



21 September 2022

Tēnā koe

On 25 August 2022, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *Please could you provide me with the most up-to-date document summarising/collating the case law that has informed the operational policy for determining a relationship for benefit purposes (e.g. 'what is considered to be a defacto relationship').*

The Ministry has interpreted your request to be for summaries of case law relevant in the interpretation and practice of operational policy.

In order to provide you with the Ministry's interpretation of relevant case law, it would require the Ministry to release advice received from legal advisors. As such, your request is refused 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.

However, in the spirit of being helpful, the Ministry is providing you with 'Determining a client's relationship status' information and guidelines from the Ministry's intranet. This is used as a resource tool for staff to make sound decisions and has been informed by operational policy and any relevant case law for determining a relationship for benefit purposes. This page was last updated on 1 December 2021. Further information can also be found on the Ministry's website on the following link: www.workandincome.govt.nz/map/income-support/core-policy/relationship-status-for-benefit/introduction.html.

You may also find helpful the below list of the cases that the Ministry considers to be most relevant to the determination of what is a relationship for benefit purposes:

- Ruka v Department of Social Welfare (1997)
- Excell v Department of Social Welfare (1991)

- Thompson v Department of Social Welfare (1993)
- DW Ray v Department of Social Welfare (2000)
- Batt v Department of Social Welfare (2000)

The Ministry is not aware of any more recent cases that may be relevant.

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 and any attached documents available to the wider public. The Ministry will do this by publishing this letter and attachments on the Ministry'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 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.

Ngā mihi nui

Bridget Saunders

Bridget Saunders
Manager Issue Resolution
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