



1 June 2023

Tēnā koe

On 4 May 2023, you made a request to the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *Any and all internal policy documents or notes that speak to the guidance for Ministry staff regarding the application of discretion to include deprivation of assets or income in financial assessments.*
- *All of the policy notes about how the Ministry's deprivation policy has been drafted and reference to which court rulings they were based on.*

The Ministry has interpreted your request to mean 'current policies'. Please contact the Ministry if this is not the intent of your request.

The Ministry does not currently have a set policy around deprivation of assets or income in financial assessments. As such, your request for this information is refused under section 18(e) of the Act as this document does not exist.

However, you may be interested to know that the Ministry is in the process of assessing its operational guidelines for determining a sole trader's income. These are currently progressing through initial review.

Deprivation is a deliberate act or inaction resulting in assets or income not being available to the client. It may be direct or indirect.

Deprivation can include giving away or selling financial resources (assets) for less than fair value or failing to utilise available resources to generate a reasonable return of income. The measure of a reasonable return is the current term deposit rate. For convenience, the Ministry uses the 6-month term deposit rate as published by the Reserve Bank of New Zealand. Please refer to the following link for more information:  
[www.rbnz.govt.nz/statistics/series/exchange-and-interest-rates/retail-interest-rates-on-lending-and-deposits](http://www.rbnz.govt.nz/statistics/series/exchange-and-interest-rates/retail-interest-rates-on-lending-and-deposits).

A client and/or their partner (living or deceased) can deprive themselves of assets or income individually or as a couple.

The Ministry follows the definition of income as per schedule 2 of the Social Security Act (SSA) 2018, which you can access here: [www.legislation.govt.nz/act/public/2018/0032/latest/DLM6784375.html](http://www.legislation.govt.nz/act/public/2018/0032/latest/DLM6784375.html).

The Ministry also refers to schedule 3, part 4, clause 16 of the SSA 2018 for information on how deprivation of income and assets may affect Ministry assistance, which you can access here: [www.legislation.govt.nz/act/public/2018/0032/latest/DLM6784836.html](http://www.legislation.govt.nz/act/public/2018/0032/latest/DLM6784836.html).

The Ministry's website Manuals and Procedures (MAP) contains current guidelines that operationalise legislation for staff to follow when assisting clients. This information is made available publicly and enables staff to make accurate and sound decisions, ensuring clients receive their full and correct entitlement.

Please see the MAP links below provided as a resource for staff when defining income:

- [www.workandincome.govt.nz/map/income-support/core-policy/income/definition-of-income/index.html](http://www.workandincome.govt.nz/map/income-support/core-policy/income/definition-of-income/index.html)
- [www.workandincome.govt.nz/map/income-support/core-policy/income/definition-of-income/introduction.html](http://www.workandincome.govt.nz/map/income-support/core-policy/income/definition-of-income/introduction.html)

To read more about deprivation of assets and income in regard to Residential Care Subsidy, please see the following link: [www.workandincome.govt.nz/map/income-support/extra-help/residential-care-subsidy/deprivation-of-assets-and-income.html](http://www.workandincome.govt.nz/map/income-support/extra-help/residential-care-subsidy/deprivation-of-assets-and-income.html).

Please see the MAP links provided below as a resource for staff when defining deprived income and assets in regard to income related rent:

- [www.workandincome.govt.nz/map/social-housing/income-related-rent/assessing-the-amount-of-deprived-asset-01.html](http://www.workandincome.govt.nz/map/social-housing/income-related-rent/assessing-the-amount-of-deprived-asset-01.html)
- [www.workandincome.govt.nz/map/social-housing/income-related-rent/assessing-the-amount-of-deprived-income-01.html](http://www.workandincome.govt.nz/map/social-housing/income-related-rent/assessing-the-amount-of-deprived-income-01.html)
- [www.workandincome.govt.nz/map/social-housing/income-related-rent/deprivation-of-income-01.html](http://www.workandincome.govt.nz/map/social-housing/income-related-rent/deprivation-of-income-01.html)
- [www.workandincome.govt.nz/map/social-housing/income-related-rent/examples-of-deprivation-of-income-01.html](http://www.workandincome.govt.nz/map/social-housing/income-related-rent/examples-of-deprivation-of-income-01.html)

Deprivation is a discretionary power. Exercising discretion involves the use of reason and judgement to make a decision with a range of decisions that are potentially available to the decision maker.

A decision maker will exercise their judgement based on relevant guidance and advice to ensure any decisions are lawful and consistent with legislation and policy, including the purpose and intent of any programmes or schedules. It is important for Ministry staff to document any exercise of discretionary decisions that are made in a way that enables the decision-making process (and the information used) to be clear, transparent, and reviewable.

Please see the following MAP link provided as a resource for staff when defining discretion:

[www.workandincome.govt.nz/map/definitions/discretion.html](http://www.workandincome.govt.nz/map/definitions/discretion.html).

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](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with this response regarding application of discretion to include deprivation of assets, 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.

Ngā mihi nui



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