



Australian Government
Department of Social Services

Mr Ewan Hazell
Acting National President
Australian Council of Public Sector Retiree Organisations Inc.
12 Muresk street
Farrer ACT 2607

Dear Mr Hazell

Freedom of Information (FOI) Request No. 15/16-150

1. I refer to your correspondence received by the Department of Human Services (the Department) on 23 May 2016 and transferred to the Department of Social Services (the Department) on 30 May 2016, in which you seek access under the *Freedom of Information Act 1982* (FOI Act) to:

Documents ... that would provide answers or partial answers to the following Questions:

1. *What is the total number of defined benefit pensioners, including partners, who have had their part age pensions cancelled or reduced as a result of this measure?*
2. *What is the total annual savings to the Government of the 10% cap measure?*
3. *How many of those defined benefit pensioners including partners, have had their part age pensions completely cancelled*
4. *What has been the total annual saving to the government of those cancellations?*
5. *How many defined benefit to pensioners (and partners) with defined benefit pensions in the following ranges have been affected:*

< \$15,000pa
\$15,000-\$19,999 pa
\$20,000-\$24,999 pa
\$25,000-\$29,999 pa
\$30,000-\$34,999 pa
\$35,000-\$39,999 pa
\$40,000-\$44,999 pa
\$45,000-\$49,999 pa

6. *Of all those retirees affected by the 10% cap, how many had no pre-July 1983 employer contributions?*
 7. *How many retirees, including partners, were affected by the 10% cap on the basis of pensions purchased with their personal after-tax contributions to their defined benefit schemes*
 8. *How many defined benefit pensioners are now receiving reduced disability support pensions as a result of the 10% cap?*
2. I am authorised to make decisions under subsection 23(1) of the FOI Act. The following is my decision and the reasons for the decision.

Decision on access to documents

3. With regard to the following parts of your request:

1. *What is the total number of defined benefit pensioners, including partners, who have had their part age pensions cancelled or reduced as a result of this measure?*
 3. *How many of those defined benefit pensioners including partners, have had their part age pensions completely cancelled*
4. I am advised that the Department has in its possession 1 document, consisting of 4 pages, that falls within the scope of this part of the request.
5. This document is the departmental response to your letter to the Minister for Human Services dated 9 March 2016 (and transferred to this Department). A copy of this document was provided to you on 18 May 2016 but we are happy to provide you with another copy should you require one.
6. Questions 1 and 3 of your request have been answered in paragraph 1 of page 2 of our letter dated 18 May 2016 ie. *As at 1 January 2016, 47,938 people had their rate of income support reduced. Of this group, 1,572 people had their income support payment cancelled.*
7. In question 5, you asked how many defined benefit pensioners and their partners within the following annual defined benefit income ranges, were affected by the 10 % cap. The Department has extracted the following data:

Annual defined benefit income	Number of affected defined benefit pensioners and partners
< \$15,000pa	10,995
\$15,000-\$19,999 pa	4,438
\$20,000-\$24,999 pa	4,869
\$25,000-\$25,999 pa	4,380
\$30,000-\$34,999 pa	4,117
\$35,000-\$39,999 pa	4,041
\$40,000-\$44,999 pa	4,132
\$40,000-\$44,999 pa	3,591
\$45,000-\$49,999 pa	2,346
> \$50,000 pa	5,029
Total	47,938

6. Pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act, I have also decided to refuse your request for documents falling within the scope of:
2. *What is the total annual savings to the Government of the 10% cap measure?*
 4. *What has been the total annual saving to the government of those cancellations?*
 6. *Of all those retirees affected by the 10% cap, how many had no pre-July 1983 employer contributions?*
 7. *How many retirees, including partners, were affected by the 10% cap on the basis of pensions purchased with their personal after-tax contributions to their defined benefit schemes*
 8. *How many defined benefit pensioners are now receiving reduced Disability Support pensions as a result of the 10% cap?*

on the basis that this information does not exist.

Reasons for decision

4. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act if:
 - (a) *all reasonable steps have been taken to find the document; and*
 - (b) *the agency or Minister is satisfied that the document:*
 - (i) *is in the agency's or Minister's possession but cannot be found; or*
 - (ii) *does not exist.*
5. I have decided to refuse questions 2, 4, 6, 7 and 8 of your request that seek details of actual impacts, under section 24A of the FOI Act, on the basis that the Department does not have that information and I am satisfied that the requested documents do not exist.
6. The evidence on which I have based my decision is:
 - your correspondence dated 19 May 2016 outlining the particulars of your request for documents under the FOI Act;
 - consultations with departmental officers as to the information held by the Department and searches for information undertaken by them;
 - the FOI Act; and
 - the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.
7. With regard to your questions 2 and 4, the measure has only been in place since 1 January 2016. We can however refer you to paragraph 1 on page 2 of our previous letter to you ie. *The change is expected to generate savings of \$465.5 million over the forward estimates for all affected agencies.* We can also refer you to Budget Paper 2 of 2015 (at http://www.budget.gov.au/2015-16/content/bp2/html/bp2_expense-20.htm) where the projected savings for the next four financial years are as follows:

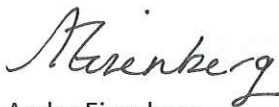
2015-16	2016-17	2017-18	2018-19
-56.9	-129.1	-136.1	-143.5 (\$m)
8. With regard to question 6, I am also advised by the departmental officers that we do not have any pre-2007 data because under the current rules, we are not required to collect pre-2007 information to calculate an individual's social security income support payment.
9. With regard to question 7, I am again advised by the departmental officers that we don't collect data on retirees generally, only data for retirees on income support. (We can however direct you to our response in paragraph 1 of page 2 of the document provided to you ie. *As at 1 January 2016, 47,938 people had their rate of income support reduced. Of this group, 1,572 people had their income support payment cancelled.* These figures also include partners).
10. Finally, with regard to question 8, the departmental officers have advised me that we do not have data for defined benefit pensioners broken down by payment (however, we estimate the number of defined benefit pensioners receiving a reduced disability support pension would be approximately 1800.)

11. Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the information you seek exists and that we do not have the specific information that you seek. I have therefore decided to refuse questions 2, 4, 6, 7 and 8 of your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act.

Rights of review

12. I have enclosed information about your rights of review at Attachment A.
13. Should you have any enquiries concerning this matter, please do not hesitate to contact me on 6146-3824 or via email at foi@dss.gov.au.

Yours sincerely



Andra Eisenberg
FOI Officer
Commercial and Corporate Law Branch
Legal Services Group

21 June 2016

ATTACHMENT A**Internal review**

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter. No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: Freedom of Information (FOI) Coordinator
Commercial, Disability, Housing and Information Law Branch, TOP AW2
Department of Social Services
GPO Box 9820
Canberra ACT 2601
Email: foi@dss.gov.au

External review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply to the Australian Information Commissioner (Information Commissioner) to review a decision made by an agency on internal review of an access refusal decision.

If you wish to have this decision reviewed by the Information Commissioner you must apply for the review, in writing or by using the online merits review form available on the Information Commissioner's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the Information Commissioner your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the Information Commissioner about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218
Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street
Sydney NSW 2000

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone 1300 362 072.