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The Office of the Ombudsmen
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xx December 2014

Complaint from 09 March 2014 (see your reference xxxxxx), about the Ministry of Social Development (MSD) withholding information sought under the Official Information Act 1982 - about Dr David Bratt's presentations; your letters from xx and xx November 2014

Dear Ombudsman, dear Xxxxx Xxxxxxxx and Tinus Schutte

- [1] Thank you for your letters dated xx and xx November 2014, which I received a short while ago, and which I have taken note of. With this letter I am responding primarily to your letter dated xx November 2014, which was in relation to my letter from 09 March 2014. In that letter I had asked for your assistance to address issues I had with an initial response by the Ministry of Social Development (MSD) dated 27 Feb. 2014. MSD did with that letter respond to my request from 16 January 2014 for specified information, which I had made under the Official Information Act 1982. That request related to information contained in a number of presentations, which MSD's Principal Health Advisor Dr David Bratt made to GP conferences and other medical professional organisations. One such presentation was titled "**Ready, Steady Crook – are we killing our patients with kindness?**". Another one I also quoted was "**Medical Certificates are Clinical Instruments Too!**". The information contained in those presentations appears to be hand picked bits of statistics, and some bold claims about the alleged causes for illness, sickness and disability, and what effect they have on work ability, or readiness for work.
- [2] I can confirm to you that I have received some further information in this matter from the Ministry of Social Development by email on 12 November 2014. The Ministry's latest response only offers some limited additional information to some of my original requests in my letter to MSD from 16 January 2014, and it does not at all provide other information I also sought by way of some other points of requests.
- [3] MSD has only provided further detailed information to my original Official Information Act requests under points 1, 3, 4 and 10. I do of course appreciate the information offered in addition to an earlier reply to my request point 1, like the fact that a 'Work

and Income Medical Certificate Survey – 2010’ was only conducted on a rather ad hoc basis at a few general practitioner conferences held at that year.

- [4] I also appreciate the additional information provided to my question 3, e.g. MSD’s comment, that no in-depth analysis was possible on the basis of a simple self-reported survey sheet. Also is the information offered in relation to my original question 4 somewhat helpful, that it is Dr Bratt’s understanding that the Australian/New Zealand statistics quoted relate to the likelihood of a person being out of work unintentionally for a period of time ever returning to their original job or a similar one.
- [5] The additional information offered in response to my original question 10 does though not help me in any way at all. I do actually find the comments made by MSD somewhat bizarre and astonishing, to say the least, and they are in my view unacceptable. To simply state that *“Dr Bratt does not keep a record of the times, dates, and types of contacts he has had with the listed professionals or anyone else”*, does not sound credible to me. I am surprised to read MSD’s comment *“Dr Bratt’s emails from that period have been deleted. Many contacts were personal to Dr Bratt.”*
- [6] Apart from the above mentioned further information, there has been NO further information provided to answer my request point 2, where I asked for clear medical scientific evidence supporting the claims made by Dr Bratt, as I quoted them from his presentations in my original O.I.A. request, and also in my letter to you from 09 March this year. The position paper by the ‘Australasian Faculty of Occupational and Environmental Medicine’ (AFOEM), called *“Realising the Health Benefits of Work”* does not deliver such scientific evidence, nor does the UK paper titled *“Working for a Healthier Tomorrow”*, by Dame Carol Black deliver such.
- [7] I already commented on the mentioned “positions papers” in my letter to your Office from 09 March this year, and they are only in part referring to a narrow range of scientific reports, which appear rather selectively chosen. They do certainly not deliver any evidence for some of Dr Bratt’s claims in his presentations, which I asked for, like for instance, that the benefit is like an ***“addictive debilitating drug”***. Thus it appears that this question was largely ignored.
- [8] I have also not received any further information to answer my question 5. and also have I not received any appropriate reply to my questions 6, 7, 8 and 9.

My position on MSD still refusing to provide the information I had sought

- [9] I take note that in their first response the MSD stated that they refused the balance of my request under section 18 (f) of the Official Information Act 1982. Their explanation was that the remainder of my request was *“very broad”* and *“substantial manual collation”* would be required to locate and prepare all of the information within the scope of my request. They also claimed that the greater public interest was in the effective and efficient administration of the public service. The Chief Executive concluded that the Ministry’s ability to undertake its work would be prejudiced.
- [10] The claims by the Chief Executive and MSD are not accepted. It is not credible to claim that my remaining requests were so broad that it would be unreasonable to collate. I did not express an expectation that I wanted ALL types of information that may exist, as I mentioned and referred to in questions 6, 7, 8 and 9. My expectation was regarding request point 6 rather, that there may be some presentations and other documents that Dr Bratt has on the harm that exists at work places, or harm that may be caused by work. I asked for information Dr Bratt may have on the potential risk and harm at certain work places, caused by certain types of work and by long duration of

work. Dr Bratt would certainly know whether he has such information or not, and if he has it, then he can be expected to have his work-place and office well enough organised, so it is easy to find and to retrieve, to at least have someone make copies of such presentations or other documented communication. I did indeed simply expect a good enough sample of such information, not ALL such information.

- [11] And also re my request under point 7 in my letter to MSD from 16 January 2014, I did not expect MSD and Dr Bratt to present ALL such information I asked for, I expected some sufficient evidence that such information exists, and some samples of such, in the form of a presentation or other documentation. I asked for information that shows the negative and harmful effects on health that general or relative poverty may have. Again, it can be expected that Dr Bratt will be aware of such information, whether he has it, has used such in presentations or otherwise, and trusting he runs a well organised office, he must be expected to find and present such information. The same should apply for MSD or rather Work and Income itself. My request did not expect MSD to search ALL their files and records in all of their offices, for such information. Basically, the question is, whether such information exists in the form of similar documentation as Dr Bratt has used about “*worklessness*” in the quoted and mentioned presentations, where he also alleges the benefit is “like a drug”.
- [12] Just as I stated above re my original request points 6 and 7, I did not expect Dr Bratt to present ALL kinds of information I asked for under my request point 8. Request 8 is really about the question whether it may rather depend on individual circumstances of sick and disabled, to determine whether work in a paid job on the market may be “good” for their health, or not. Some form of physical and mental activities other than paid work on the competitive job market may be more beneficial than stressful paid work. My request asked for information that may exist that proves this, and Dr Bratt and MSD were asked to present some examples of documentation or recorded information that may prove this. Surely, Dr Bratt and MSD must have listed records of what information they hold, and what not, and it does not necessitate cumbersome, time-consuming manual collation to find and retrieve such. I trust that both Dr Bratt and MSD have well organised filing systems that enable them to find sufficient examples of such information that could be provided to respond to that request.
- [13] As for my request under point 9 MSD have only provided a short list of 3 sources for sources and reports that provide or back up information Dr Bratt used in the mentioned two presentations. These reports at the bottom of their response from 27 February are all about “return to work” statistics, and how they are being interpreted, and about nothing else. They do not deliver medical scientific proof that I asked for, for instance for Dr Bratt’s claims about the alleged harmful effects of benefit dependence, and the benefit being like “***an addictive debilitating drug with significant adverse effects to both the patient and their family (whanau) – not dissimilar to smoking***”. He also claims “***Long term unemployment has been shown as bad as smoking 10 packets of cigarettes daily***”. Dr Bratt told a NZ Royal College of General Practitioners education convention that the benefit is, “***as a drug, it would be an addictive, debilitating substance...***”. (see also my request 2).
- [14] I have information that Dr Bratt has been relying a lot on information delivered by the so-called ‘**Centre for Psychosocial and Disability Research**’ run for years by Professor Mansel Aylward, with whom he has also had regular personal and professional contacts. It is clear that Dr Bratt has used resources that were prepared and written by Mansel Aylward, also Gordon Waddell and Kim Burton, all being directly or indirectly linked to the said “research centre”, as part of Cardiff University, and to other research that follows similar theories about “*worklessness*” and causes for poor health and for disability. Mansel Aylward has basically presented studies based on comparing statistical data, and he drew his conclusions from the information, which does though deliver anything but conclusive evidence about the

causal effects of unemployment on health, resulting in sickness and disability, of which many people dependent on health related benefits may suffer. While there may be some form of correlation or association between unemployment and poor health, this does not mean that one circumstance or condition is the cause of the other. It is significant to note that the same centre where Mansel Aylward has for many years served as a director used to be **sponsored** by a controversial insurance corporation called **UNUM**, who also cooperated with him as an “advisor” on welfare reforms in the UK, when Aylward was Chief Medical Officer for the Department of Work and Pensions (DWP) in the UK. Such “sponsoring” by a vested interest party, that then also launched new health and disability insurance products on the UK market, while welfare reforms tightened entitlement criteria for many sick and disabled there, should be of major concern. The fact that Mr Aylward went onto the payroll of the same company raises many questions, also about his “research”, and the quality of it.

- [15] My request 9 simply asked for a list of the research resources Dr Bratt used for his presentations, and by mentioning the author of such, it would be sufficient to establish, from whom he sourced such information. There is only limited reference to sources in Dr Bratt’s presentations, hence I asked for more under request point 9. In relation to my request point 2 I did note the references made in MSD’s initial response from 27 February 2014 to two “position statements”. These are the AFOEM statement on “Realising the Health Benefits of Work” (relying again heavily on Mansel Aylward, and also Carol Black, who again relied on much of his research!), and Carol Black’s UK-statement “Working for a Healthier Tomorrow”. Having looked at these statements, I find in them references made re many reports, containing statistical and similar data, but lacking real scientific evidence, that unemployment or “*worklessness*” is the actual cause for sickness, ill health and disability. Finding and establishing some association between the two may give reason to see some correlation, but there is NO medical scientific information contained in the reports that actually proves what Dr Bratt claims in relation to benefit dependence and poor health, especially in relation to the benefit being like a “drug”, and having similar harmful effects. To also simply accept claims by Mansel Aylward and Gordon Waddell that people suffering mental health and musculo-skeletal conditions may just suffer from “*illness belief*” appears irresponsible in my view, and I request a proper response to request 9.
- [16] In any case, it should not be difficult for Dr Bratt or MSD to provide a list of Dr Bratt’s information sources, and what percentage may be from researchers at the ‘Centre for Psychosocial and Disability Research’ in Wales. Hence I expect an appropriate response to this point of my request.
- [17] I do not accept the answer that MSD give in both responses about Dr Bratt’s contacts with professionals like Professor Mansel Aylward and Dr David Beaumont, who were senior official advisors that were substantially involved in the consultation and formation process for the last major, controversial welfare reforms in 2012/13. MSD and then Minister Paula Bennett sought their advice on how persons on health related benefits should be treated and “assisted” when assessing them and trying to place them into work. It is beyond belief, that NO records were kept in a professional form and manner by Dr Bratt as a senior official in a senior advisory role for the Ministry of Social Development. He will certainly have kept comprehensive information on his contacts and in relation to organising the visits and meetings involving those two well known professionals. It is furthermore beyond belief, that Dr David Bratt was allowed to mix his private and official correspondence while performing his responsibilities as Principal Health Advisor for MSD. I do not believe that Dr Bratt was entitled to simply delete ALL his email correspondence and contacts that covered activities with the mentioned professionals.
- [18] I have information that Dr Bratt did during a longer visit to the UK earlier this year have a number of meetings with Professor Mansel Aylward, which in part may also

have involved more “personal” contacts, not necessarily related to their working responsibilities. It is extremely concerning, that senior advisors employed by the public service, who are working in a role where they are expected to deliver medical scientific advice, are permitted to mix personal with professional contacts and activities, especially when it involves high level UK professionals, who were used by MSD as supposed “independent” advisors on welfare reform! Dr Bratt has a track record of consulting with and meeting Professor Aylward, for at least a couple of years; and his presentations dating back to 2010 seem to indicate that these contacts may even go back until then. That is, because Dr Bratt has apparently heavily relied on the “research” by Mr Aylward and some of his colleagues in the UK. Dr Bratt even used presentations that he and Mr Aylward appear to have prepared in close cooperation, and they both seem to have given joint presentations to health professionals, at least in 2013 here in New Zealand. I will present evidence of the close contacts and cooperation between Dr Bratt and Professor Aylward by way of documents attached to the email/s carrying this letter. There was also a joint interview both gave to a journalist working for the ‘NZ Doctor’ magazine last year. A video cut from that interview exists and can be downloaded from the internet (see YouTube).

- [19] As Dr Bratt and Professor Aylward, and also Dr David Beaumont all attended meetings with senior MSD officials, also with Minister Paula Bennett (at least Mr Aylward), and served as “advisors” to the MSD appointed, hand-picked **‘Health and Disability Panel’** that was commissioned with consulting them for the purpose of preparing and formulating welfare reform policy, there surely must be a record of communications Dr Bratt conducted with these two gentlemen. If all that has been deleted, then this appears to be in breach of standard official records policies that should apply to the public service, where important records must be made and kept for certain periods. In the first response from MSD there was mention of Dr Bratt having had *“numerous email and phone conversations”* with Mansel Aylward, under the heading ‘Dr Bratt and Other Practitioners’. Also is there evidence that Chief Science Advisor Professor Gluckman invited Mansel Aylward to New Zealand.
- [20] I am not surprised that according to MSD’s response from 27 February Dr Beaumont was as the ‘President Elect’ of the AFOEM a “co chair” of the group that collated the position paper “Realising the Health Benefits of Work”. Dr Beaumont has formerly worked for **ATOS** in the UK, who were the contracted main assessor that Mansel Aylward and others brought in to work for the DWP, when he was Chief Medical Officer. **ATOS Healthcare** was earlier this year dismissed as the outsourced health and disability assessor for the DWP in the UK, after well over a thousand sick and disabled either died early or committed suicide, as a consequence of poorly conducted, flawed assessments, declaring many “fit” for work, while they were not. The UK welfare reforms, to which Mr Aylward also had major input over many years, since the mid 1990s, have proved to have been a disastrous exercise, putting many sick and disabled at risk, and harassing many, to accept and try work on the open market, despite of their serious health conditions. Dr Beaumont has also made controversial recommendations as an assessor and/or consultant for ACC over years.
- [21] Therefore it is not surprising that he was besides of Mansel Aylward welcome to “consult” MSD and the Minister, on welfare reform here in New Zealand, given Dr Beaumont’s background and “experience” in the UK. As cost savings were a major motivation behind the welfare reforms, the track records of Aylward and Beaumont qualified them to achieve this, hence their “advice” on welfare reforms.
- [22] As stated, no further information was provided to answer my O.I.A. request point 2, apart from what had already been provided in MSD’s response from 27 February 2014. Also was no further information given to respond to my request point 5. While MSD make a reference in the letter from 27 February to a *“presentation by Sir Mansel Aylward”* (see page two under ‘Lucy Ratcliffe’s Article’), my request for the clear

scientific report data and evidence has not been met. This is in relation to Dr Bratt's claim that ***"A UK study found of the main obstacles for going to work, medical problems made up just 3% of the list"***. No name of the report, or other clarifying details have been provided, indeed no mention is made re my request point 5 in the email from MSD dated 12 November 2014. I asked for information MSD and Dr Bratt hold on this study, and I asked for the source, which is not provided. No information has been provided on what questions were asked in the study or survey, and what information was gathered under what criteria and scope. I ask that this information be made available, like the other that has not been provided. The mention in the letter from 27 February, that the study was conducted at "Cardiff University", does seem to indicate, it was done at the infamous 'Centre for Psychosocial and Disability Studies'.

[23] To come to a close with my letter, given the above, I suggest you insist on MSD providing the information that has so far not been delivered, that has been withheld under section 18 (f) under the Official Information Act, and that has otherwise been delivered short of what my initial request sought. It is in my view a somewhat questionable justification, and indeed very worrying, that MSD simply states Dr Bratt deleted all records of his contacts and emails. This reminds me a bit of Prime Minister Key's recently given reasons for deleting all his text messages that he may have exchanged with a well-known, politically motivated, controversial blogger, and perhaps some other persons. In order to ensure accountability, transparency and integrity in the public service, it should not be allowed that persons working for MSD (especially in such senior advisory roles) can be let off the hook re their responsibilities, by simply stating they deleted all information there was. It regrettably gives the impression that some information has been intentionally destroyed or deleted, to conceal activities and communications that may not have been quite appropriate, or that may prove that certain "independent" advice given on welfare reforms may not have been all that "independent" and "scientific" after all.

[24] I assert that it is in the public interest to obtain the sought information upon my O.I.A. request from 16 January 2014, as accountability and transparency are paramount in an area where the health and well-being of people may be at risk. I will await your decision as to how to proceed with this matter, and your further response in due time will be appreciated. I do bear in mind, that my compliant from 09 August 2013 is also still in progress, under the same file reference number.

With thanks for your acknowledgment, I remain yours sincerely

Xxxxxxxx Xxxxxxxx

Attachments to email/s carrying this letter, providing evidence of Dr Bratt's and Mansel Aylward's contacts – and also some "links" to website articles and blog posts offering more information to consider:

1. 'Shifting Your Primary Focus to Health and Capacity – A New Paradigm', GP CME Presentation – June 2013, Bratt and Aylward, joint presentation:
File name:
Bratt + Aylward - Shifting Your Primary Focus to Health and Capacity, June 2013.pdf
2. 'Public Health Wales' 'Chair Report June 2013', dated 11 June 2013, with a record mentioning Dr Bratt's meeting with the visiting "Chair" of 'Public Health Wales', Mansel Aylward during his visit in New Zealand (see 8.2):

File name:

Public Health Wales, Aylward to meet Bratt, 25 02 Chair report June 13 v1, June 2013.pdf

Web link:

[http://www2.nphs.wales.nhs.uk:8080/PHWPapersDocs.nsf/\(\\$All\)/D211789B7097C94A80257B8D004E4F08/\\$File/25%2002%20Chair%20report%20June%2013%20v1.pdf?OpenElement](http://www2.nphs.wales.nhs.uk:8080/PHWPapersDocs.nsf/($All)/D211789B7097C94A80257B8D004E4F08/$File/25%2002%20Chair%20report%20June%2013%20v1.pdf?OpenElement)

See also, a brief profile of Mansel Aylward, being also “Chair” of Public Health Wales:

Web link: <http://medicine.cf.ac.uk/person/prof-mansel-aylward/research/>

3. ‘Public Health Wales’, ‘Chair Report’, 16 June 2014, with mention of Dr Bratt’s visit to the UK in May 2014, on the second leg of his visit to Europe early this year (see paragraph 11):

File Name:

Public Health Wales, 32 02 Chair report v1, Aylward + Bratt meet in UK, June 2014.pdf

Web link:

[http://www2.nphs.wales.nhs.uk:8080/PHWPapersDocs.nsf/85c50756737f79ac80256f2700534ea3/9aa6f80bfe7ff2ac80257cfd003994d0/\\$FILE/32%2002%20Chair%20report%20v1.pdf](http://www2.nphs.wales.nhs.uk:8080/PHWPapersDocs.nsf/85c50756737f79ac80256f2700534ea3/9aa6f80bfe7ff2ac80257cfd003994d0/$FILE/32%2002%20Chair%20report%20v1.pdf)

4. Dr Bratt - as a member of a New Zealand health professional leaders’ and GP group - on his first leg of a visit to Europe, including the UK (30.03. and 01.04.14), lasting from 30 March to 09 April 2014, as recorded in General Practice New Zealand document:

File name:

GPNZ, European conference participation, Dr Bratt, 2014-Masterclass-Programme-FINAL.pdf

Web-link:

<http://gpnz.org.nz/wp-content/uploads/2014-Masterclass-Programme-FINAL.pdf>

5. ‘Realising the Health Benefits of Work’, a “position statement” published by the ‘AFOEM’ as part of the ‘Royal Australasian College of Physicians’, being heavily influenced by Professor Mansel Aylward and his “research”. Dr Bratt and Professor Aylward met repeatedly during 2013, also at the New Zealand branch of the AFOEM, to discuss the very contents of this “statement” and its application.

File name:

WWG, RACP, Realising-the-health-benefits-of-work-May2010, based on Black + Aylward.pdf

Web links:

<http://www.racp.org.nz/page/afoem-health-benefits-of-work>
<http://www.racp.org.nz/page/racp-faculties/australasian-faculty-of-occupational-and-environmental-medicine/realising-the-health-benefits-of-work/may-2010-video-presentation-professor-sir-mansel-aylward/>

6. You Tube clip titled ‘Getting better at work’, with part of an interview that Lucy Ratcliffe from ‘NZ Doctor’ magazine conducted with both Mansel Aylward and Dr Bratt on or before the 10th July 2013. The link leads to the website and video: <http://www.youtube.com/watch?v=vPNqBJ4n-x0>

7. Cabinet paper C, "Health and disability", welfare reform paper, mentioning Professor Aylward, Dr Beaumont, Dame Carol Black, and possibly also Dr Bratt, as advisors that were consulted on health and disability issues in relation to welfare reforms. The document was signed by Paula Bennett on 27 July 2012 and released to the public in early 2013:

Web link:

<https://www.msd.govt.nz/documents/about-msd-and-our-work/newsroom/media-releases/2013/wr-cab-paper-c-health-and-disability.pdf>

8. Paula Bennett's speech to medical professionals, 26 Sept. 2012, mentioning consultation with Mansel Aylward, and his and Dame Carol Black's input, in the form of advice on the New Zealand welfare reforms:

File name:

Paula Bennett, Min. S.D., beehive.govt.nz, Speech to Medical Professionals, 26.09.2012.pdf

Web link:

<http://www.beehive.govt.nz/speech/speech-medical-professionals>

9. 'E pluribus Unum', article in the Guardian, about Unum Provident and their influence in UK welfare reforms and their links with Mansel Aylward, 17 March 2008:

Web link:

<http://www.theguardian.com/commentisfree/2008/mar/17/epluribusunum>

10. 'The Hidden Agenda', a research summary by Mo Stewart, published through Leeds University, March 2013, exposing the connections between Mansel Aylward, UNUM Provident, ATOS Healthcare and DWP, and the "work capability assessment" used in the UK:

Web link:

<http://disability-studies.leeds.ac.uk/files/library/THE-HIDDEN-AGENDA-a-research-summary-March-2013.pdf>

11. 'NZSOCIALJUSTICEBLOG2013', a source of much further information on welfare reforms in the UK and here in New Zealand, on work capability assessments, Mansel Aylward et al, found on the internet:

Web link:

<https://nzsocijusticeblog2013.wordpress.com/category/medical-and-work-capability-assessments/page/2/>

12. Wikipedia entry for ATOS Origin or ATOS Healthcare, the controversial, outsourced assessor company that used and applied Mansel Aylwards WCA work capability tests while conducting assessments of sick and disabled for the DWP in the UK:

Web link:

<http://en.wikipedia.org/wiki/Atos>