

15 MAY 2017

David Dahya
Fyi-request-5727-cc207af2@requests.fyi.org.nz

Dear Mr Dahya

Official Information Act 1982 request

Thank you for your email of 13 April 2017 requesting, under the Official Information Act 1982 (OIA), information relating to your appeal to the Social Security Appeal Authority (the Authority).

Specifically you have requested the following:

1. "Can the matter (my original letter December 2014) be re-presented to MSD for a decision to be made?"
2. "I would like to know could the Authority have referred the matter back to MSD to make a decision on the matter so that it could be addressed by the Authority if still required?"
3. "Why didn't the Authority question/ look into my claim (made from the very beginning) that a decision was actually made at BRC hearing by the MSD representative who stated approximately 'There is no legislation and so there is no obligation'."
4. "Why didn't the Authority ask why the BRC didn't accept my written submission (on the day) which clarified several points of the hearing."
5. "Why didn't the Authority ask the BRC panel why MSD representative MD's presence (and input) at the hearing were not recorded on official MSD documents including the BRC report?"

I must advise that the information you request falls outside the provisions of the OIA. Section 2(6)(b) of the OIA specifies that it does not apply to the judicial functions of a court or tribunal. Information obtained by the Authority during the course of a complaint is considered to be Authority record rather than official information. Accordingly, your request is refused pursuant to section 18(g) of the OIA as the Ministry does not hold the information you have requested.

I note from your correspondence that you have made a request for information to the Authority and that you are unhappy with the response you received. Please note that access to the Authority record is governed by legislation and there are specific rules around how this information can be released. Any decision to release information considered to be Authority record is a judicial decision. The Ministry of Justice cannot intervene or comment on this decision making process.

If you are not satisfied with my response to your request you have the right to make a complaint to the Ombudsman under section 28(3) of the OIA. The Ombudsman may be contacted by writing to the Office of Ombudsman at PO Box 10152, Wellington 6143, by phone on 0800 802 602 or by email to info@ombudsman.parliament.nz.

Yours sincerely



Jacquelyn Shannon
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Ref: 62020