

THE MINISTRY OF SOCIAL DEVELOPMENT'S SELECTIVE AND POOR RESPONSES TO NEW O.I.A. REQUESTS ON BENEFITS, ADVISORS, REPORTS, MENTAL HEALTH AND SOLE PARENT EMPLOYMENT SERVICES

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A) INTRODUCTION

After we already presented some interesting information that the Ministry of Social Development (MSD) made available on earlier occasions in response to Official Information Act (OIA) requests, we can now present you more, some of which will be of significant interest to readers.

It was early on 09 July 2015, that two new OIA requests dated 08 July 2015 were sent in to MSD by way of an email with attached letters. The first request was rather straight-forward and simply asked for a cost component breakdown of three main or base benefits, but the second request was a bit more specific and asked for some comprehensive information on a range of topics and matters. That request asked for expert advisors' reports on health, disability and work ability assessment matters that may have been used in the process of formulating policy brought in under welfare reforms. Reports from certain external and internal Advisors were asked for, same as copies of correspondence between MSD's Principal Health Advisor and the UK expert Mansel Aylward and others at the 'Centre for Psychosocial and Disability Research' in Cardiff, Wales. Further information asked for included conflict of interest declarations by members of a Health and Disability Panel that was set up to advise on welfare reforms, same as conflict of interest declarations by MSD's Principal Health and Disability Advisors. Information was requested about the Principal Health Advisor Dr Bratt's trip to Europe and the UK, about expenses paid for Designated Doctors, Host Doctors and Medical Appeal Board (MAB) hearings. Some further data was sought on the numbers of MAB hearings and outcomes, on outcomes of so-called "social impact bond" funded trials, on outcomes of Mental Health Employment Services and Sole Parent Employment Services, same as on numbers of 'Work Ability Assessments' and 'Specialist Assessments'.

The requester, whose name and details we intend to withhold for privacy reasons, did expect both complaints to be handled separately, and anticipated a reply to the first response within 20 working days, as required by the Official Information Act 1982. He did not expect a response to the second request to come within that time frame, as he understood that some of the questions asked in that one would require more time to be answered to, which would likely also require a fair bit of collation.

Hence it was not surprising to the requester that he did on 03 August 2015 receive an email from MSD (the ‘Official and Parliamentary Information team’), advising that the Ministry would need an extension of time to respond to the OIA requests. There was no early response to the first OIA request, and so it appeared as if it may be handled together with the second request. A PDF with a letter that was attached to the email advised him that: ***“The Ministry’s response will be with you no later than 3 September 2015”***. Already on 28 July had MSD informed him by email and attached letter, that one question about “social Impact bond funded projects” had been transferred to the Ministry of Health, as MSD did not hold the sought information. Receipt of that one request had also been confirmed by Fox Swindells, OIA Co-ordinator (Government Relations, Office of the Director General) at the Ministry of Health, by email on that same day.

While awaiting a response, the requester did on 03 September 2015 then receive another email from MSD, updating the requester that the Ministry was unable to provide a response on that day. However the letter advised that the request was then being processed with urgency, and that the Ministry would respond as soon as possible.

By 08 October the requester still had not received the information supposedly being prepared ***“with urgency”***, so on 08 October 2015 he sent in an email to the OIA contact address of the Ministry, for which no identifiable name of any person had previously been provided. He asked for an update on the matter, mentioning the earlier responses by MSD. Expressing an understanding that it may take some time to prepare the response, as the information sought was more comprehensive than many common OIA requests, the requester pointed out that three months had now passed. He asked whether the response might take another two weeks or a month, and if no response should come forth by the end of the month, he would consider bringing the matter to the attention of the Ombudsmen.

All he received upon that email was yet another email with yet another apology from MSD (the ‘Ministerial & Executive Services Advisor’), saying also, that the response was currently under review and was expected to be ***“signed out within the next couple of days”***. ***“The response will be with you by the end of the month if not sooner”***, was a further comment.

But for the following weeks there was again no response forthcoming from MSD, while at least the Ministry of Health had already presented a response to one particular request by email on 28 August 2015 (dated 25 August 2015). **It did in the end take until 19 November 2015, when the proper response by MSD (to both OIA requests) was received by the requester (by email with attachment).** In the following we will present you the questions for the particular specified information the requester had asked for, and following that the responses given by MSD. As some information was simply not provided as it had been requested, and some of that again without giving any reasons, the requester was (like on earlier occasions) forced to file another complaint with the Office of Ombudsmen, to have the response by MSD investigated and reviewed. The Ombudsman’s intervention was asked for, to obtain the remaining information from MSD, and for MSD to provide proper answers to questions that had not been properly replied to. We will also present you that letter, and also outline the information that MSD withheld and refused. As usual some comments will be provided re the questions and answers, and what conclusions can be drawn from the provided information.

B) 1ST OIA REQUEST TO MSD FROM 08 JULY 2015

In the following we present the particular questions the requester put to MSD to answer, and to provide information on:

“Dear Mr Brendan Boyle, dear staff at the Ministry for Social Development

Please accept my request for the disclosure of the following specified information - under sections 12 and 16 of the Official Information Act 1982.

1. *Information in the form of a detailed break-down of the main benefit type Jobseeker Support, into the separate components or parts of the base benefit, that are allocated to cover costs for food, clothing, accommodation, transport/travel, electricity, water, phone costs, social spending, and so forth, based on calculated average costs a benefit is intended to cover.*
2. *Information in the form of a detailed break-down of the main benefit type Supported Living Payment, into the separate components or parts of the base benefit, that are allocated to cover costs for food, clothing, accommodation, transport/travel, electricity, water, phone costs, social spending, and so forth, based on calculated average costs a benefit is intended to cover.*
3. *Information in the form of a detailed break-down of the main benefit type Sole Parent Support, into the separate components or parts of the base benefit, that are allocated to cover costs for food, clothing, accommodation, transport/travel, electricity, water, phone costs, social spending, and so forth, based on calculated average costs a benefit is intended to cover.*

I am aware of additional supplements and allowances being available as further assistance, like the accommodation supplement, disability allowance and temporary additional support, which are covering additional costs, which cannot be covered by the base benefit.

But I know that the base rates are based on calculations for basic, average costs of living, and I seek the details of these calculations, for each single, usual cost type or category.

The above requested specified information is sought to be made available under the Official Information Act 1982 within the specified time frame of 20 working days.

I kindly and respectfully ask that the information is made available by way of a sufficiently detailed written response, containing the relevant information. Otherwise it can also be made available by way of equally good quality computer generated printouts containing the information or part thereof.

Thank you for your acknowledgment and appreciated co-operation.

Yours sincerely

Xxxxxxx Xxxxxxx”

Here is a copy of the OIA request letter:

[MSD, O.I.A. request, to C.E. of M.S.D., base benefit break down, anon, 08.07.15](#)

Comments

For decades persons on benefits have had to struggle and cope while receiving main or base benefits that are for most people not enough to live off. Only those living in cramped conditions in shared homes may in some cases manage to get by on the main benefit alone. The vast majority of persons also require top-ups of benefits, for accommodation, disability costs, and sundry other essential expenses, in order to survive at usually a shoe-string budget or less. Additional supplements and allowances, including also the ‘Temporary Transitional Support’ (which has replaced the Special Benefit) are partly capped or have set limits. But the rates or claimable amounts for these are known. The base or main benefits, although insufficient to really cover most essential living expenses from, must have been calculated by some kind of formula to cover a range of very basic standard costs per person, and that is what the requester wanted to get details on.

C) 2ND OIA REQUEST TO MSD FROM 08 JULY 2015

In the following we present the second, more comprehensive OIA request with 21 questions (or individual points of request) that were sent to MSD to respond to:

“Dear Mr Brendan Boyle, dear staff at the Ministry for Social Development

Please accept my request for the disclosure of the following specified information - under sections 12 and 16 of the Official Information Act 1982.

1. *Copies of reports, presented by Professor Mansel Aylward from the ‘Centre for Psychosocial and Disability Research’ at Cardiff University in Wales, U.K., and received by the Ministry of Social Development (MSD or the Ministry), which advise the Ministry on questions or matters relating to health, disability and work capability assessments. This includes reports for the purpose of considering, preparing and formulating proposals for “welfare reform” measures, and reports for considering, preparing and/or implementing new approaches for “supporting” persons with health and/or disability into employment. This should cover reports from 01 Jan. 2010 to 30 June 2015.*
2. *Copies of reports presented by Dr David Beaumont (current ‘President’ of the Australasian Faculty of Occupational and Environmental Medicine, AFOEM), in his capacity as external advisor, either as chair of the former ‘Health and Disability Panel’, or in another professional capacity, that were received by the Ministry, and were advising on health, disability and work capability assessment matters. This is in relation to reports that were presented and received for the purpose of considering, preparing and formulating proposals for “welfare reform” measures, and reports for considering, preparing and/or implementing new approaches for “supporting” persons with health and/or disability into employment. This should include reports from 01 January 2010 until 30 June 2015.*
3. *Copies of reports, or written correspondence, which the Ministry’s Principal Health Advisor, Dr David Bratt, received from Professor Mansel Aylward, or other research members based at the ‘Centre for Psychosocial and Disability Research’ at Cardiff University in Wales, U.K., that inform and advise him and the Ministry on research on health, disability and work capability assessment matters. This is in relation to reports that were received for the purpose of considering, formulating and preparing “welfare reform” measures and new policy, and reports for considering, preparing and/or implementing new approaches for “supporting” persons with health and/or disability into employment. Reports received during the time from 01 January 2010 until 30 June 2015 would be appreciated.*
4. *Copies of reports and correspondence that Dr David Bratt sent to the ‘Centre for Psychosocial and Disability Research’ at Cardiff University, Wales, U.K., for the purpose of requesting or providing information - or advice - on matters relating to health, disability and work capability assessment. This may be for the purpose of “welfare reform” related policy, and/or for the purpose of implementing new measures to “support” persons with health conditions and/or disability into employment. This is also for the period from 01 January 2010 to 30 June 2015.*
5. *Information that MSD received and has recorded on any declared conflict of interests by Dr David Beaumont, former chair of the Ministry appointed ‘Health and Disability Panel’ set up in 2011/12 to consult and advise MSD on “welfare reform”, when being chosen and appointed for that role, and when acting as a member of that Panel. Dr Beaumont is now ‘President’ of the AFOEM, and was then ‘President Elect’ of the same organisation.*
6. *Information that MSD received and has recorded on any declared conflict of interest by Helen Lockett, Strategic Policy Advisor for the Wise Group (including Workwise), when being chosen, appointed and while being a member of the ‘Health and Disability Panel’ set up by*

the Ministry in 2011/12 to consult and advise the Ministry and government on “welfare reform”.

7. *Information that MSD received and has recorded on any declared conflict of interest by any other member of the ‘Health and Disability Panel’, when being chosen, appointed and while being a member of that Panel, set up to consult and advise the Ministry on “welfare reform”.*
8. *Information on any conflict of interest declaration that the Ministry has received and holds on Principal Health Advisor Dr David Bratt and on Principal Disability Advisor Anne Hawker, since prior to their selection and consideration for appointment into their corresponding positions in 2007. This is particularly in relation to potential conflicts of interest that could have arisen or that may arise due to certain other former or present professional involvements, engagements and/or business activities.*
9. *Information on the engagements and meetings the Ministry’s Principal Health Advisor Dr Bratt had with any professionals from the ‘Centre for Psychosocial and Disability Research’ at Cardiff University, Cardiff, Wales, U.K., during his visit to the U.K. around May 2014, and what the purposes of attended meetings or consultations were, and what reports were generated as a result of these. Also sought is information on Dr Bratt’s remaining visits to Wales and to England, which appears to have followed or preceded his visit to Cardiff. Information on what other engagements and meetings he attended there is requested, and what reports were prepared on them. This request includes copies of such reports to be provided (if available), including such on costs and possibly received subsidies the Ministry had to account for Dr Bratt’s visits to the U.K..*
10. *Information on the engagements and meetings the Ministry’s Principal Health Advisor Dr Bratt had in his professional capacity as Senior Advisor for the Ministry, during his participation in the ‘General Practice NZ, 2014 Integrated Care Masterclass’ visit to Europe from 30 March to 09 April 2014, what organisations, meetings and locations he visited, and what the Ministry’s total costs and expenses were for this part of his European visit. If the Ministry or Dr Bratt received any sponsorship funding, information on this would be appreciated. Also are copies of reports for this visit part of this request.*
11. *Information on expenses paid by the Ministry for examination fees to ‘Designated Doctors’ commissioned with conducting examinations of clients referred by Work and Income for second opinions or other reasons, being for each year, from 01 July 2012 up to 30 June 2015 (or for the periods falling within that time frame, for which figures are available).*
12. *Information on expenses paid for fees charged for “host doctor assessment” reports by ‘Host Doctors’ in the process of ‘Designated Doctors’ conducting examinations of clients referred from Work and Income for second opinions or other reasons, being for each year, from 01 July 2012 to 30 June 2015 (or for the periods falling within that time frame, for which figures are available).*
13. *Information on expenses paid for costs of holding Medical Appeal Board hearings, commissioned with hearing appeals by Work and Income clients who disagree with decisions made by Ministry staff or management, if available, separately for appeals based on health or disability grounds to be considered for benefit entitlement, and otherwise based on work capability assessment grounds for being able to meet work or training obligations while on a benefit. If no separate figures for those types of appeals exist, a total will suffice. The information is sought per year, for the period from 01 July 2012 to 30 June 2015 (as far as available).*
14. *Information on the number of Medical Appeal Board hearings conducted, if possible broken down into the type of appeal filed and heard, otherwise in total, for the period from 01 July 2012 to 30 June 2015 (as far as information is available).*

15. *Information on the number of internal reviews of decisions for which clients sought a “review of decision”, conducted prior to proceeding with an appeal on medical grounds, or on disability or work capability, to a Medical Appeals Board hearing. If possible broken down outcome numbers are sought for such conducted “reviews”, for the period from 01 July 2012 to 30 June 2015. Otherwise the total per year would suffice.*
16. *Information on the set fee structure - or amounts paid - for “designated doctors fees” and “host doctor fees”, and changes made by the Ministry over that time (and when), for the periods from 01 January 2005 to 08 July 2015.*
17. *Information on the duration or time periods, on the numbers of participants, the number of contracted providers and the outcome results of any trials conducted, to test the feasibility, effectiveness and performance of so-called “social impact bond” funded projects, as has recently been discussed as a new funding measure for social outcomes the Ministry seeks. Information is sought on such trials that may have been conducted with persons on social security benefits suffering mental health conditions, or any other health conditions or disability. Outcome results in successful referrals into lasting employment of participants, either in numbers or percentages of total participants would be appreciated, same as for those not possible to refer and place into such employment. As these may be trials conducted by the Ministry of Health with MSD cooperating, I seek information on who has run such trials.*
18. *Information is requested on how many Work and Income clients suffering mental health conditions (and being on the ‘Jobseeker Support – Deferred’ type of benefit) have since the commencement of contracted “Mental Health Employment Services” (MHES) until now been approached to participate in such services, how many have agreed to participate, how many have been referred to providers delivering such services, **how many have successfully been placed into employment** up until now, and how many have had to terminate participation due to what range of reasons. This request is to obtain an update of some figures already received on 24 April 2014 and on 26 February 2015.*
19. *Information is sought on how many Work and Income clients being on the Sole Parent Support benefit have since the commencement of contracted “Sole Parent Employment Services” (SPES) until now been approached to participate in such a service, how many have agreed to participate, how many have objected to participate, how many have been referred to providers delivering such services, **how many have successfully been placed into employment** up until now, and how many have terminated participation due to what types of reasons. This request is to obtain a further update on some limited figures already received 26 February 2015.*
20. *Information is requested on how many Work and Income clients suffering from any health and/or disability conditions, and being in social security benefit receipt for those reasons, have since the commencement of contracted “Work Ability Assessments” (WAAs) (24 Feb. 2014) until now been approached to participate in such assessments, how many have agreed to participate, how many have objected to undergo such an assessment, how many have failed to attend such assessments, and how many were in the end referred to be assessed by contracted providers delivering such services This request is to obtain figures that were so far not delivered, also not as part of an earlier request answered by MSD on 24 April 2014.*
21. *Information on how many Work and Income clients suffering from any health and/or disability conditions, and being on, or applying for a social security benefit granted on health and disability reasons, have since the commencement of contracted “Specialist Assessments” until now been approached to participate in such assessments, how many have agreed to participate, how many have objected to undergo such an assessment, how many have failed to attend such assessments, and how many were in the end referred to be assessed by a contracted provider delivering such services. This request is to obtain figures that were so far not delivered, also not as part of an earlier request answered by MSD on 24 April 2014*

The above requested specified information is sought to be made available under the Official Information Act 1982 within the specified time frame of 20 working days. I appreciate though that due

to the complexity of some of the information asked for, the Ministry may see a need to extend the time to response. If that is the case, I will expect written notification of this.

I kindly and respectfully ask that the information is made available by way of a sufficiently detailed written response, and by way of good quality, easily readable photo copies of original documents containing the relevant information. Otherwise it can also in part be made available by way of equally good quality computer generated printouts. If not available in hard copy form, a standard CD containing the corresponding, relevant documents and information in PDF, or similarly common, readable data format can be accepted.

Thank you for your acknowledgment and appreciated co-operation.

Yours sincerely

Xxxxxxx Xxxxxxx”

Please find here a PDF copy of the second OIA request:

[MSD, O.I.A. request, to C.E. of MSD, Bratt, H+D Panel, Reforms, anon, 08.07.15](#)

Comments

With the welfare reforms that the National led government brought in during 2012/13, and with the implementation of changes under the ‘**Social Security (Benefit Categories and Work Focus) Amendment Act**’ from July 2013 onwards, only very little information was made available on the often quoted “evidence” to support these reforms. As the reforms brought in new very different approaches to work with sick and disabled persons on benefits granted on grounds of health and/or disability, one would think that such changes to work ability assessments, to doctor’s and other health professional’s diagnosing and assessing of patients for ability to work, would only be made with some robust scientific evidence that was presented to MSD in the way of reports from various experts the Ministry consulted during the consultation and policy formation process for these reforms.

Consequently, in order to get such evidence, the requester asked that MSD make available such reports from some key experts and Advisors, who had repeatedly been referred to and quoted in cabinet papers, in press releases, in Ministers’ speeches and media reports. As at least one expert has also widely been used and quoted in the UK, where similar, but more forcefully implemented reforms were introduced, and as he has also been consulted by the MSD and the Minister herself, one would think that there would be reports that he presented supporting the work he had done already in the UK. The Principal Health Advisor for MSD has since at least 2010 also been making bold claims and referred to supposed “evidence” in many presentations he gave to medical professionals and medical trainers, and having relied on Prof. Mansel Aylward and some other UK experts, one would have thought that there would have been exchanges of reports and correspondence between them.

Then there are valid questions about some members of a ‘**Health and Disability Panel**’ that was set up by Paula Bennett and MSD in 2011, to consult on health and disability matters in relation to welfare reforms of the government, and to report back to them. One leading member of that Panel (Dr Beaumont) was also believed to have presented reports, and as the requester knew, it appeared that at least some Panel members must have had a conflict of interest while giving advice to the government. Hence the requester sought some information on such conflict of interest declarations.

Sundry other information was sought, as the questions show, on MSD’s Principal Health Advisor’s two month long trip to Europe and the UK, about which very little information can be found, so reports and certain details were asked for, to get some transparency in the purpose and objectives of

that trip. As there has been little information on what MSD has spent on Designated Doctor assessments, also often requested Host Doctor reports, on Medical Appeal Board hearings, and so forth, the requester did seek some useful details about all this. The government likes to claim it is very “transparent” with its information and what it does, but while some information (e.g. on MABs) used to be included in Annual Reports of the Ministry, this seems to no longer be the case. No information can be found on MAB hearings, their outcomes, the costs incurred, hence the requests that were made.

No information has been available anywhere, on how many internal reviews MSD or Work and Income conducted prior to referring appeals or requests for reviews to MAB hearings, and that was information also of interest to the requester.

Given the recent debate about “**social impact bonds**”, the requester appears to have been very interested in details for any such trials that MSD may have conducted, possibly conducted with the Ministry of Health. And as earlier OIA requests resulted in only limited information being made available on the newly contracted **Mental Health Employment Service** and **Sole Parent Employment Service** trials, the requester wanted to get some clarity on how many persons have actually been referred and placed into lasting employment. Last not least there were two questions re also newly contracted and used ‘**Work Ability Assessments**’, besides of so-called ‘**Specialist Assessments**’, which sick and disabled persons on benefits granted on grounds of health and disability may have to undergo.

In summary, this was a range of important, good questions that the requester put to MSD. The response with the detailed answers to questions is found below.

D) THE MINISTRY’S RESPONSE TO THE REQUESTS

Here we can now present the complete response with individually listed answers that was received from MSD on 19 November 2015:

The transcript of MSD’s response (from the letter received):

“19 NOV 2015

Mr Xxxxxxx Xxxxxx

Xx Xxxxxxxxx Xxxxxx

Xxxxxxx

Auckland 1xxx

XXXXXX.XXXXXX@XXXXX.XXX.XX

Dear Mr Xxxxxxx

On 08 July 2015 you emailed the Ministry two letters requesting, under the Official Information Act 1982, information on Jobseeker Support, Supported Living Payment, Sole Parent Support and various reports relating to health and disability research. This letter responds to both of your requests for information and addresses 24 questions.

I will address each of your questions as follows:

Questions 1 to 3 (Benefit breakdowns and living costs):

New Zealand's main benefit system provides a basic income to replace income that would generally be obtained through paid employment. Benefits are funded through general taxes. The initial rate of benefit depends on the benefit type and whether the person is single, partnered or a sole parent. The rate of payment does not relate to the person's previous income from employment, rather it is intended to provide an adequate income to meet basic living costs.

There is no legislative formula used to decide the "correct" rate of benefit however a number of competing objectives and issues must be taken into account, including whether the rates:

- *provide an adequate income to allow participation and belonging in society.*
- *are economically sustainable.*
- *maintain incentives to work.*
- *maintain incentives to study (particularly in the case of younger people).*
- *achieve broadly equivalent living standards for different household types receiving the same benefit.*

The standard weekly rates of the main benefits are increased every year on 1 April. This increase reflects changes in the Consumer Price Index (CPI) in the previous year. Unlike New Zealand Superannuation rates, main benefit rates are not linked to any measurement of wages.

Questions 1 to 4 of your second request (Reports and correspondence the Ministry has received from Professor Mansel Aylward, David Beaumont and any research staff at the Centre for Psychosocial and Disability Research at Cardiff University)

The reports and written correspondence you have requested regarding health, disability and work assessments do not exist. As such, questions one to four of your request are refused under section 18(e) of the Official Information Act.

Questions 5 to 8 (Health and Disability Panel)

The Ministry of Social Development is the largest government department in New Zealand and makes decisions every day that directly or indirectly affect the lives of many New Zealanders. As such, staff are required to uphold the Ministry's values by ensuring that decisions are made and implemented with the highest standards of integrity and professionalism.

The Health and Disability Panel was an advisory panel to the Ministry of Social Development, with no decision making authority. Members were chosen because of their knowledge and expertise in working with people with health conditions or disabilities. The Health and Disability Panel members completed a conflict of interest declaration as part of the appointment process.

As part of the induction process, appointees are required to complete a conflict of interest check and declare whether they have any current or previous professional, personal or financial conflicts of interest.

The Ministry can confirm that Dr David Beaumont and Ms Helen Lockett declared no conflicts of interest when being appointed in their respective roles.

Four panel members declared a potential conflict of interest which can include other forms of employment, membership to another organisation or family relationships. However, upon review the declared conflicts were not deemed significant. The conflict of interest forms are withheld under section 9(2)(a) of the Official Information Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

Question 9 (Dr David Bratt's Study Trip)

The Principal Health Advisor (PHA) Dr David Bratt undertook a study trip to Europe between 29 March and 31 May 2014. The trip was initiated by an invitation from Sir Mansel Aylward following his visit to New Zealand in 2013. Dr Bratt's study trip benefited the Ministry in a number of ways, his attendance provided the Ministry with the most up-to-date information on practice and policies relating to both the integration of services, and to large scale change management. Dr Bratt also had the opportunity to establish key contacts for future exchanges of information.

The first 10 days of the trip were spent taking an Integrated Care Master Class involving 20 key New Zealand based Health Service Providers. The program started with the Nuffield Trust which is a Charitable Foundation aimed at collating evidence to support innovative programmes.

- *This was followed by visits to several demonstration sites of integration of Health and Social Services*
- *Dr Bratt attended an International Conference on Integrated Care (including presentations on experiences from Christchurch post-earthquake) in Brussels, and then travelled to Utrecht in Holland.*
- *From April 28 through to May 29 2014, Dr Bratt worked with Sir Mansel Aylward in Cardiff, Wales. During this time, Dr Bratt held meetings with the Chief Medical Advisor to the Department of Work and Pensions and his senior colleagues in London, the senior health managers of Atos, the Hon Mark Drakeford, Minister of Health and Social Care, Dame Carol Black and Dr David Halpern amongst many others.*

The group itself integrated well and has provided a nationwide network of key opinion leaders in the health sector. There were many useful points to come out of this conference such as the need to focus on the wider determinants of health if long-term benefits are to be achieved.

As Dr Bratt's trip was for professional development, the Ministry contributed \$6,915 towards attendance at the master class and conference and travel costs.

Question 10 (Integrated Master Class)

On 30 March 2014, Dr Bratt attended the 2014 Integrated Master Class in order to spend time examining, discussing and learning about integrated care policies. Dr Bratt did not receive any sponsorship funding for the Master Class, however, as the trip was beneficial to the Ministry, he continued to receive his regular salary for the duration of the trip. Information on the General Practice NZ Integrated Master Class can be found at the following link:

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

Questions 11 and 12 (Designated Doctor and Host Doctor Fees)

Clients who meet the criteria and are in hardship may, in exceptional circumstances, be able to receive financial assistance for medical reports to assist with an application for benefit. Where a client is referred to a Designated Doctor for assessment, the cost for the client to attend is paid for by Work and Income. Where people are referred to a specialist or other health practitioner for further assessment by a Medical Appeals Board, the cost for the assessment and travel is also paid by Work and Income. Clients who have on-going and additional health costs relating to a disability may be able to include the cost of doctor's fees in Disability Allowance.

The Ministry's financial reporting system does not have one specific reporting code for costs associated with Designated Doctors. Multiple codes are used to ensure the various reasons for a Designated Doctor assessment are recorded accurately. Examples of these codes include; Second Opinion – Jobseeker Support at grant, Second Opinion – Supported Living Payment (Health) at grant and Second Opinion – Child Disability Allowance at Grant.

The following table provides the amounts paid by the Ministry that are known to be associated costs for Designated Doctor services (such as Reports and travel) and Host Doctor Reports, for the last three financial years.

Nominal Description	2012/2013	2013/2014	2014/2015
Nominal Code for Host Doctor services	\$73,759.84	\$71,009.01	\$103,865.76
Nominal Codes associated with Designated Doctor Services	\$477,893.98	\$388,440.39	\$693,566.36
Total	\$551,653.82	\$459,449.40	\$797,432.12

Question 13 and 14 (Medical Appeal Board Fees)

The Medical Appeal Board (MAB) is an independent body established to ensure that correct and fair decisions are made within the legislation.

A client can appeal to the MAB when they disagree with a decision that has been made on eligibility or obligations by the Ministry on medical grounds or on grounds relating to capacity for work and is covered under the provisions listed in section 10B of the Social Security Act 1964.

The following table provides the amounts paid by the Ministry for the Medical Appeals Board for the last three financial years.

	2012/2013	2013/2014	2014/2015
Medical Appeal Board costs	\$393,877.41	\$253,160.29	\$284,845.18

Enclosed for your information is a fact sheet containing further MAB information including financial data, the number of Medical Appeals received, reviewed and completed, and the number of medical appeals that were upheld. Unfortunately the Ministry does not break this information down by type of appeal.

Question 15 (Internal Reviews completed prior to Medical Appeals Board hearings)

If a client does not agree with a decision made by Work and Income on medical grounds, they have the right to make a written appeal to the Medical Appeals Board. Once the request for an appeal is received, the Ministry undertakes an internal review of the original decision.

The internal review is an opportunity for the Ministry to reconsider all the facts and any additional information provided, to ensure the correct decision was made. This includes:

- considering relevant legislation and policy
- reviewing the information presented at the time and any new information to hand
- ensuring the client has been offered a referral to a Designated Doctor
- seeking independent advice from a Regional Health Advisor or Regional Disability Advisor not previously involved in the case.

This process is similar to the Internal Reviews completed as part of the Ministry's Review of Decision process.

The Review of Decision process is a formal review that allows decisions made by the Ministry to be reviewed by a Benefits Review Committee (BRC). This process does not cover decisions made on medical grounds.

A client may ask that a decision on medical grounds be considered through the Review of Decision process, however, the BRC does not have jurisdiction in these matters. This means that the BRC will not be able to make a decision on the matter and the client will be given the option of appealing the decision through the Medical Appeals Board.

I can advise that there may have been instances where a client has asked that a decision made on medical grounds was considered through the Review of Decision process, however to provide you with this number would require staff to manually compare individual client records held in the MAB database with client records held in the Review of Decision database. I therefore refuse this part of your request under section 18(f) of the Official Information Act, due to the substantial manual collation this would require.

I have considered whether this information could be provided given extra time or the ability to charge, however I consider the greater public interest is in the effective and efficient administration of the public service.

Question 16 (Designated Doctor and Host Doctor fee structure)

Enclosed for your information is a fee schedule for Designated Doctors services.

Question 17 (Social Impact Bonds Project)

This part of your request has been transferred to the Ministry of Health in accordance with section 14(b)(i) of the Act. You will receive a response to this question directly from the Ministry of Health.

Questions 18 to 21 (Mental Health Service Employment Service and Sole Parent Employment Service Trial)

As you are aware, the Mental Health Service Employment Service and Sole Parent Employment Service are trials being conducted for three years. The outcomes will be used to inform how the Ministry can best deliver services to these client groups.

The Ministry will conduct a full evaluation of the trial following its completion in June 2016 however interim reporting is being refined so that information that is reported is robust and consistent while the trials continue.

Mental Health Employment Service

I can advise that, at the end of February 2015, of the 3,377 clients who had been referred to the Mental Health Employment Service, 998 individuals were enrolled in the trial.

For the same period, 414 clients had been placed into employment, of which; 63 clients had exited the service after achieving 12 months continuous employment, 171 clients had achieved six months continuous employment and remained in the service and 180 clients were yet to achieve six months continuous employment and remained in the service.

Sole Parent Employment Service

I can advise that, at the end of February 2015, of the 3,169 clients who had been referred to the Sole Parent Employment Service, 1,151 clients were enrolled in the trial.

For the same period, 628 clients had been placed into employment, of which; 73 clients had exited the service after achieving 12 months continuous employment, 246 clients had achieved six months continuous employment and remained in the service and 309 individuals were yet to achieve six months continuous employment and remained in the service.

I hope you find this information helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

*The Ombudsman
Office of the Ombudsman
PO Box 10-152
Wellington 6143*

Yours sincerely

(signature)

*Carl Crafar
Deputy Chief Executive, Service Delivery”*

The OIA response from MSD also had the following information attached to it:

“Medical Appeal Board Decisions as at 30 June 2013

Period: 1 July 2012 to 30 June 2013

2012/2013 Medical Appeal Costs

Medical costs include board member fees, travel, accommodation and meals.

- The 2012/2013 budget for medical appeals is 619k*
- As at the end of June 2013, 394k has been paid for medical appeals*

Medical Appeal Summary Statistics

From 1 July 2012 to the end of June 2013:

- 576 medical appeals were received. Of these:*
- 95 are in the process of being reviewed internally or are waiting for a medical appeal hearing to be scheduled, and*
- 481 have been completed.*

Completed Medical Appeals

Of the 481 completed:

- 89 (19%) were withdrawn*
- 50 (10%) were overturned following an internal review, and*
- 342 (71%) were formally heard by a medical appeal board.*

Appeal Board Outcome

Of the 342 appeals formally heard by a medical appeal board:

- **245** (72%) were upheld,
- **7** (2%) were partially upheld, and
- **90** (26%) were overturned.

Medical Appeal Board Decisions as at 30 June 2014

Period: 1 July 2013 to 30 June 2014

2013/2014 Medical Appeal Costs

Medical costs include board member fees, travel, accommodation and meals.

- *The 2013/2014 budget for medical appeals is 458k*
- *As at the end of June 2014, 63k has been paid for medical appeals¹.*

Medical Appeals Summary Statistics

From 1 July 2013 to then end of 30 June 2014:

- **418** medical appeals were received. Of these:
- **55** are in the process of being reviewed internally or are waiting for a medical appeal hearing to be scheduled, and
- **363** have been completed.

Completed Medical Appeals

Of the 363 completed:

- **80** (22%) were withdrawn
- **87** (24%) were overturned following an internal review, and
- **196** (54%) were formally heard by a medical appeal board.

Appeal Board Outcome

Of the 196 appeals formally heard by a medical appeal board:

- **150** (77%) were upheld
- **6** (3%) were partially upheld, and
- **40** (20%) were overturned.

Medical Appeal Board Decisions – June 2015

Period: 1 July 2014 to 30 June 2015

2014/2015 Medical Appeal Costs

Medical costs include board member fees, travel, accommodation and meals.

- *The 2014/2015 budget for medical appeals is 663k*
- *As at the end of June 2015, 245k has been paid for medical appeals.*

Medical Appeal Summary Statistics

From 1 July 2014 to the end of June 2015:

- **372** medical appeals were received. Of these:
- **61** are in the process of being reviewed internally or are waiting for a medical appeal hearing to be scheduled, and
- **311** have been heard.

Completed Medical Appeals

Of the 311 completed:

- **75** (24%) were withdrawn
- **101** (33%) were overturned following an internal review, and
- **135** (43%) were formally heard by a medical appeal board.

Appeal Board Outcome

Of the 135 appeals formally heard by a medical appeal board:

- **100** (74%) were upheld
- **6** (4%) were partially upheld, and
- **29** (22%) were overturned.”

NOTE:

MSD also provided separate tables on the last page of the 9-page response, showing a ‘**Designated doctor fee schedule- Effective 1 July 2014**’ and ‘**Designated Doctor’s fees – Effective May 2014**’.

For the details contained in those tables we request you to click the following link(s) to view the scan copy of the original OIA response:

Please find here an anonymised scan copy of MSD’s OIA response, one “clean” copy, and one extra one that has highlighted text parts (and notes):

[MSD, OIA rqst, Dr Bratt, MHES, SPES, WAA, reports, WINZ sundry data, 08.07., reply, anon, 19.11.15](#)

[MSD, OIA rqst, Dr Bratt, H+D Panel, MHES, SPES, WAA, reports, reply, hi-lit, 19.11.15](#)

Also here is a scan copy of the Ministry of Health’s response to request/question nr. 17:
[Min. of Health, Dep. Dir.-Gen., OIA rqst, social bonds, transfered fr. MSD, reply, 25.08.15](#)

E) ANALYSIS OF INFORMATION MSD PROVIDED AND WITHHELD

By looking at the information that MSD provided in response to the above OIA requests from 08 July 2015, it can clearly be seen that some questions or points of request were not properly answered, that some have only been answered in part, and that at least three have not been responded to at all.

This is a common pattern with detailed OIA requests filed with MSD, and again, we will point out some of the information that should have reasonably been expected to be presented, and which was not, or was not in the form and scope it had been asked for.

MSD’s habit of often only rather selectively providing information to OIA requests, and of refusing or conveniently “forgetting” to provide some OIA information, can only be explained by a clear reluctance to offer true transparency. Some information must be deemed as being too “sensitive”, because it may potentially “harm” the reputation of MSD or the government. At times we wonder

whether there are also attempts being made to cover up failures or mistakes that were made, and also incidents of professional misconduct or inappropriate processes that were followed.

As we simply do not get much information, we can only guess about this, and keep digging for more information in future.

From the limited information that was provided, the following can be said about it:

Re the response to questions 1 to 3 of the first OIA request from 08 July 2015

The information does only give general explanations about the main benefits that Work and Income pay to persons who are entitled to them. We find NO information about any statistical or scientifically based calculations or formula that MSD use for determining the amount per benefit paid. The requester specified that information was sought on components or parts of the Jobseeker Support, Supported Living Payment and Sole Parent Support benefits, referring clearly to costs for food, clothing, accommodation, transport/travel, electricity, water, phone costs, social spending and so forth.

MSD have simply not answered that main part of the question and request, which appears like an attempt to deflect from the main part of the question and to simply defend and justify the benefit rates as they are. It seems to simply be a balancing act between various objectives MSD has to take into account, like setting benefit rates at levels where recipients still have an “incentive” to look for work or to study, but on the other hand have “adequate income to allow participation and belonging in society”. As the requester did not get the response that was sought, this was raised in a letter to the Ombudsman, the text of which will follow under Chapter F).

Re the response to questions 1 to 4 of the second OIA request from 08 July 2015

The requester asked for information in the form of copies of reports from named senior professionals that have acted as either external or internal advisors and “experts” to MSD, such as **Professor Mansel Aylward, Dr David Beaumont** and also their own **Principal Health Advisor Dr David Bratt**. In the case of Dr Bratt the requester also asked for correspondence exchanged between Dr Bratt and Prof. Aylward - or other research members - based at the ‘**Centre for Psychosocial and Disability Research**’ at Cardiff University in Wales.

The response provided by MSD is hard to believe, when they write:

“The reports and written correspondence you have requested regarding health, disability and work assessments do not exist. As such, question one to four of your request are refused under section 18(e) of the Official Information Act.”

The mentioned professionals are frequently quoted advisors and experts, who have without any doubt exchanged correspondence, and one must presume also reports, as was indicated by earlier responses by MSD to OIA requests. It is beyond belief that no reports on the subject matter mentioned exist. There is repeated mention of these advisors and “experts” in a Cabinet Paper titled ‘**Welfare Reform Paper C: Health and Disability**’ from 27 July 2012, made available by the Ministry (via the internet), and there are repeated references on how the so-called ‘**Health and Disability Panel**’ set up by Minister Paula Bennett and MSD “advised” the Ministry on matters relating to welfare reform. Professor Aylward is mentioned in that paper, so is Dr Beaumont, and as reports must have been prepared and presented to MSD, and likely also the Minister herself, it must be expected that these did at least “exist” at an earlier time.

Former Minister Paula Bennett did in a ‘*Speech to medical professionals*’ (on 26 Sept. 2012) repeatedly refer to **Prof. Aylward** and his and other UK reports, and she mentioned that she personally met with him. Professor Aylward has also repeatedly met with Dr David Bratt the Principal Health Advisor to MSD during 2013 and 2014. They even prepared joint presentations, based on information that was partly presented by Prof. Aylward and his colleagues at the ‘**Centre for**

Psychosocial and Disability Research’ in Cardiff, Wales. The **“Health Benefits of Work”** position statement by the **Australasian Faculty of Occupational and Environmental Medicine (AFOEM)** was prepared and presented with the strong input from “experts” like Prof. Aylward, and facilitated by **Dr Beaumont** as a leading member of that Faculty. That and a similar position paper authorised by **Dame Carol Black**, who has also leaned on research reports by Prof. Aylward and some of his colleagues, were used as **“evidence”** for justifying the reforms the NZ government brought in.

It is not credible for MSD to claim that NO reports from these experts exist, or were exchanged. Hence the response given appears to rather be formulated to cover up the fact that certain reports were until not so long ago quite likely being kept on record within MSD, after having been received from the mentioned advisors, but they may have since then for whatever reason been destroyed, possibly by misusing or misinterpreting GDAs (General Disposal Authorities) issued by the Chief Archivist.

The very brief and simple response by MSD appears to conceal more than what it offers as an explanation. So while the answer was possibly given with the intention to leave the requester under the impression that no reports exist, **reports may well have existed, but simply do no longer exist now.** This is again a matter the requester has brought to the attention of the Ombudsman, as the response simply beggars belief.

It is simply completely unbelievable that the government, and its largest Ministry, introduce social welfare reforms that set new, harsher criteria, and bring in totally new approaches, for sick and disabled to be classified as “fit for work” rather than unable to work, based on “UK research”, without obtaining any relevant reports supporting the move. Similar approaches have in the UK led to increased suicides, other self harm and early deaths of beneficiaries with disability and sickness.

Re the response to questions 5 to 8 of the second OIA request from 08 July 2015

It is also astonishing, that two senior members of the **‘Health and Disability Panel’** that Paula Bennett set up as Minister of Social Development in 2011, and which met at various times from late 2011 to early 2013, to consult especially on health and disability matters in relation to planned welfare reforms, did not declare any conflict of interest, while they should have.

The **‘Health and Disability Panel’** was set up with the intention to receive and provide advice on what barriers sick and disabled on benefits have when it comes to accessing work. Other relevant aspects that were being discussed and reported on to MSD, in order to assist formulating and drafting social welfare reforms - with measures in mind to achieve that more sick and disabled get assessed and “supported” as able to work, were equally important. It was foreseeable that the government, which firmly believes in an “investment approach” to welfare delivery, and in involving private, non-government service providers to achieve new outcomes in getting people into work, would do exactly that, outsource services to such providers, to assist persons on benefits into work.

Hence we raise our eyebrows when we read that **Dr David Beaumont**, who did until then and later still run his own rehabilitation service business **“Pathways” in Otago**, same as **Helen Lockett**, the **Senior Policy Adviser** to the **Wise Group** and **Workwise**, **declared NO conflict of interest while being members of that Panel offering “advice” to MSD.** Both did clearly have conflicts of interest, as both were directly involved in service delivery businesses, which would most likely benefit from the reforms they were supposed to offer advice on. And as we know by now, **Workwise has been rewarded with a contract to participate in trials to “support” and refer persons with mental health conditions into employment, for handsome fees that is!**

Then there were **four other members of that Panel, who had some conflicts of interest**, but they were *“not deemed significant”*. The forms containing the conflict of interest details of those members have been withheld, protecting their privacy.

As altogether six out of 14 members of that panel (42 percent) appear to have had a conflict of interest, this raises many more questions, for which we get no answers. That is a rather high number of Panel

members that had an apparent conflict of interest, of which two did not declare to have one, despite of sufficient information to the contrary.

And the questions put to MSD under **request 8** have again been ignored by MSD, so **we have got NO information on any conflicts of interest that the Principal Health Advisor Dr David Bratt and Principal Disability Advisor Anne Hawker may hold.**

So while MSD at least offered some of the expected information here, there is more that needs to be answered to and the requester has also brought this to the attention of the Ombudsman.

Re the response to question 9 of the second OIA request from 08 July 2015

We learn from MSD's response that **Dr Bratt went to Europe for two months**, on a so-called "**study trip**", while he is nearing his own retirement age. MSD inform us that **he worked for one whole month with Prof. Aylward**, and as stated above, we are expected to believe that no correspondence or reports exchanged between the two professionals exist (see response to requests 1 to 4).

10 days of his trip were spent attending an '**Integrated Care Master Class**', involving also **20 key New Zealand based Health Care Providers**. 'Integrated Health and Social Services' were visited, an 'International Conference on Integrated Care' was attended in Brussels, and **from 28 April to 29 May Dr Bratt worked with Prof. Aylward in Wales**, and visited also the Chief Medical Advisor at the DWP, the senior health managers at Atos, the Minister of Health and Social Care, Dame Carol Black and Dr David Halpern in London.

MSD inform us that **the Ministry contributed \$6,915 to Dr Bratt's attendance to the master class, a conference and travel costs**. Also has he continued to receive his regular salary for the duration of his trip, as the response to question 10 does tell us.

At the bottom of page 2 of the response MSD state: "*Dr Bratt's study trip benefited the Ministry in a number of ways, his attendance provided the Ministry with the most up-to-date information on practice and policies on both the integration of services, and to **large scale change management.***"

The responses given raise more questions than they give answers. As we learn, Dr Bratt apparently has a rather close working relationship with Prof. Aylward and the Centre he leads in Cardiff, Wales. Having met him in New Zealand during 2013, and also having prepared joint presentations with that "expert", he met him again in the UK in early 2014, and worked alongside him for a whole month.

But no reports and correspondence they exchanged "exists", we were told already re questions/requests 1 to 4. The requester did specifically ask what reports had been generated during Dr Bratt's trip to Europe and the UK, and again, **we get NO reports, which is astonishing**, as it should be usual practice that some reports are written during or as a result of such a "study trip".

Also is it hard to believe that the \$6,915 the Ministry contributed, and his regular salary, will have covered all accommodation, travel and other expenses that Dr Bratt will have had while in Europe and in the UK. So who paid the rest of his expenses? Did he perhaps get accommodation provided by Sir Mansel Aylward or his Centre, by the UK government, or anybody else?

And despite of **the scandalous record that Atos has in the UK**, offering assessment services to the Department for Work and Pensions (DWP), where many persons were wrongly assessed, and where Atos asked for an early termination of their contract with the UK government, **Dr Bratt saw it fit to meet with the "senior health managers at Atos"**! What "advice" and "information" will he have gathered there, and what "benefit" will that have offered MSD?

We do not believe that Dr Bratt will have had all his expenses covered by the contribution from MSD and his own salary, and this does again raise more suspicion about the supposed "independence" of "advice" he will have been given in the UK. We also do not believe that no reports were generated as

a result of the meetings Dr Bratt had there. The matter has also been brought to the attention of the Ombudsman, as we understand.

Re the response to question 10 of the second OIA request from 08 July 2015

We take note of Dr Bratt's attendance of the '2014 Integrated Master Class' in Europe, and that he apparently did not receive any sponsorship funding for that Class. And while some of his expenses will have been paid for by his employer, MSD, there are unanswered questions about whether he may have received "sponsorship" for other parts of his trip. As we are advised the requester has asked the Ombudsman to try and find out from MSD what share of the total contributed costs went to fund Dr Bratt's attendance to this 'Master Class' meeting.

Re the response to questions 11 and 12 of the second OIA request from 08 July 2015

The information provided by MSD to those questions by the requester appears reasonable and useful. As we can see from the first table at the top of page 4 of the response letter, **there has been a significant increase in spending on Designated Doctor and Host Doctor services during the year 2014/2015**, which can partly be explained by the significant increase in fees MSD that now pays to these medical practitioners that offer "second opinions". See also the tables on page 9 for further details. But the information there is somewhat misleading. Designated Doctors and Host Doctors had already received an increase in fees years ago, after 2004. The two tables seem to suggest there were no increases in fees paid between then and 2014. In an internal MSD memo from Dr Bratt and dated 19 Nov. 2008 there was mention of a \$106 fee that was then being paid to Designated Doctors for standard examinations/assessments.

See this document for details:

[MSD, Design. Dr. Fee Adjustment Proposal, Dr. D. Bratt, memo, copy, hi-lit, 19.11.2008](#)

As an increase was already sought then, it must be concluded that more than that was already being paid in the years leading up to 2014.

So the increase may also indicate an increase of Designated Doctor use, in the form of re-assessing more persons on benefits on health grounds and disability (being 'Jobseeker Support – Deferred' and 'Supported Living Payment' recipients).

Re the response to questions 13 and 14 of the second OIA request from 08 July 2015

With their response to questions 13 and 14 MSD have again made the claim that the Medical Appeal Board (MAB) is an "*independent body*" established "*to ensure that correct and fair decisions are made within the legislation*".

That sounds rather "nice", but is far from the truth, as another post on this blog has revealed some time ago, here is a link to it, for your memory or for future reading by those who have not read it yet:

<https://nzsocialjusticeblog2013.wordpress.com/2015/03/17/the-medical-appeal-board-how-msd-and-winz-have-secretely-changed-the-process-disadvantaging-beneficiaries/>

Here is a PDF with the same post:

<https://nzsocialjusticeblog2013.files.wordpress.com/2015/03/the-m-a-b-hearing-process-how-msd-secretely-changed-it-to-further-disadvantage-clients-official-post-18-03-15.pdf>

The Ministry has provided some information that must be appreciated, but when looking at the data provided in the attachments with information tables on 'Medical Appeal Board Decisions' and 'Summary Statistics', there are for the year ending 30 June 2013 still 95 appeals listed as "*in the process of being reviewed internally or are waiting for a medical appeal hearing to be scheduled*".

For the year ending 30 June 2014 a number of 55 is given for the same category and with the same explanations. This does not seem to make any sense at all, as it is unbelievable that hearings are waiting to be scheduled or being reviewed internally for more than one or even two years.

Hence the information is somewhat confusing, and we understand that the requester is seeking clarification on the statistics, through the involvement of the Ombudsman.

Re the response to question 15 of the second OIA request from 08 July 2015

The requester has in his letter to the Ombudsman explained that the way the question was formulated for the particular information sought with request 15 was a bit unfortunate. Hence he would not seek further clarifications on the obtained information, which is of some, but not all that much help.

Re the response to question 16 of the second OIA request from 08 July 2015

We understand that the requester was happy with the information provided in tables in the attachment to the response letter from MSD (dated 19 Nov. 2015). The new and current fee information for Designated Doctor services is helpful, and it shows that MSD have substantially increased these fees over recent years, **which now seems to offer even more of an “incentive” for medical practitioners to provide Work and Income services as Designated Doctors.** As general practitioners, usually running their own businesses (e.g. as limited companies), do heavily depend on government subsidies, we must fear that MSD and Work and Income will be able to obtain more “support” from medical practitioners to work or collaborate with them, and declare more persons as “fit for work”, as part of the efforts by government to cut costs. For some doctors, who work as Designated Doctors, the examinations or assessments they provide for MSD offer them a secure and additional, profitable revenue stream.

Re the response to question 17 of the second OIA request from 08 July 2015

As MSD state in their response, the request for information on “social impact bonds” and trial projects that may have been conducted was transferred to the Ministry of Health. The Ministry of Health responded by email on 28 August 2015, with an attached letter dated 25 August.

The Ministry of Health’s response read like the following:

“Following a comprehensive and open procurement process, four potential social bond areas have been selected for future assessment and development. The mental health and employment social bond you refer to is one of the four under consideration.

The pilot for that social bond is still in the procurement phase of development; the Ministry has not run any trials and as such does not have any information to share with you. Accordingly the Ministry is required to refuse your request under section 18(e) of the Act as the information does not exist. However, details of the pilot can be found on the Ministry’s website (www.health.govt.nz) by searching ‘social bonds’ and we continue to update this as the process develops. “

A scan copy of that response can be found via this link:

[Min. of Health, Dep. Dir.-Gen., OIA rqst, social bonds, transfered fr. MSD, reply, 25.08.15](#)

So there is not much more to comment on that, as it is still under consideration and a potential project in the making.

Re the response to questions 18 to 21 of the second OIA request from 08 July 2015

MSD staff appear to have become a bit complacent towards the end of answering the OIA request, as they have only provided parts of the information that was actually sought. Yes, **there is NO**

information at all provided in reply to questions/requests 20 and 21, which related to ‘Work Ability Assessments’ and ‘Specialist Assessments’ that persons with health conditions and impairments may have to comply with, if asked to do so by Work and Income.

As for the information sought under questions 18 and 19, it is rather limited and insufficient what MSD have provided. It is even less conclusive and helpful than information offered upon earlier OIA requests for information on the **Mental Health Employment Service (MHES)** and **Sole Parent Employment Service (SPES)**.

The Ministry informs the requester and readers here, that they will only conduct a full evaluation on these newly contracted services, so far run on a trial basis, after June 2016 (after 3 years of the trials). There is mention of “interim reporting” that is being “refined”, so the future information that is reported will be more “robust” and “consistent” while these trials continue.

We read out of that, that MSD are attempting to “dress up” and present the statistics in a way, to make them look less damaging for themselves and the government.

As for the numbers provided, it is yet again unclear, for what “period” they actually are. We understand that the **3,377** number is likely to be the total number of persons referred to the MHES by the end of February 2015, and that the number of **3,169** is the total number of persons referred to the SPES (since the trials began) up to then. But from the figures presented for “the end of February 2015” that follow those, it is not at all clear, whether the referrals into employment are for the whole trial period, or simply just a snap shot of the figures for that one month.

This is a similar attempt to “blur” or confuse the statistics, as we feel, and it was done with some information provided before. But should these referral numbers for persons that were placed into employment be for the whole trial period, then they are in that case indeed a dismal outcome of these new “wrap around” services that former Minister Paula Bennett used to boast so much about.

As the above mentioned information has once again left the requester rather dissatisfied, he has written to the Office of Ombudsmen and asked that the response by MSD gets investigated and reviewed. Following this analysis and these comments we can below present you an authentic transcript of the letter to the Ombudsman. First though an initial complaint letter dated 01 Nov. 2015 is shown, this was sent while no OIA information at all had been received from MSD by then.

F) OMBUDSMAN COMPLAINT

After no response had come forward by 01 Nov. 2015, the requester first filed a complaint with the Ombudsman about the failure of MSD to respond to his OIA request.

This is the text of the complaint letter dated 01 Nov. 2015 (“anonymised” and in italics):

*“The Office of the Ombudsmen
Level 10
55-65 Shortland Street
PO Box 1960
Shortland Street
Auckland 1010*

01 November 2015

Complaint about the Ministry of Social Development (MSD) failing to provide information under the Official Information Act 1982 (O.I.A.), as per my requests dated 08 July 2015

Dear Ombudsman, dear staff at the Office of Ombudsmen

On 08 July 2015 I sent two letters with requests that I made under the Official Information Act 1982 (O.I.A.) to the Chief Executive of the Ministry of Social Development (MSD). One letter contained only three straight forward requests for a breakdown of the Jobseeker Support, Supported Living Payment and Sole Parent Support benefits. A separate letter contained 21 requests for more specified information, that were partly somewhat more comprehensive, but which should have been able to be responded to by early October this year.

*As a matter of fact, after receiving a number of emails from MSD, one dated 03 August 2015, that was seeking an extension of another month's time to respond, I was upon my request for an update on 08 October informed, that my response was ready for their **sign-off** in only "**a couple of days**". I may refer you to the response email from MSD's "Ministerial & Executive Services Advisor", who is always kept **anonymous**, from 08:14h on 08 October this year. It is contained in one of two attached PDF files with all the correspondence so far received from MSD. A response was supposed to be with me by the end of the month (October), if not sooner. But as it has occurred on numerous times before, MSD have failed to respond in due time, and delayed their response beyond of what I consider acceptable and reasonable.*

I must inform you that I have to this very date not received the repeatedly promised response, even though it was supposed to be ready for "sign off" as early as 08 October. This means that I have not received any proper, final response to either of my two requests from 08 July this year, after nearly 4 months of MSD having received them by email.

One particular request had earlier been referred to the Ministry of Health, as you can see in an email and letter from MSDs Elisabeth Brunt, General Manager, Ministerial and Executive Services, dated 28 July 2015. I can inform you that the Ministry of Health has long ago responded to that particular request, with a letter dated 25 August 2015.

Hence my two above mentioned letters of request are yet again new cases, where MSD appears to be taking an unacceptably long and unreasonable time to respond, which gives me the impression that the Ministry is applying a kind of delaying tactic, due to some information perhaps deemed to be too sensitive, so they are hesitant to release it.

I have previously made similar complaints to your Office on a number of occasions, and there are also still complaints before you, which relate to O.I.A. requests to MSD from as early as January 2014, if not even from 2013. It is my understanding that the Office of Ombudsmen has been reviewing the O.I.A. process and delays in responses experienced by many requesters from a number of state agencies and departments.

As I have not observed any improvements in O.I.A. responses from MSD, I must ask you once again for your assistance, and to investigate this matter. Looking at how many O.I.A. requests appear to be treated, the process has often become ineffective and almost farcical. Much information tends to be withheld, and some often even without explanations. The purpose and spirit of the O.I.A. are in my view not being upheld and followed anymore. Some firm action by your Office may though assist in resolving this ongoing problem.

Your response in due time will be much appreciated.

Yours sincerely

Xxxxxx Xxxxxx

Attachments (5 PDF files) to email carrying this letter:

- 1). MSD, O.I.A. request, base benefit rates, break down into cost components, 08.07.15.pdf;
- 2). MSD, O.I.A. request, Dr Bratt, MHES, SPES, WAA, reports, WINZ sundry data, 08.07.2015.pdf;
- 3). MSD, O.I.A. request, Dr Bratt, MHES, SPES, WAA, reports, email corresp., 09.07.-03.09.15.pdf;
- 4). MSD, O.I.A. request, Dr Bratt, MHES, SPES, WAA, reports, email corresp., MSD, 08.10.15.pdf;
- 5). Ombudsman, complaint, MSD, failure to comply w. O.I.A., 2 rqsts fr. 08.07.15, ltr, 01.11.15.pdf.”

Here is a PDF copy of the first complaint letter to the Ombudsman, dated 01 Nov. 2015:
<https://nzsocialjusticeblog2013.files.wordpress.com/2015/12/ombudsman-complaint-msd-failure-to-comply-with-oia-rqst-fr-08-07-15-anon-01-11-2015.pdf>

Following the then later received, partly unsatisfactory OIA response by MSD, the requester decided to write another follow-up complaint letter to the Ombudsman, where he still has at least three other complaints that are due to be investigated and/or decided on.

The following is the text of the complaint filed with the Ombudsman on 22 Nov. 2015 (here mostly in normal type):

“The Office of the Ombudsmen
 Level 10
 55-65 Shortland Street
 PO Box 1960
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22 November 2015

Complaint about the Ministry of Social Development (MSD) failing to provide information under the Official Information Act 1982 (O.I.A.), as per my two requests dated 08 July 2015; your reference number 41xxxx

Dear Ombudsman, dear staff at the Office of Ombudsmen

On 01 November 2015 I sent you a complaint stating that the Ministry of Social Development (MSD) had failed to provide a response to two requests I had on 08 July 2015 made under the Official Information Act 1982 (OIA). I can inform you that I did finally receive a response on 19 November, but as it has repeatedly occurred in earlier cases, some information that I asked for has not been provided, and some of that again without stating any reasons for it.

Hence I must follow up my earlier “delay complaint” with this further complaint letter, detailing what information MSD provided, and what the Ministry has withheld without giving any acceptable reasons for this. I do this following the advice in the response letter from MSD, to contact your Office, should I wish to have their response reviewed.

Like I mentioned above, I did on 08 July 2015 send two letters with a number of OIA requests to the Chief Executive of MSD. One letter contained only three straight forward requests for a cost component breakdown for the Jobseeker Support, Supported Living Payment and Sole Parent Support benefits. A separate letter contained 21 requests for more specified and comprehensive information.

Copies of both requests were sent to your Office, but I will nevertheless attach them again to this letter, so they are readily available to you.

My first OIA request from 08 July 2015

In my first request to MSD I asked for the mentioned “breakdown” of three main benefit types, the Jobseeker Support, Supported Living Payment and Sole Parent Support benefits, referring clearly to costs for food, clothing, accommodation, transport/travel, electricity, water, phone costs, social spending and so forth. I listed my questions numbered with 1 to 3.

MSD have only provided explanations that the base benefit rates are different dependent on benefit types (e.g. whether a person is single, partnered or a sole parent), that they are not based on a person’s previous income from employment, and that they are rather *“intended to provide an adequate income to meet basic living costs”*. Then MSD informed me that *“there is no legislative formula used to decide the “correct” rates of benefit”* and listed a few *“competing objectives and issues”* to take into account. I was informed of the annual inflation adjustment, but given NO reply to my actual questions, which asked, what components or parts of costs MSD considers for the listed common living cost items (e.g. food and so forth).

MSD have in my view failed to properly answer these three questions. I have been informed that MSD has at least in the past used specific cost calculations for determining how high the main benefits should be, in order to be sufficient for people to live from, and that was the information I expected. The questions I put to MSD, and the requests I made to them, should have been clear enough for MSD to provide the information that they use to determine living costs, and as far as I was advised some years ago, there were standard formula or so used (not *“legislative”*) to do this. I do not believe that MSD simply make up base benefit rates, without using some acceptable, available officially accepted guidance. I am familiar with separate allowances and top ups that are available for persons on benefits in certain circumstances, such as the accommodation supplement, disability allowance and temporary additional support. But those are special additions, which are not included in the main or base benefit rates, and persons need to prove they have extra needs to get these additional top ups. Hence I do expect a breakdown of the main or base benefit rates, which logically will have considerations for standard costs for a range of basic living expenses.

As MSD also administer ‘Studylink’, I wonder whether the Ministry uses similar considerations as are indicated in the following information shown on the ‘Studylink’ website:

<http://www.studylink.govt.nz/tools-and-calculators/on-course-budget-calculator.html>

On that page with their ‘Cost of living calculator’ there is mention of *“typical costs”*, *“estimates for most of the basic weekly costs”*, and under ‘How we got the real world estimates’ it says under point 3: *“Power, groceries, petrol, clothes, takeaways, leisure, toiletries/beauty/makeup these are the average person’s weekly spending, taken from the Housing Expenditure Survey 2007 and adjusted for inflation.”*

In any case, I know very few persons dependent on social security benefits, who feel that they have an adequate income *“to allow participation and belonging in society”*. Main or base benefit rates barely cover all the basic living costs, most certainly not here in Auckland, and there is no active participation possible for them in social activities, when compared to what persons with say an average income are able to do. In any case I must ask you as Ombudsman to remind MSD of my actual question, and to ensure the Ministry does actually properly answer the questions put to it and provides the information that I requested.

My second OIA request from 08 July 2015

Requests/questions 1 to 4

In the first four questions of my second OIA request I asked for specified information in the form of copies of reports from named senior professionals that have acted as either external or internal

advisors, and as “experts” to MSD, such as Prof. Mansel Aylward, Dr David Beaumont and also Dr David Bratt, the last person as MSD’s Principal Health Advisor (PHA). In the case of Dr Bratt I also asked for reports or correspondence exchanged between him and Prof. Aylward - or other research members - based at the ‘Centre for Psychosocial and Disability Research’ at Cardiff University in Wales. That Centre is now called ‘Centre for Psychosocial Research, Occupational and Physician Health’ (PROPH).

MSD have responded with the following comment:

“The reports and written correspondence you have requested regarding health, disability and work assessments do not exist. As such, question one to four of your request are refused under section 18(e) of the Official Information Act.”

Given the fact that we are talking about frequently quoted advisors and experts, who have without any doubt exchanged correspondence, and I presume reports, as was indicated by earlier responses by MSD to my OIA requests, I do consider this comment by MSD somewhat hard to believe. Perhaps such reports do no longer exist, because they have been destroyed, same as emails for a whole period that Dr Bratt is known to have previously deleted (including those exchanged with Prof. Aylward). That appears to be the only explanation for the provided reply to be credible.

I have read the Cabinet Paper ‘*Welfare Reform Paper C: Health and Disability*’ from 27 July 2012, made available by the Ministry (via the internet), and there are repeated references on how the so-called ‘Health and Disability Panel’ set up by Minister Paula Bennett and MSD “advised” the Ministry on matters relating to welfare reform. Under “*Executive summary*” and Paras 6, 7, 10 and 11, there are references made as to how the Panel “advised” the Ministry which would in the usual manner be done by way of a report. Under “*Summary: advice from the Health and Disability Panel*” and from Para 46 onwards, there are further such references made. Under Para 51 reference is made re how Panel members sought advice from Sir Mansel Aylward and Dame Carol Black, and under Para 64 there is mention of the “*Panel’s recommendation*”. Under Para 71 there is mention of a Panel subgroup, and APPENDIX TWO lists the members of the ‘**Health and Disability Panel**’, which includes Dr Davie Beaumont. APPENDIX THREE mentions the Work Capability Assessment (WCA) in the UK and a summary of evidence. The Work Capability Assessment was according to evidence I have based on earlier UK assessment methods that had been designed and recommended by Professor Aylward, and thus he has at least indirectly had input in the WCA.

Dr David Beaumont was according to my knowledge chairing the ‘Health and Disability Panel’ referred to in the Cabinet Paper above, and as the Panel appears to have presented reports to the Ministry, one must reasonably conclude, that Dr Beaumont was as part of that Panel authorising and signing any reports that were presented to MSD. Hence that report, like possibly others by or with the input of Dr Beaumont, should have been kept on record, given its importance. Therefore it cannot be correct that there are no reports that MSD received from Dr Beaumont, unless they have been destroyed without appropriate authority.

I also note that in a ‘*Speech to medical professionals*’ former Minister Paula Bennett made the following comments:

*“The focus for people with disabilities and long lasting conditions will be on their barriers to work not just their health, and we’ll be hands on, early on. **This was an important point made by the experts on the Health and Disability panel which I established to review our proposed welfare changes. It also echoes the UK’s assessment processes and the “Pathways to Work” initiative for vocational rehabilitation designed by Professor Sir Mansel Aylward. When I sat down with Sir Mansel earlier this year he told me that health conditions account for just 10 to 15 per cent of barriers to work for people on disability benefits. He said that many health conditions or disabilities can be well managed in work but addressing other barriers are just as important.**”*

*“In fact renowned academic and clinician Dame Carol Black found that joblessness is likely to lead to a myriad of health problems both psychological and physical. Points echoed by Professor Sir Mansel Aylward and Australian academic Dr Debra Dunstan. **Sir Mansel says that health wise, after six months of unemployment each day off work is as detrimental as smoking 200 cigarettes.**”*

Here is a link to a website showing a transcript of that speech:

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

Also did the NZ Doctor magazine report on 29 February 2012 under “*Four GPs advise on new benefit*”, that 4 GPs had been included in the mentioned ‘Health and Disability Panel’. NZ Doctor stated that they only managed to obtain the names of the Panel members after repeated efforts under the OIA. NZ Doctor mentioned all members by name, which had in the year before been refused to be made public by the Ministry, and Dr Beaumont is also listed as a member of that Panel. Paula Bennett, who provided the names to NZ Doctor refused to release other details, “*due to confidentiality of advice*”.

MSD have then and up to now continued, to keep a high degree of secrecy about the Health and Disability Panel and its reports, and there is very little information found on the internet. It is beyond belief that MSD do in the OIA response to me simply deny the existence of any reports from the likes of Drs Beaumont and Aylward, while they were evidently involved in providing advice to the Ministry. Such advice will not simply and only have been provided verbally; as such expert advice tends to be presented in proper reports.

Dr David Bratt has according to his position description, which I have a copy of, also responsibilities that cover advice on policy matters, hence it must be expected that he as the Ministry’s senior advisor on health and disability matters will also have been presenting reports and exchanging them not only with Ministry staff, but likely also some external advisors. In that position description it says under ‘*Purpose of the Position*’: “*The Principal Health Advisor will lead key staff within Work and Income to develop and document medical policy, operational guidelines and provide advice to regional staff where required*”. As I already informed your Office on previous occasions, he has also cooperated closely with Professor Aylward, even producing joint presentations. He has used references to Mr Aylward’s reports, and such that Prof. Aylward co-authored with Dr Waddell, in many of his presentations, so he must have received reports from experts like Mr Aylward, in his capacity as PHA, to access and use reports by Prof. Aylward. Hence Dr Bratt must at least have been presented the mentioned reports by Dr Aylward, same as they will have exchanged much correspondence, not only limited to booking of travel and conference attendance. The recent visit by Dr Bratt to the UK, upon invitation by Prof. Aylward, will inevitably also have involved the creation and exchange of reports, but none of these have been made available by MSD.

As all these professionals were evidently involved in advising MSD and the then Minister on the supposed “health benefits of work” and experiences in the UK, as part of the government formulating and drawing up new social security policy from 2011 to 2013, reports must have existed, so the Ministry must have used a General Disposal Authority (GDA) released by the Chief Archivist under the Public Records Act 2005, to destroy the formerly existing reports.

I ask you as Ombudsman to investigate whether the asked for reports did previously exist and whether they were then later destroyed, as the response by MSD does not clarify this. In the case that the reports were destroyed, I ask for which GDA (issued by the Chief Archivist) the Ministry used as an authoritative guide to destroy said reports. In any case, it is my view that such reports should not have been allowed to be destroyed, as they will have been too important to fall under lower priority level types of records.

Requests/questions 5 and 6

I appreciate the clear answer by MSD that Dr David Beaumont and Helen Lockett (from the Wise Group and ‘Workwise’) did not declare any conflicts of interest, while they took part in the ‘Health and Disability Panel’ consultation process set up to advise the Ministry on welfare reform, where health and disability issues of persons on benefits on health ground, and reforms to “assist” such persons into jobs were discussed and considered. I know that Helen Lockett was then, and has been for years, the Senior Policy Advisor for her employer, who would have had a strong interest in gaining future contracts with MSD. I know also that **Dr Beaumont did then, and has for many years, operated his own rehabilitation business “Pathways” in Otago**, which has also been targeting persons with health and disability issues dependent on benefits, to assist them into work. The fact that they did not declare any conflict of interest is significant for me to take note of, and must be of concern to the public.

Request/question 7

I take note that MSD have answered to this question as part of the group of questions / requests 5 to 8, and state the following: *“Four panel members declared a potential conflict of interest which can include other forms of employment, memberships to another organisation or family relationships. However, upon review the declared conflicts were not deemed significant. The conflict of interest forms are withheld under section 9(2)(a) of the Official Information Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.”*

This may be the decision that senior persons within MSD have made, but I challenge the consideration that it is not in the public interest to know about any conflicts of interest that nearly a third, if not half (including Dr Beaumont and Helen Lockett) of all the members of that Panel appear to have had. That is a significant number of members of the ‘Health and Disability Panel’ to have been allowed to act as advising members on such a high level panel, despite of having had a conflict of interest. The advice the Panel gave to MSD, to proceed with the much hailed reforms based on the supposed - but insignificantly proved - *“health benefits of work”*, is of great concern. It is my view that the proposed and now implemented policy reforms do ultimately put sick and disabled persons at risk, given the strong focus on “work ability” that has been adopted. The fact that even persons with terminal cancer were at least until recently advised that they have to go on the “Jobseeker Support” benefit, in order to get support during needed treatment, has raised serious questions. Also have there been other cases of misdiagnosis and wrong declarations for persons to be “fit for work”, where this was clearly not the case. Similar attempts to assess sick and disabled in the UK have led to serious harm to some affected. Hence I consider it more than reasonable to ask MSD to make available the completed conflict of interest forms, as the interest of the public to get transparency on the particular conflicts of interest is greater. There appear to have at least been some conflicts of interest, where a service provider like the Wise Group (and with that ‘Workwise’) was allowed to have their Senior Policy Advisor sit on that Panel, while having a commercial business interest in potentially gaining service contracts with the Ministry, should the agreed advice by the Panel result in using providers such as ‘Workwise’ to deliver services. As I have learned through media and earlier OIA responses (24.04.2014), ‘Workwise’ have actually been given significant contracts to “trial” the new services, for handsome fees for successfully referring unemployed with health issues into employment. Also did Dr Beaumont and his company ‘Pathways’ at least then have a potential future commercial business interest, as the reforms advised to MSD could have also provided additional clients to use his rehabilitation business.

Request/question 8

This was supposed to be covered by the combined response MSD gave to questions 5 to 8, but it has not been answered at all. I asked for any conflict of interest declaration that MSD received and holds on Principal Health Advisor Dr David Bratt and on Principal Disability Advisor Anne Hawker. No answer has been given, and this is yet again a case where MSD have omitted important, requested information from their response, without giving any explanation for it.

Hence I must ask you as Ombudsman to investigate this matter, and request an explanation for this from MSD. If there are conflict of interest declarations that were presented to MSD and are held by the Ministry, I ask that copies of these will be made available.

Request/question 9

I appreciate MSD’s response that Dr Bratt conducted a two month “study trip” to Europe (between 29 March and 31 May 2014), and that it “benefited” the Ministry in a number of ways. I also take note that Dr Bratt went to the UK and Europe upon an invitation from Prof. Aylward. I do particularly note that Dr Bratt worked with Sir Mansel Aylward from 28 April to 29 May 2014, and that Dr Bratt also met with the Chief Medical Officer to the Department of Work and Pensions, the senior health managers at Atos and the UK’s Minister of Health and Social Care, same as with Dame Carol Black.

The Ministry informs me that it “contributed” \$6,915 towards attendance of Dr Bratt at the master class and conference and travel costs.

With my question from 08 July I had actually asked for reports to be made available, but none have been, apart from a very general overview of Dr Bratt’s trip and contacts in the UK and Europe. I specifically asked for copies of reports on Dr Bratt’s actual engagements there, and also on the costs and possibly received subsidies, but none of these particular reports have been provided with the Ministry’s response.

Given that Dr Bratt was in Europe for two months, and one month of that in the UK, working also with Prof. Aylward and meeting many other officials and professional experts, it is also not quite conceivable as to how all the related costs for travel, accommodation and provisions could have been covered by the relatively humble amount that MSD have quoted. I am under the impression that other costs were incurred, that had to be paid, and that were then being paid, but no information has been provided about any possible subsidies or similar that may have covered these.

Hence I must ask you as Ombudsman to clarify with MSD what reports were prepared on Dr Bratt’s travel and professional or “study” engagements in Europe, particularly in the UK, and why copies were not made available with the response provided.

Request/question 10

The response by MSD is appreciated, and I gather that no sponsorship funding was received for Dr Bratt’s attendance of the ‘2014 Integrated Master Class’ meeting(s). I am unclear though who paid for Dr Bratt’s accommodation and provisions during that attendance, and it appears that it was partly also covered by the already mentioned \$6,915. If that is the case, I would appreciate the relevant share of those total expenses to be clarified.

Requests/questions 11 and 12

I appreciate the information provided by MSD on these questions and do not expect any further information on these.

Requests/questions 13 and 14

MSD has provided expenditure on Medical Appeal Boards which I appreciate. But by looking at the data provided in the attachments on ‘Medical Appeal Board Decisions’ and ‘Summary Statistics’, there are for the year ending 30 June 2013 still 95 appeals listed as “*in the process of being reviewed internally or are waiting for a medical appeal hearing to be scheduled*”. For the year ending 30 June 2014 a number of 55 is given for the same category and with the same explanations. This does not seem to make any sense at all, as it is unbelievable that hearings are waiting to be scheduled or being reviewed internally for more than one or even two years. It is possible they were decided the following year, but that is not clearly explained or stated.

I must ask you as Ombudsman to approach MSD and seek an explanation for this, which I ask to be provided. Surely appellants cannot still be waiting to be reviewed or to be rescheduled up to now, from those periods.

Request/question 15

I admit that by asking for ‘request for review’ details prior to Medical Appeal Board appeals I may not have asked a clear enough question, so I will not expect further information on this request and consider asking more specifically in future.

Request/question 16

I am satisfied with the information provided in the attached documentation.

Request/question 17

This question was referred to the Ministry of Health to respond to, and I received a reply from them in late August 2015.

Requests/questions 18 and 19

MSD have lumped all the questions numbering 18 to 21 in my second request together into one set of answers, being broken down for 'Mental Health Employment Service' and 'Sole Parent Employment Service', but when looking at the response received, only questions 18 and 19 have actually been responded to – and that only in part.

Like with answers given to a previous OIA request I filed with the Ministry, the information provided is not clear enough. While I can conclude that the number for those "enrolled in the trial" are simply just the ones enrolled at the end of February 2015 point of time, there is no clarity about the numbers of persons that have obtained lasting employment. It appears the figures are only taken from the number of persons that are "enrolled" at the end of February. Hence I get NO information on the total numbers of persons on such trials that have been placed into lasting employment for the whole past trial period up to that time.

MSD did in earlier responses also provide some broken down figures on how many persons had been approached to participate in the trials, how many had been referred to the two services, how many had participated, and how many had exited the service for a variety of listed reasons. MSD had earlier also presented some figures on how many had refused or declined to participate. I may refer to MSD's responses from 24 April 2014 and 26 February 2015. Then there were hardly any figures provided for persons placed in employment (only a small number was mentioned in the earlier response from 24 April 2014).

The way the responses are given, it is unclear whether the numbers for persons for both trials that have been put into employment are for the whole periods the trials have run, or just for the one month (February 2015). Also are the figures somewhat dated, and older than 8 months, which is not the kind of update I had sought.

I must ask for clarification re the persons placed into employment, whether the numbers provided for the end of February this year are totals for the whole trial period, or just for that one month, and hence I seek your assistance to commit MSD to give a clear answer.

It is in my view also unacceptable that MSD will apparently not provide any evaluation on their trials prior to June 2016, while Jo Goodhew did as Associate Minister inform Carmel Sepuloni, Spokesperson for Social Security for Labour, during Question Time in Parliament on 17 September 2015, that an interim evaluation would be presented later this year, which was already planned to be provided in the middle of this year. It appears that MSD are repeatedly postponing the evaluation of their trials, and leave the public in the dark about the actual outcomes of trials. While that may be out of scope for you as Ombudsman to take any action on, I do at least seek the above mentioned clarifications for the end of February data.

Requests/questions 20 and 21

MSD have not provided any answer at all to my remaining two questions in my Official Information Act request from 08 July 2015. MSD have not given any information on 'Work Ability Assessments' and 'Specialist Assessments'. And no reason has been given for this. Whether this was an honest oversight, or whether MSD staff may have conveniently forgotten to provide that information is a matter I can only speculate about.

In any case, I feel I should have been provided the sought information, or if it cannot be made available, or would be withheld for a particular reason, then I would expect a clear statement to that effect. Hence I must ask your Office of Ombudsmen to again remind MSD of their obligation under the Official Information Act, and to provide the information.

To summarise the above, I consider that I still deserve a response or further response in respect of questions 1 to 3 in my first OIA request from 08 July 2015, and that I still deserve a further response to questions in my second request from 08 July 2015, being to questions 1 to 4 (on whether reports existed, and why they no longer exist), to question 7 (provision of conflict of interest forms), question 8 (conflict of interest declarations by Dr Bratt and Anne Hawker), question 9 (why are reports missing, and who paid Dr Bratt's other costs), question 10 (share of costs paid), questions 13 and 14 (clarification on some MAB data), questions 18 and 19 (clarification re persons in work, for what period, also further data previously made available) and questions 20 and 21 (no answer at all was provided).

I regret having to seek your assistance yet again, but given the response by MSD, I must consider that it is for me the only logical next step to ask for your intervention, so to ensure that MSD actually provide the information that was requested.

As usual, your response in due time will be much appreciated.

Yours sincerely

Xxxxxxx Xxxxxxx

Attachments (15 PDF files) to email(s) carrying this letter, plus 1 reference/link:

- 1). *'MSD, O.I.A. request, base benefit rates, break down into cost components, 08.07.15.pdf'*;
- 2). *'MSD, O.I.A. request, Dr Bratt, MHES, SPES, WAA, reports, WINZ sundry data, 08.07.2015.pdf'*;
- 3). *'MSD, O.I.A. request, MHES, WAA, reply, Xxxxxx, Xxxxxxx - Final response dated 24 April 2014#2.pdf'*;
- 4). *'MSD, O.I.A. request, MHES, WAAA, other suppt services, issues, reply, 26.02.2015.pdf'*;
- 5). *'Ombudsman, OIA complaint, MSD, ref. 417207, further complaint ltr, X. Xxxxxx, 22.11.15.pdf'*;
- 6). *'Bratt + Aylward - Shifting Your Primary Focus to Health and Capacity, June 2013.pdf'*, file with a joint presentation by Dr Bratt and Prof. Aylward, from June 2013;
- 7). *'1100 - cs3-a - happy docs true generalism with welfare reform - david bratt, July 2013.pdf'*, a further presentation by Dr Bratt, containing info sourced from Aylward, see slides 15, 18, 19 + 26, from July 2013;
- 8). *'Fri_DaVinci_1400_Bratt_Medical Certificates are Clinical Instruments too - June 2012.pdf'*, another Bratt presentation, 2012, see reference to Prof. Aylward, slide 20;
- 9). *'Aylward presentation, worklessness and health, a symposium, media_210440_en, d-load 27.03.14.pdf'*, a presentation by Prof. Dr Aylward, showing clear similarities in contents and reference sources to the ones presented by Dr Bratt;
- 10). *'Public Health Wales, Aylward to meet Bratt, 25 02 Chair report June 13 v1, June 2013.pdf'*, a publication showing details about meetings between Dr Bratt and Professor Aylward, June 2013; 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/>
- 11). *'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)

- 12). NZ Doctor magazine article on ‘Health and Disability Panel’:
‘NZ Doctor, Four GPs advise on new benefit, Helen Tatham, H + D Panel, 29.02.2012.pdf’
- 13). Official Position Description for ‘Principal Health Advisor’:
‘MSD, O.I.A. Request, Principal Health Advisor, position description, Jan. 2007.pdf’.
- 14). *‘GPNZ, European conference participation, Dr Bratt, 2014-Masterclass-Programme-FINAL.pdf’*, a record showing other evidence on Dr Bratt visiting Europe in early 2014;
- 15). 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>
- 16). 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>

Note re attachment 10 to the letter above:

The referred to link for info on Dr Aylward no longer works, so the following must be used:
<http://sites.cardiff.ac.uk/experts/professor-sir-mansel-aylward-cb-dsc-ffpm-ffom-ffph-ffrcp/>

Here is a link to a PDF with the text of the second complaint letter to the Ombudsman, dated 22 Nov. 2015:

<https://nzsocialjusticeblog2013.files.wordpress.com/2018/03/ombudsman-complaint-msd-failure-to-comply-with-oia-rqst-fr-08-07-15-anon-22-11-15.pdf>

G) CONCLUSION

So in summary, we can conclude again, that MSD appear to be rather selective regarding what information they make available upon specified OIA requests and what not. And when information is provided, it is often not even the information that was primarily asked for. And yet again, some requests or questions were simply ignored and not responded to at all.

This is now a common feature of such OIA responses from MSD, and it appears that the intention is to withhold information that is deemed “too sensitive” to make available, so the usual refusal explanations and reasons are given. And where no or insufficient information is provided, the intention appears to be to force requesters to make complaints to the Office of Ombudsmen, which do generally take at least 3 to 6 months to get any kind of proper response to. If an investigation is conducted, it can take up to a year or even two or more years, for a final decision to be made. The calculation at the top level of MSD seems to be, that by then any sensitive information formerly withheld will be considered less relevant and less damaging, as MSD may in the meantime have adjusted or improved certain processes that may have lead to unsatisfactory outcomes of certain trial or what else they may pursue as part of their day to day tasks and also longer term policy.

With the requester we will look forward what our Ombudsman will decide about the complaint filed.

Quest for Justice