

Our ref 41,7 (Complaint ground: 4 0)

Contact C.

19 March 2018

Ombudsman

Fairness for all

Mr

By email. _____@yahoo..

Dear Mr

**Complaint under the Official Information Act 1982 (OIA)
Information requests of 8 July 2015 to the Ministry of Social Development**

I am writing on behalf of Chief Ombudsman Peter Boshier, with reference to your OIA complaint about the decision of the Ministry of Social Development on your information requests of 8 July 2015.

Thank you for your email of 12 March 2017 regarding your first request of 8 July 2015, which concerns the calculation of benefit rates. I previously wrote to you advising that in light of the updated explanation provided by the Ministry on 8 March 2018, it appeared appropriate to discontinue the Chief Ombudsman's investigation.

I acknowledge you remain concerned that '*...the Ministry does not refer directly to average costs of essential living costs like food, electricity, clothing and so forth...*' You have said you '*do not for one minute believe that no calculations ... were ever made to work out benefit rates.*' In your view, it is unreasonable for the Ministry to suggest that benefit rates are set without making provision for the purchase of essential goods.

The Ministry has however provided you with an explanation of how benefit rates are set. Having reviewed this explanation, there is no direct reference to the average cost of essential goods and services. That is, the benefit rates, as set out in the schedules to the Social Security Act 1964, are not a sum total of average costs for food, accommodation, electricity, and so on.

I appreciate you are of the view that benefit rates *should* be calculated with reference to costs for essential items, and that these costs would be easily ascertainable with reference to materials from Statistics New Zealand. However, decisions by Parliament, as to the setting of benefit rates in the Social Security Act, and any advice provided by the Ministry on those rates, are outside the scope of the Chief Ombudsman's investigation and review under the OIA. 'Official information' under the OIA is information already known to, and held by an agency. The OIA does not require an agency to form an opinion or create new information to answer a request, including a request for justification of a policy approach.

Section 17(1)(f)(ii) of the Ombudsmen Act 1975 provides that an Ombudsman may decline to further investigate a complaint if it appears that, having regard to all circumstances of a case, and having commenced an investigation, further investigation is unnecessary. In light of the updated explanation provided by the Ministry, and given that your complaint raises what is predominantly

Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata

L7, 70 The Terrace, Wellington 6011
PO Box 10 152, Wellington 6143
New Zealand

Tel: 61 4 473 9533 Fax: 61 4 471 2254
Free phone: 0800 802 602
www.ombudsman.parliament.nz

a policy issue, rather than a request for official information under the OIA, I confirm that further investigation of your complaint about the Ministry's decision on your first request of 8 July 2015 is unnecessary, and the Chief Ombudsman's investigation has been discontinued.

I confirm however that the investigation of the Ministry's decision on your second request of 8 July 2015 is ongoing, and that a report is expected shortly from the Ministry. You will receive further correspondence once that report has been received and considered.

Yours sincerely



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Manager: Investigations and Resolution, Auckland Office