

## Background

- A. A TAC 'Authority to Release Information' (Authority) is completed by TAC claimants to enable the TAC to collect relevant information to assist in managing claims for compensation.

The TAC will limit its information collection to the scope of the Authority. Where the TAC wishes to obtain information that is not covered by the Authority or included in paragraph B the TAC will seek the information directly from the client and the client's representative or will seek a separate and discreet Authority enabling the collection of the information from the claimant and their representative.

The Authority authorises the TAC to contact and obtain information and documents relevant to the transport accident injuries, or any injury or condition that existed before the transport accident and has been affected by the accident from:

- any doctor, ambulance service, hospital or other health service provider;
- an insurer carrying on the business of providing Worker's Compensation insurance or motor vehicle insurance;
- a department, agency or instrumentality of the Commonwealth, the State, or another State, that administers police, taxation or social welfare laws.

The Authority authorises the TAC to contact and obtain information and documents relevant to any financial loss suffered as a result of the accident from:

- the employer (or previous employer);
- the accountant.

- B. The TAC has a statutory authority to also obtain information without requiring the claimant's authority limited to:

- Police information pursuant to s127(1) of the Transport Accident Act;
- Workers' Compensation files pursuant to s243(2)(c)(iv) of the Accident Compensation Act; or
- information obtained pursuant to a statutory power of inspection pursuant to Section 127A.

- C. Where a claimant's prospective employer or employer (employer includes a former employer at any time during the period of three years immediately preceding the accident) refuses to provide to the TAC the information the TAC reasonably requires to be collected under the Authority, then the TAC will explain and, if necessary, rely on s127 (3) to require such documents and information to be furnished.

- D. A claimant would be entitled as a right to obtain information in each of the categories listed in A, save for Worker's compensation files – a claimant may request this information under FOI but cannot be certain that the information would be released, particularly if the matter is subject to litigation. The FOI request would not assist in relation to an interstate Worker's Compensation file.

- E. ALA, the TAC and the LIV recognise disputation exists as to the revocation, if possible, of the Authority, and its use and scope. These protocols have been developed to enable the TAC to request information within the scope of the Authority, whilst recognising the concerns of ALA with respect to claimants' privacy and the entitlement of claimants and/or their legal representative to dispute requests for information considered to be outside the scope of the Authority.

- F. It is recognised that certain agencies might wish to provide information to the TAC pursuant to the Authority but stipulate that the TAC must not provide the information to the claimant. The TAC agrees that notwithstanding any such stipulation the information obtained using the Authority will be made available to a claimant or a representative of the claimant unless:

- the TAC is prevented by law from releasing the information to the claimant or their representative; or
  - releasing the information to the claimant may be harmful to the claimant (see G).
- G. It is further recognised that it may not be in the medical interests of a claimant to receive certain medical information direct from the TAC and in those cases the information will be provided to the claimant's legal representative or nominated medical practitioner.

## Protocols

1. Where the TAC obtains information by relying upon an Authority or authority provided by statute:
  - (a) The TAC will advise the claimant and/or their legal representative at the same time of the collection of the information;
  - (b) Each letter of request to a provider will indicate that information collected by the TAC may be released to the claimant and/or their legal representative;
  - (c) The TAC will provide upon written request from the claimant and/or their legal representative a copy of the information so obtained by the TAC, together with the TAC's requesting letter(s); and
  - (d) Each letter of request to a provider will clearly indicate that if the provider releases the information to the TAC, then the TAC may be obliged by law to release the information to the claimant or to a representative of the claimant.
2. If the TAC uses the Authority to seek information from a third party then the TAC will release the information to a claimant or a representative of the claimant, upon written request unless the TAC is expressly prevented from doing so by law. Where the TAC is expressly prevented from disclosure by law, the TAC will fully explain the restriction on disclosure when responding to the request for access.
3. Documents which the TAC obtains by using the Authority must not be released by the TAC to any third party other than:
  - (a) a medico-legal specialist retained to examine the claimant; or
  - (b) a vocational provider engaged to assist with the client's rehabilitation; or
  - (c) a health care professional or therapist to assist with recommendations for the claimant's ongoing treatment; or
  - (d) as permitted by s131 (2) of the Transport Accident Act; or
  - (e) the claimant's legal representative.
4. Information not relevant to the determination of a claim or payment of benefits may on occasions, be inadvertently gathered using the Authority. Where this occurs, the TAC will identify and disclose such information to the claimant's legal representative and the information will be removed from the file and will not be used in the management of a claim.

*First agreed on 26 October, 2005*

*Updated on 27 October, 2014*