



26 October 2022

Tēnā koe

On 30 August 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *My questions all relate to superannuation payments that were cancelled or suspended because the recipients were outside of NZ for too long.*
- *Under the OIA I request the following please:*
 - *Total number of cases that have been heard by the Benefit Review Committee since January 1 2022 and the outcome (complainant's case upheld/not upheld)*
 - *Of these, the number that then went on to the Social Security Appeals Authority and the outcome (BRC decision upheld/ not upheld).*
 - *Total number of cases pending a BRC or SSAA hearing.*
 - *The amount in dollar figures that cases through the BRC and SSAA for this issues has cost in legal fees.*
 - *Total number of pensioners (who had their payment stopped) who have had their circumstances reviewed.*
 - *Of these, the number who it has been deemed should not have had their payments cancelled/suspended and the action MSD has since taken with these clients.*
 - *The total number of pensioners who were asked to pay back some of their entitlement but who MSD has now deemed do not have to do this.*

On 27 September 2022, the Ministry emailed you to advise that more time was required to respond to your request under section 15(1) and 15A of the Act. The reason for this extension was that the consultations necessary to make a decision on your request could not reasonably be completed within the original time limit.

On 6 October 2022, the Ministry emailed you to request clarification on two parts of your request. On the same day, you confirmed that in regard to the fourth part of your request you were seeking internal Ministry legal fees only. You also confirmed that the last three parts of your request related to suspensions or cancellations for any circumstance, not only related to Benefits Review Committee (BRC) or Social Security Appeal Authority (SSAA) cases.

On 26 October 2022, the Ministry emailed you to advise that the part of your request relating to SSAA cases that are pending a hearing has been transferred to the Ministry of Justice as the information is believed to be more closely aligned with their functions. Again, I would like to extend my apologies for the delay in transfer. You can expect a response from the Ministry of Justice in due course.

If you would like to read more about New Zealand Superannuation (NZS), I encourage you to refer to the Work and Income website for the Ministry's Manuals and Procedures (MAP) guidance. Please refer to the following link for information about absence from New Zealand: <https://workandincome.govt.nz/map/income-support/main-benefits/new-zealand-superannuation/changes-and-reviews-new-zealand-superannuation/absence-from-new-zealand-01.html>.

I will respond to your questions in turn for the sake of clarity.

- *Total number of cases that have been heard by the Benefit Review Committee since January 1 2022 and the outcome (complainant's case upheld/not upheld)*

There have been 144 'COVID-19 stranded overseas' related Reviews of Decisions (RoDs) resolved in the period 1 January 2022 to 30 August 2022. 45 of these RoDs were withdrawn prior to going to BRC, and 32 were overturned by the Ministry during an internal review prior to going to BRC.

Please refer to **Table One** below for the outcomes of the 67 cases that were resolved by the BRC.

Table One: Outcomes of the 67 cases resolved by the Benefits Review Committee.

| | Outcomes | Total |
|--|-----------------|--------------|
| Period 01/01/2022 to 30/08/2022 | Upheld | 62 |
| | Upheld in part | 4 |
| | Overtured | 1 |
| Grand total | | 67 |

- *Of these, the number that then went on to the Social Security Appeals Authority and the outcome (BRC decision upheld/ not upheld).*

To date, none of the above BRC decisions have reached an outcome through the SSAA.

- *Total number of cases pending a BRC hearing.*

There are currently 151 reviews that have not yet been heard by the BRC. Please note that the Ministry is unable to break this figure down by what stage of the review process these cases are in.

- *The amount in dollar figures that cases through the BRC and SSAA for this issues has cost in legal fees.*

You have requested to know the amount paid for internal Ministry legal fees. The Ministry has interpreted your request to be for both the dollar amount and the time spent on each case. The Ministry does not record this information. As in-house lawyers, the Ministry's legal team do not charge the Ministry for time on each case. As such, the Ministry is not able to provide you with the cost or the time spent on each case.

I am refusing your request under section 18(g) of the Act as the information you had requested is not held by the Ministry and I have no grounds to believe that the information is either held by or closely connected to the functions of another department, Minister of the Crown or organisation.

- *Total number of pensioners (who had their payment stopped) who have had their circumstances reviewed.*
- *Of these, the number who it has been deemed should not have had their payments cancelled/suspended and the action MSD has since taken with these clients.*
- *The total number of pensioners who were asked to pay back some of their entitlement but who MSD has now deemed do not have to do this.*

A client can have their circumstances reviewed for a range of reasons, such as declaring a change in address or relationship status. The details of each review of circumstances, and what action was then taken by the Ministry, is recorded in notes on the client's file.

I am unable to provide you with this information as it is held in notes on individual case files. In order to provide you with this information, Ministry staff would have to manually review a substantial number of files. As such, I

refuse your request under section 18(f) of the 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.

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. The Ministry will do this by publishing this letter on the Ministry'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.

If you are not satisfied with this response, 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 or 0800 802 602.

Ngā mihi nui

Bridget Saunders

Bridget Saunders
Manager Issue Resolution
Service Delivery