



18 SEP 2018



Dear 

On 20 June 2018, you contacted the Ministry requesting, under the Official Information Act 1982, information relating to section 66A of the Social Security Act 1964 (the Act).

For the sake of clarity, I will address each of your questions in turn.

1. *Copies of ministry policies, other documentation, or references to court decisions that guide you or your staff on receipt of application, when exercising your discretion under section 66A of the Social Security Act 1964 for "disregard(ing) all or part of the income of any severely disabled person derived from such effort"*
2. *Copies of extracts relevant to 66A from Ministry Policy material or documentation (e.g. staff manual, memos, training information) that guide frontline staff in 'when to offer or apply 66A' to individual situations (i.e. without the request coming from the beneficiary).*
3. *What information is made available to beneficiaries on Supported Living Payment of the existence of 66A, such as pamphlets, form letters, website, etc.?*
4. *Where can 66A information be found on the departmental website (a current search for 66A returns a nil result)?*

The Ministry publishes information online so that people can be fully informed about the support they can receive and how the Ministry provides it.

Guidelines used by Ministry staff to exercise discretion under section 66A of the Act are publicly available on the Work and Income website in the manuals and procedures section. Information relating to the income exemption for severe disablement, deciding whether a client is severely disabled, and the steps Ministry staff take following the decision to exempt a client's income can be found here: <https://www.workandincome.govt.nz/map/income-support/main-benefits/supported-living-payment/exemption-for-severe-disablement-01.html>

The Ministry does not have pamphlets or form letters to advise clients of the income exemption for severe disablement. As such, your request for this information is refused under section 18(e) of the Official Information Act as this information does not exist.

5. *Is it solely the responsibility of the beneficiary to apply for 66A?*
6. *Which departmental application form(s) cover the application for 66A and when can it be applied for?*
7. *What is the department's current working definition of a "severely disabled person" under 66A?*

The Ministry is obligated to ensure that clients are aware of their full and correct benefit entitlements. It is a client's responsibility to apply for an exemption for severe disablement. There is no standard medical assessment for deciding if someone is severely disabled for the purposes of this income exemption. Ministry staff are required to use all information that is available regarding the client to determine if they meet the qualifications for this income exemption.

Engagement in employment for a client with a severe disability is more complicated and requires additional effort, than for a client with mild to moderate disability or a non-disabled person. Policy guidelines state that a client will be considered severely disabled if the effects of their disability extremely limit their ability to participate in employment, take care of themselves and participate in the community.

The Ministry does not have a form to cover the application for a section 66A exemption. A client or their advocate will make a written application with a Case Manager, who will then contact the Regional Health and Disability team. The Regional Health and Disability team will then refer the application to the Principal Disability Advisor for their recommendation. As such, your request for this information is refused under section 18(e) of the Official Information Act as this information does not exist.

8. *What are the timeframes for disregarding "all or some of the income" once 66A is applied to a beneficiary's situation?*
9. *Can the granting of the incentive in 66A be an on-going open arrangement while a person is on a Supported Living Payment? If so what determines this?*
10. *What are the guidelines to staff for back-dating the application of 66A?*

From the date of application, the Ministry is required to make a decision on a section 66A exemption in no more than seven working days. The exemption is applied from the date the client applied for it.

The granting of a section 66A exemption is on-going while the client's circumstances remain the same. If the client was to change employment, their eligibility for 66A would be reviewed based on their new job.

11. *What are the guidelines to staff for reassessing past income under 66A for the waiving/readjustment of income related debt owed to the department?*

When a section 66A exemption is approved, a Case Manager will review the client's benefit entitlement from the date the client applied for this exemption. If an income-related debt was incurred during this same period, the Case Manager would review this debt.

*12. How and when is the individual assessed to establish the degree of incentive (money) that he/she will require to achieve the desired level of personal effort that fulfils the intent of 66A? (presumably towards fulfilling the intent of 40A (2))*

When assessing a client's rate of benefit to be paid, section 66A allows for discretion to be used to disregard all or part of the income received from work by a severely disabled client. Generally, the exemption should help the client to be better off financially as a result of them being in employment.

Case Managers need to consider the guidelines for deciding the amount of income to be exempt during an individual's application. There are two areas for them to consider, the amount to be exempt as an incentive for the client to stay in employment so that they are financially better off and not worse off from working due to additional costs they incur or the loss of services, and an amount to recognize the extra effort that it takes to participate in employment.

Following the decision to exempt a client's income, the application is referred to the Principal Disability Advisor for their recommendation. Once the Principal Disability Advisor has made a recommendation, the Case Manager is able to make an informed decision about their client's eligibility. For clients where the exemption has been approved, the next step is to determine the amount of income to be exempt. There is no formula for working out how much of the client's income to exempt. This is a matter of discretion and will depend on the client's individual circumstances.

An amount may be exempted as an incentive to recognise that client's personal effort. For example, a person with a severe disability may need to rise earlier in the morning in order to prepare for work.

*13. What are the historical (past ten years) and current annual figures for an individual accessing 66A as a percentage of total Invalids/Supporting Living beneficiaries?*

When a client is granted a 66A exemption, a Case Manager adds this as a note to the client's individual case record. In order to provide you with this information, Ministry staff would have to manually review thousands of files. As such, I refuse your request under section 18(f) of the Official Information Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

*14. What is the department's current working definition of "open employment" under section 40 (3)?*

*15. What is the department's current name and working definition of the alternative to "open employment"?*

The definition of open employment for employment programmes and services is governed by the Social Security Act 1964. The Ministry defines 'open employment' as any employment other than sheltered employment. In the context of support for people with poor health and disabilities, open employment is a job available to

anyone in the community who has an employment agreement attached as defined in the Employment Relations Act 2000. This means that a client who is considered to be working in sheltered employment for Supported Living Payment purposes may also be considered to be working in open employment for employment programmes or services assistance.

Sheltered employment for Supported Living Payment eligibility purposes is employment that has been designed to cater for the needs of a person who is severely disabled. It is employment that:

- is a contracted business enterprise (formerly known as "sheltered workshops"), or
- has been designed to cater for the needs of a person who is severely disabled

Sheltered employment provides an environment in which a person, who is severely disabled, can work, notwithstanding their physical or mental impairment.

Further information regarding guidelines for sheltered employment can be found here: [www.workandincome.govt.nz/map/income-support/main-benefits/supported-living-payment/changes-and-reviews-supported-living-payment/sheltered-employment-01.html](http://www.workandincome.govt.nz/map/income-support/main-benefits/supported-living-payment/changes-and-reviews-supported-living-payment/sheltered-employment-01.html)

*16. Lastly, if an individual on the Supported Living benefit is working longer than fifteen hours per week in non-open employment, does this exclude them from this benefit? Consequently what is the process and time frame to exclude them from this benefit?*

The need to review a client's Supported Living Payment entitlement based on the hours of employment, only applies if a client is regularly working in open employment.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact [OIA\\_Requests@msd.govt.nz](mailto:OIA_Requests@msd.govt.nz).

Alternatively, we encourage you to contact Anne Hawker, Principal Disability Advisor with any further questions. You can contact Anne by phone on (04) 978 4142, or by email [Anne.Hawker011@msd.govt.nz](mailto:Anne.Hawker011@msd.govt.nz)

If you are not satisfied with this response regarding section 66A of the Social Security Act 1964, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Kay Read', with a long horizontal flourish extending to the right.

Kay Read  
**Group General Manager Client Service Delivery**