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**ASSOCIATION OF TEST PUBLISHERS**

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YOUR REF:

OUR REF: **G K HAY/ah  
1033407**

DATE: **26 October 2018**

Dear Hennie

**RE: DIFFICULTIES BEING EXPERIENCED BY MEMBERS IN HAVING TESTS CLASSIFIED BY THE HPCSA**

1. We confirm that you have advised us that members are continuing to experience difficulties in having tests classified by the HPCSA.
2. The problems experienced include delays in having the classification process completed and additional requests being directed to members aimed more at an evaluation or review process rather than at the classification of the test in question.
3. I confirm that ATP is in the process of engaging with the HPCSA in regard to the whole classification process.
4. This letter deals briefly just with the problems being experienced by members.
5. Each matter will have to be evaluated on its merits. We are however of the view that where information is requested which is not related to the classification itself, that members have two options. They could refuse to make this information available and request the HPCSA to take a decision without that information. This would however likely lead to the refusal of the



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classification. If the refusal was based on the failure to provide information requested not required for classification that decision could be reviewed in a court application.

6. The preferable route would be to request the reasons for that further information being requested and then to evaluate the answer that is given. Where the information is requested for reasons other than classification the HPCSA should be informed of this fact and requested to make a decision without that information.
7. In addition the provisions of Section 6(2)(g) of the Promotion of Administrative Justice Act provide that action that could be reviewed includes action consisting of a failure to take a decision.
8. In a suitable case the HPCSA could be informed that a reasonable time has passed and should they not take a decision within a further limited time period it would be accepted that they had failed to take a decision and that this failure would then be challenged in court.
9. Of course the preferable solution would be one which deals with the main problem which relates to a lack of clarity in regard to what the HPCSA is doing in the classification process as well as the lack of the necessary regulatory infrastructure. This is being addressed by the ATP with the HPCSA.

Yours faithfully



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