



**MINISTRY OF SOCIAL  
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

- 4 MAR 2016

Mr Simon Connell

[fyi-request-3593-be02e02d@requests.fyi.org.nz](mailto:fyi-request-3593-be02e02d@requests.fyi.org.nz)

Dear Mr Connell

On 2 February 2016 you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *All Ministry of Social Development internal correspondence, and all correspondence between the Ministry and the Minister/Minister's Office regarding the Official Information Act Requests made by myself and Andrew Geddis via the fyi.org.nz website regarding the Social Security (Commencement of Benefits) Amendment Bill (both dated 19 November 2015) in particular any correspondence referring to the timeframes for responding to Official Information Act requests.*

Please find enclosed two documents which have been assessed as in scope of your request regarding your Official Information Act request you received on 18 January 2016:

1. 'Report', dated 21 December 2015.
2. 'Memo', dated 23 December 2015.

You will note that the names of some individuals are withheld under section 9(2)(a) of the 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.

The information you have sought regarding the correspondence for Mr Andrew Geddis' information request is refused under section 9(2)(a) of the 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.

I hope you find this information regarding the correspondence about your information request dated 18 November 2015 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

A handwritten signature in black ink, appearing to read 'Crisk', written over a horizontal line.

Carolyn Risk  
**Deputy Chief Executive, Organisational Strategy**



# Report

**Date:** 21 December 2015      **Security Level:** In Confidence  
**To:** Deputy Chief Executive, Service Delivery

**Official Information Act Request: Connell, Simon (individual) – Copies of internal estimates on the potential financial Crown costs of not correcting the error in the social security Act 1989, that has been provided to Cabinet.**

### Recommended actions

It is recommended that you:

- |   |  |                  |
|---|--|------------------|
| 1 | <b>Note</b> the contents of this report          | Agree / Disagree |
| 2 | <b>Sign</b> the attached letter to Simon Connell | Agree / Disagree |

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Rachel Sutherland  
General Manager  
Ministerial and Executive Services

21/12/15

Date

## Due Date

- 1 Although the response is due to the requestor on 17 December 2015, a letter has been sent to Mr Connell to notify him that the Ministry is intending to provide him with the documents which are in scope of his request. This satisfies section 15(1)A of the Official Information Act.

## Background

- 2 Mr Simon Connell is a law professor for the Faculty of Law at the University of Otago. Prior to working at the University of Otago, Mr Connell worked for the Accident Compensation Corporation (ACC). He is a prolific blogger on pundit.co.nz and has recently published a discussion piece on the website.
- 3 This is the request the Ministry has received from him. On 22 October 2015, Mr Connell wrote to the Minister for Social Development asking how the law has been applied regarding to the payment of a benefit following a stand down. A copy of the response is attached for your reference.
- 4 The Ministry has received a number of separate requests regarding the benefit commencement date:  

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  - On 19 November 2015, the Ministry received a request from   (individual) for information regarding the internal estimates on the potential financial costs to the Crown provided to Cabinet for the error.
- 5 On May 2014, the Social Security Appeal Authority alerted the Ministry that a benefit should commence on the day the stand down period ends, not the day after as it is intended and is the current practice.
- 6 The Government's policy and operational practice is and always has been that a benefit commences on the day after a stand down period ends. The purpose of a stand down is to encourage people to make provision for a short period without income before relying on state assistance.
- 7 The Cabinet paper presented on 28 September 2015, sought agreement to expedite the correcting amendment to the legislation, with some changes impacting groups affected by the retrospective effect of the change.
- 8 On 17 November 2015, Parliament passed the Bill to have the amendment corrected to align the legislation with the Government's policy. The Bill received Royal Assent on 23 November 2015.

## Suggested Response

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9 The same documents have been proposed for release to   for Minister Tolley's response to a request for all documents regarding the changing of the benefit commencement date.
- 10 Mr Connell is provided with contextual information regarding the amendment of section 80BA of the Social Security Act that affects the benefit commencement stand down period.

11 Mr Connell is provided with the following document that is within scope of his request:

- 'Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period (Cabinet paper)', dated 24 September 2015. The Cabinet paper sought agreement to expedite amendments to the Social Security Act 1964 in relation to the benefit commencement dates after a stand down to align the legislation with Government policy intent and avoid unintended Crown Costs.

12 Some information is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

## Risks and Issues

13 This response is of **high** risk.

14 The costs to the Crown not only include the repayments to the beneficiaries who have been paid incorrectly after a stand down period, but also there is a significant operations cost of processing the applications for the Review of Decisions, related to the backdated payments related to the commencement date of benefits.

15 Ministry staff have worked over time to process over 20,000 applications to correct the benefit payment dates. This volume of work as well as completing their everyday workload will put added pressure on staff and incurs additional operational costs to the Ministry. The Ministry can expect to receive more applications to review, as the period for applications for a review closes on 8 January 2016.

### 16 Risk

Mr Connell may be critical that the Government changed the legislation to align with the Government's practice.

#### Mitigation

It is and always has been the Government's intent to commence a benefit on the day after a stand down period rather than the last day. The Ministry's practice of commencing the benefit on the day after a stand down period ends is now in line with the current legislation.

#### Risk

Mr Connell may be critical that the costs associated with the correction of the incorrect payment could be in the range of \$100 million with around 2.6 million benefit stand down between 3 June 1998 and September 2015, affecting 1.3 million clients.

#### Mitigation

The Government has allowed a six week period in which clients can submit an application to have their additional day paid following a stand down period. The numbers provided for the Cabinet paper are estimates only and the full cost to the crown will not be known until the six week application period has concluded. The Ministry has developed an online process for people to lodge reviews within 6 weeks of the legislation passing to assist clients to lodge a review.

## Consultation

- 17 Service Delivery and Policy have been involved in this response, from compiling the relevant information to consulting on risks and the proposed response.
- 18 The Minister's Office has been provided with the response as part of the Ministry's "no surprises" approach.
- 19 A sign-off sheet is attached and tagged in the file.

File Reference: **OIA/11/15-26876**

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## Record of Decision

**Has the requestor sought urgency?**

No.

**Can the information be identified? Can it be found? What do we think the requestor is asking for?**

Yes

**Will answering the request require substantial collation and research?**

No

**What are the countervailing reasons to withhold the information?  
How do the Public Interest and the reasons to withhold weigh up?**

Some information is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

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**Sign Off Sheet**

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**Quality Name:**  
**Date:**

The response meets the criteria set out on the QA Sheet

The response is in accordance with the requirements of the Act, addresses the scope of the request, is of good general quality, and has been properly consulted on.

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**Communications (if any)**  
**Name:**  
**Date:**

**Rachel Sutherland**  
**General Manager, IRAC**  
**Date:** 24/12/15

No media strategy is required  
 A media strategy is attached, or noted below

The response addresses the scope of the request, is of good quality and has been completed in accordance with the provisions of the Official Information Act.

**Business Unit One: Service Delivery**

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**Deputy Chief Executive**  
**Name: Ruth Bound**  
**Date:** 22/12/15

All information within the scope of this official information request has been identified by my business unit, provided to OPI, properly documented in this response, approved for release or withholding in part or in full, and is factually correct..

**Business Unit Two: Housing Income Support and Employment**

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**General Manager**  
**Name:**  
**Date:**

**General Manager**

All information within the scope of this official information request has been identified by my business unit, provided to OPI, properly documented in this response, approved for release or withholding in part or in full, and is factually correct..

**Comments / Caveats:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## Document Table

The following documentation has been scoped and identified in consultation with Policy and Service Delivery

No.	Date	Title	Decision	OIA Section(s)	Previously Released?
1.	24/09/15	<i>Correcting the Social Security Act 1964 in relation to the benefit commencement date after a stand down period (Cabinet paper)</i>	Release in part	Section 9(2)(h)	No

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## Official Parliamentary Team – Checklists

### Chief Executive's Response

Report tagged to file	/
Original request placed directly behind report to Chief Executive and tagged with a yellow "letter to CE" tag	/
Response and any information proposed for release is placed in a coloured plastic file	
All documentation proposed for release is marked with the 'Released under the Official Information Act' stamp	
All documentation proposed to be withheld is printed on pink paper	
Duplicate set of documents recommended for release (that have not previously been released) is to be retained by OPI for filing	/

### Official Parliamentary Team – Peer Review

I have consulted the Official and Parliamentary Team Quality Assurance checklist and am confident that the response and the report are of a high standard and in accordance with the Official Information Act 1987

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[Redacted Signature]

Ministerial and Executive Services Advisor  
Official and Parliamentary Information Team

Date

#### Comments:

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memo

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**To:** [redacted] Private Secretary Social Development  
**From:** [redacted] Advisor, Official and Parliamentary Information  
**Date:** 23 December 2015 Section 9(2)(a) Privacy of Natural Persons  
**Security level:** UNCLASSIFIED

**OIA Request: Connell, Simon (individual) – Copies of internal estimates on the financial Crown costs of not correcting the error in the Social Security Act 1989, that has been provided to Cabinet.**

**Action:** For Information

Please find enclosed a copy of an Official Information Act request from Simon Connell regarding internal estimates provided to Cabinet in relation to the error in the social Security Act 1989.

This file is being provided to you, in accordance with the Ministry's 'No surprises' agreement with your office.

Please note that this file has been provided to the Chief Executive's office today. We are expecting this to be signed and sent by 6 January 2016.

Should you have any queries, please feel free to contact me on [redacted]

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Regards

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