



6 October 2023

Tēnā koe

On 8 September 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

*I am looking for how many compensation payments have been made in the last 12 months. Through mistakes made by case managers, branches. And by Through review of decisions processes.*

The Ministry of Social Development serves over a million people, working out of more than 160 centres around the country. It is likely that every New Zealander will come into contact with the Ministry at some point in their life. It is important that in all our dealings, New Zealanders, including our staff, are confident in what we do and know that we act with integrity within our legislated mandate. Where we get it wrong, we will own up to it and correct it appropriately. In a small number of instances, this will result in a payment of compensation.

The Ministry has interpreted compensation as ex-gratia payments and settlement payments.

### **Ex-gratia payments**

Ex-gratia payments are made in respect of claims that are, for government departments, not actionable by law but for which there exists a moral obligation to pay. A moral obligation may arise where the Ministry's actions or performance have been deficient to a degree that the individual has suffered loss or harm as a result and a payment is justified.

Whether an ex-gratia payment should be made and how much should be paid will depend on the level of service received and the extent of the loss or harm suffered by the individual.

The Ministry or the Minister cannot be compelled to make an ex-gratia payment, though the Social Security Appeal Authority, Student Allowance Appeal Authority, or Ombudsman may recommend it.

Having established that an ex-gratia payment is an appropriate way to respond to a client's grievance, consideration is given to the amount of the payment. Factors which are considered include:

- the level of harm suffered by the client as a result of the actions of the Ministry of Social Development
- the nature of the actions - for example, whether the situation complained of was an ongoing one, or a one-off error
- any steps taken by the Ministry to mitigate the harm to the client
- the degree to which the Ministry's actions have contributed to the harm suffered
- the level of ex-gratia payment that has been made in other comparable cases.

Please refer to **Table One** in the attached **Appendix** which shows the amount for each ex-gratia payment approved by the Ministry in the period 1 September 2022 to 31 August 2023.

### **Other types of payments**

Settlement payments are made in respect of a claim that is actionable by law. For example:

- a breach of the Privacy Act, where the claimant could take the case to the Human Rights Review Tribunal, who in turn, could award damages against the Ministry of Social Development
- employment disputes
- civil claims arising from negligence or breaches of the New Zealand Bill of Rights Act 1990.

An award of "damages" or compensation by the high Court or Human Rights Review Tribunal is also not an ex-gratia payment. While the payment for damages or compensation is made from operating budgets, the Ministry is legally required to make the payment. These payments can only be approved by the Chief Executive (or their delegate), Minister or Cabinet.

The Cabinet Office sets out the external parameters for making ex-gratia and settlement payments and this is available on the Cabinet Office website at: [www.dpmc.govt.nz/publications/co-18-2-proposals-financial-implications-and-financial-authorities](http://www.dpmc.govt.nz/publications/co-18-2-proposals-financial-implications-and-financial-authorities).

Please refer to **Table Two** in the attached **Appendix** which shows the amount for each settlement payment made by the Ministry in the period 1 September 2022 to 31 August 2023.

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 and attachments 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, 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



pp

Jayne Russell  
**Group General Manager**  
**Client Service Delivery**

## Appendix

**Table One:** The amount for each ex-gratia payment approved by the Ministry in the period 1 September 2022 to 31 August 2023.

Year	Amount
2022	\$2,500
2022	\$27,328.34
2023	\$2,000
2023	\$7,000
2023	\$6,000
2023	\$3,000
2023	\$5,100.86
2023	\$5,000
2023	\$2,000
2023	\$1,500
2023	\$20,000
2023	\$9,000
2023	\$1,500
2023	\$9,000
2023	\$4,000
2023	\$3,500

**Table Two:** The amount for each settlement payment made by the Ministry in the period 1 September 2022 to 31 August 2023.

Year	Amount
2023	\$15,000
2023	\$2,000
2023	\$2,000
2023	\$15,000
2023	\$2,000
2023	\$5,000