minimum earner rate - full-time earners.

 Weekly compensation indexation (2001 Act) Policy

 Accident Compensation Act 2001, Schedule 1 Clause 42

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM104874.html>


## 11.0 Eligibility criteria


- a** To be eligible for an increase to the minimum full-time earner rate, immediately before the client became unable to work they must have been either:
- in full-time employment
  - liable to pay the minimum annual premium. This applies to self-employed only. See Calculate weekly earnings - self-employed.

If either of the above criteria is met, weekly earnings can be increased to the minimum full-time earner rate.

If a recent or established non-PAYE shareholder employee cannot show that they received earnings immediately before they became unable to work, they are not eligible to receive weekly compensation. This includes long-term weekly compensation paid at the minimum full-time earner rate.

Refer to Calculate Weekly Earnings - Shareholder Employee

 Calculate Weekly Earnings – Shareholder Employee


 Calculate Weekly Earnings – Self-Employed

## 12.0 Full-time employment

- a** Full-time employment is defined as employment averaging 30 hours (paid) per week over the four weeks prior to the date the client first or subsequently became unable to work (DOFI or DOSI). Note that it can also be a lesser number of hours if the person's employment contract defines the lesser hours as full-time.

For:

- permanent and non-permanent employees, details of the hours worked each week in the four weeks prior to DOFI are declared on the Welcome Conversation Transcript.
- shareholder employees and self-employed clients, these hours are declared on the ACC004 Questionnaire for self-employed or shareholder employee form or obtained in Welcome Conversation Transcript.

 ACC004 Questionnaire for self-employed or shareholder employee

---

## 13.0 Eligibility stops if employment would not be full-time

- a** A client is only eligible for the increase to the minimum rate for any period when, if it were not for the injury, they would have been in full-time employment.

ACC can assume that the client would have continued in full-time employment, unless information to the contrary is received. For example, the work could be seasonal, and full-time work would end at the close of the season.

If ACC is aware that employment would not have been full-time beyond a certain date, reduce the long-term weekly earnings figure to its base weekly earnings rate, updated for any applicable indexation.

If there is evidence the client would have resumed full-time employment in the next season, they are eligible to be reinstated at the minimum for the duration of that season.

Unless the above applies, once assessed for the minimum, the client stays on the minimum even if their base weekly earnings would have been subsequently increased by indexation to a level above the minimum.

---

# Client Welcome Conversation

## Weekly Compensation and Employment - Guidelines



## Client Conversation

The Welcome Conversation guide is designed so that you can intuitively move through the conversation at the client's pace, based on their needs and the natural flow of the conversation. There are nevertheless a few things that we must remember to do to ensure our clients have the best experience possible.

### Weekly compensation

#### Assessing eligibility for income support

We ask our clients about their time off work and earnings information because our legislation requires us to assess this before we can pay weekly compensation. The client also needs to have cover approved for their injury.

Legislation can be complex when it comes to things like extension of earner status, and date of first or subsequent inability to work. If you need help to assess if we can pay a client, gather as much information as you can and let them know we will get back to them about this as soon as possible.

Refresh your knowledge by reviewing Promapp information. For guidance on eligibility, contact the Recovery Support (Technical) hotline, or if the client has complex earnings information, send a 'Setup Weekly Comp Entitlement' task to our Payments team.

#### What other information needs to be collected to help pay the client weekly compensation?

The following information must be either included in the script or the setup task:

- employment type
- regular work pattern for each employer (see [appendix](#) for more information on what to collect for work pattern)
- hours worked in each of the last four weeks for each employer (and if these hours are typical, see [appendix](#) for more information on capturing the weeks prior to DOFI)
- information about any periods of unpaid leave (if they are full days and agreed with the employer)
- the preferred pay day if it is not 'Monday'.

The client must also have approved incapacity.

### Work and work planning

#### Learning about work roles

Having a clear understanding of the client's role, duties, and usual pattern of work helps us to understand what they might need to achieve to sustain a successful return to work. Confirming details about the work environment, their job satisfaction and their relationship with their employer build on our understanding and can help us to address any early obstacles identified.

## Gaining consent to speak to an employer

Engaging employers is an important part of supporting our clients, but some clients may have concerns about this due to a strained relationship, or the sensitivity of their injury. It is important that we consider whether it is suitable to contact an employer and gain consent from our clients to do so.

When speaking with employers, it's essential you know what information you can share, and what we should leave up to the client to share with their employer. It is very rare for ACC to disclose a sensitive claim to an employer – if we speak with an Employer we are more likely to reference the client as having a non-work injury.

For more information on what can be shared with an Employer, see [Disclosure of Clients' Health Information to Employers Policy](#) in Promapp.

RELEASED UNDER THE  
OFFICIAL INFORMATION ACT

## Appendix:

### Hours Worked Prior To Incapacity

To confirm whether a client was an earner immediately prior to DOFI it is important that the hours worked in the 4 weeks prior to DOFI are accurately recorded against the correct week. Week 1 is where you would record the hours worked for the first week prior to incapacity. For example, if DOFI is 10/02/20 then:

<b>Week 1</b>	Record hours worked during the week 03/02/20 – 09/02/20
<b>Week 2</b>	Record hours worked during the week 27/01/20 – 02/02/20
<b>Week 3</b>	Record hours worked during the week 20/01/20 – 26/01/20
<b>Week 4</b>	Record hours worked during the week 13/01/20 – 19/01/20

### Work Patterns for Rotating Rosters information

If during a conversation a client advises they work on a rotating roster this needs to be noted in the welcome conversation and recorded as the maximum numbers of hours they could work on any day Monday to Sunday.

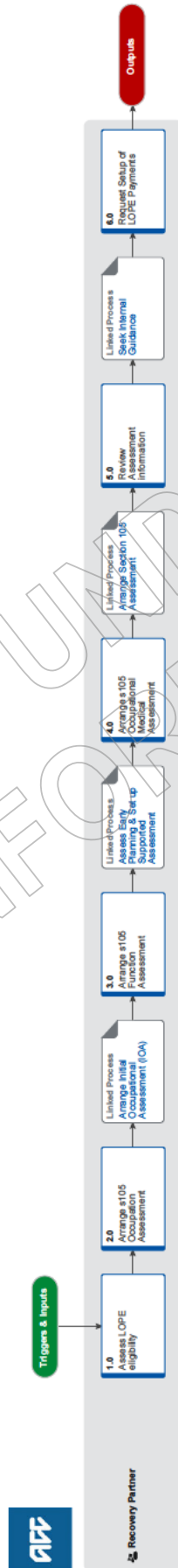
For example, if the most a client would work any day and they are rostered to work is 8 hours you would record the work pattern in the What days and hours of the week do you normally work section of the conversation tool as follows:

<b>MON</b>	<b>TUE</b>	<b>WED</b>	<b>THU</b>	<b>FRI</b>	<b>SAT</b>	<b>SUN</b>
8	8	8	8	8	8	8

# Assess Loss of Potential Earnings (LOPE) - Sensitive Claims v3.0



RELEASED UNDER THE OFFICIAL INFORMATION ACT



# Assess Loss of Potential Earnings (LOPE) - Sensitive Claims v3.0



## Summary

### Objective

Determine eligibility for Loss of Potential Earnings (LOPE) Payments for a client with a Sensitive Claim.

### Background

Loss of Potential Earnings (LOPE) assessment for a Sensitive Claim requires a Recovery Partner to first assess the client's eligibility against a set of criteria, then investigate their inability to work by completing three assessments. These assessments must be completed in this order. However, if #2 appears to demonstrate severe incapacity, confirm this with Medical Adviser who may confirm omission of #3 on this occasion.

1) Section 105 Occupation Assessment. This is purchased by following the Initial Occupation Assessment (IOA) process. The purpose of this assessment is to provide supporting information to subsequent assessors so that they can determine whether there is now, or has been at some time in the past, incapacity from engaging in work types for 30+ hours based on their skills, training and education.

2) Section 105 Function Assessment (psychiatric/psychological). If ACC has already determined the client's Personal Injury cover through a Supported Assessment then this assessment will determine the functional effects of the client's mental injury on their ability to engage in work types identified in the Occupation Assessment. If the client has not completed a recent Supported Assessment, then they should be referred for a Supported Assessment with additional questions on Function, as specified in the referral letter for s105 Supported + Function Assessment (psychiatric/psychological)

3) Section 105 Occupational Medical Assessment. This assessment is to determine how the injury has been (retrospectively) or is currently affecting the client's ability to work. This assessment is only used in cases of doubt about incapacity, or when it appears likely that there is no longer any incapacity and that entitlement will be declined. Contact Recovery Support to confirm before omitting referral for this assessment.

Upon completion of all necessary assessments, the Recovery Partner must consult with Recovery Support to determine whether the client is or has in the past been unable, because of his or her personal injury, to engage in work for which he or she is suited by reason of experience, education, or training, or any combination of those things.

Owner [REDACTED]

Expert [REDACTED]

## Procedure

### 1.0 Assess LOPE eligibility

#### Recovery Partner

**a** Review the eligibility criteria for LOPE payments.

Loss of Potential Earnings Policy

**b** Determine what period the client is claiming for and identify clinical and other records that support these periods of incapacity and assist in confirming their injury occurred prior to the age of 18.

**NOTE** What if the records are not on the claim?

Refer to the Request Clinical Records process.

**PROCESS** Request Clinical Records

**NOTE** What if there is no ACC18 Medical Certificate that supports the claim?

Contemporaneous clinical and other records can be used to support backdated periods of incapacity in the absence of ACC18 Medical Certificate.

**NOTE** What if historical medical records need to be reviewed to determine the date of injury?

Consider consulting a Medical Advisor and/or Psychology Advisor by using the following process

**PROCESS** Seek Internal Guidance

**c** Determine if the client has been engaged in any full-time study for the period which they are claiming for or to help determine if the client was engaged in full time study prior to the age of 18 (or 16 under the 1972 and 1982 Act) until they sustained their injury.

**NOTE** What if the client did engage in full-time study?

Send a request for information to the confirmed University, Polytechnic or Study Facility to obtain confirmation of course.

**d** Request Real Time Earnings Information to determine if the client has been in receipt of earnings in excess of the amount of minimum wage. Create a General Task with the heading RTE REQUEST and add the reason and period required:

- RTE REQUEST
- Reason:
- Period required:

- e Transfer the General task to Department Queue: Centralised Weekly Compensation.

Client Payments will save the Real Time Earnings to the claim and return the task to advise they are now available.

- f Determine if the client has been in receipt of a Work and Income Benefit for periods they are claiming.

**NOTE What if the client has been in receipt of a Work and Income Benefit?**

Request a copy of the medical certificates and a breakdown of the periods the client has been in receipt of a benefit.

- Add VAM010 Vendor ID to the participants
- Send an email to MSD\_ACC@msd.govt.nz with the following details:

NAME  
Date of Birth –  
NHI Number:  
ACC claim number:  
IRD number:

The above client has requested ACC consider their eligibility for weekly compensation. In order to assess this request, please provide copies of all medical information and / or medical certificates regarding this client work capacity dating from DATE

Please also provide details of any financial assistance the client has received since this date (including weekly benefits, accommodation supplements, etc).

Please see the attached ACC6300 Authority to collect medical and other records form, which provides ACC with the authority needed to request this information.

ACC confirms that if weekly compensation / loss of potential earnings is paid we will refund your department up to the level the client would have received for this period. However, it is likely to be some time before we can decide on this.

Please let me know if there is any further information I can provide to assist with the processing of this request.

- g Confirm whether the client meets all eligibility criteria for Loss of Potential earnings before proceeding with the first assessment.

**NOTE What if you are unsure if the client meets the eligibility criteria?**

Go to Seek Internal Guidance

**PROCESS** Seek Internal Guidance

**NOTE What if the client does not meet the eligibility criteria?**

Go to Issue Recovery Decision

**PROCESS** Issue Recovery Decision

---

## 2.0 Arrange s105 Occupation Assessment

### Recovery Partner

- a Arrange a s105 Occupation Assessment using the "Arrange Initial Occupational Assessment (IOA)" process.

Note that the IOA process is only used to purchase the assessment, and the IOA process on its own would produce the wrong kind of report. You will need to include additional information in the referral task to admin, which is essential for them to action the request correctly. This information is found in the Partnered and Assisted MI Task Templates.

---

**PROCESS** **Arrange Initial Occupational Assessment (IOA)**  
Recovery Partner

---

## 3.0 Arrange s105 Function Assessment

### Recovery Partner

- a Before arranging a s105 Function Assessment (Psychiatric/Psychological), consider whether you need to include a Supported Assessment with this.
- b Confirm that the client has recently completed a Supported Assessment (within the last two years).
- c Arrange a s105 Function Assessment using the "Assess Early Planning & Set up Supported Assessment" process below. You will need to start at the step "Request Supported Assessment" and refer to the notes on Function Assessment for specific guidance for this assessment type.

If the Supported Assessment was recent, the assessor may choose to write the Function Assessment based on notes already written, plus perhaps a telephone call to the client to clarify details.

**NOTE What if the client has NOT had a recent Supported Assessment?**

Arrange a Supported Assessment with additional questions on Function specific to LOPE. This is to determine the effects of the injury on their ability to complete the roles for which they are otherwise suited to.

Arrange this assessment by using the "Assess Early Planning & Set up Supported Assessment" process below. You will need to start at the step "Request Supported Assessment" and refer to the notes on Supported Assessment with additional Function questions for specific guidance for this assessment type.

---

 **PROCESS Assess Early Planning & Set up Supported Assessment**  
Recovery Partner

---

**4.0 Arrange s105 Occupational Medical Assessment**

Recovery Partner

- a** Determine if you need to arrange a s105 Medical Assessment.

**NOTE When would you not need to arrange a s105 Medical Assessment?**

If the Function Assessment report shows symptoms so severe as to make any form of gainful employment unsustainable (e.g. in long-term hospitalisation; housebound; safety risks to self or others because of suicidality and/or major cognitive dysfunction) then speak with a Medical Advisor who may advise omitting a s105 Occupational Medical Assessment.

 **PROCESS** Seek Internal Guidance

---

 **PROCESS Arrange Section 105 Assessment**  
Recovery Partner

---

**5.0 Review Assessment information**

Recovery Partner

- a** Seek guidance from a SCU Medical Advisor through Recovery Support to assist in determining entitlement for Loss of Potential Earnings based on clinical and other records, incapacity and assessments available.
- 

 **PROCESS Seek Internal Guidance**  
Recovery Partner

---

**6.0 Request Setup of LOPE Payments**

Recovery Partner

- a** Discuss with your Team Leader how best to communicate the decision to the client and what information to provide in the WC14 - Accept Application for Weekly Compensation decision letter.  
A standardised letter is currently being written for LOPE.

**NOTE What if you have declined the request for LOPE?**

- Advise the client the reason(s) for declining the LOPE request and explain their review rights, refer to the NG Principles Decision Making to support the conversation.
- Create and send the SPD999 Decline entitlement decision – client (declined) letter via the client's preferred communication channel (post or email)
- Record the decision as per the Decision Making Principles.

- b** Use the following process to request setup of Weekly Compensation. In the non-standard E-form task that is sent to Payments, clearly state the client has been assessed and is eligible for LOPE.

 Request Set Up of Weekly Compensation Payments  
<https://go.promapp.com/accnz/Process/Minimode/Permalink/EkDiat9LRCleiZQelMQ3wp>

---