



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

11 APR 2017



Dear 

On 22 March 2017, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Information about steps to take to Appeal a decision to suspend a New Zealand Superannuation, and whether the Ministry exempt any individual superannuitant from the requirements of section 69G of the Social Security Act 1964.*

The Benefits Review Committee is a review body that is established under the Social Security Act. It enables people to ask for a review of a decision that has been made about an application for income support or a pension.

A 'Review of Decision' is an application for the decision to be heard by the Benefits Review Committee.

There are three stages to the review and appeals process:

- Stage 1, Internal Review

When a client applies for a 'Review of Decision' the Ministry carries out an internal review to examine any new information, review the information from which the original decision was made and to verify that the decision made was in accordance with the appropriate legislation.

- Stage 2, Benefits Review Committee

When the internal review outcome is not favourable ('upheld') or only favourable in part ('upheld in part') to the client, the decision must be heard before a Benefits Review Committee without any further request from the client.

- Stage 3, Social Security Appeal Authority

When the original decision is upheld (or partially upheld) by the Benefits Review Committee, the client can appeal to the Social Security Appeal Authority (SSAA). The SSAA is an independent judicial tribunal administered by the Ministry of Justice.

Benefits Review Committees meet regularly and they comprise three people who have had no involvement with the original decision. One will be a person from the community that the Minister for Social Development has appointed. The other two are usually experienced staff from the Ministry of Social Development.

Page 1 of 3

More information about the review and appeals process can be accessed at: www.workandincome.govt.nz/about-work-and-income/complaints/review-of-decisions.html

Every person who applies for a benefit or pension is expected to take all reasonable steps to obtain any overseas pension they may be entitled to receive under section 69G of the Social Security Act 1964.

When a person applies for NZS the Ministry will check their residency details to identify if the person may qualify for an overseas pension. The Ministry will contact any person meeting the criteria to advise they may qualify for an overseas pension and the steps required in order to make an application.

There are some circumstances where it may not be reasonable to expect a person to apply for an overseas pension, and with evidence, this requirement may be lifted. The term 'reasonable steps' is not defined in legislation and each claim is considered on a case by case basis.

The following examples are where the Ministry may consider it to be unreasonable to take steps to apply for any overseas pension, where a person:

- is terminally ill with a life expectancy of less than two years
- has come to New Zealand as a refugee and where requiring them to apply for a state-administered pension may put their life at risk
- has lived or contributed in a country for less than the minimum period required, for the minimum amount of pension to be paid.

Verification must be provided to support any claim that it would be unreasonable for a person to take steps to obtain an overseas pension.

The Ministry is unable to provide you with information about every case there has been to date where the Ministry has not required a superannuitant to comply with section 69G, as it is held in notes on individual case files. In order to provide you with this information Ministry staff would have to manually review thousands of files. As such I refuse your request under section 18(f) of the Official Information Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response about reasonable steps to be taken to obtain an overseas pension under section 69G with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



PP Elisabeth Brunt
General Manager, Ministerial and Executive Services