

Rodney Smith

Wellington, New Zealand

18 November 2025

Debbie Power
Chief Executive
Ministry of Social Development
56 The Terrace
PO Box 1556
WELLINGTON 6140

BY EMAIL to: NZSuper_processing@msd.govt.nz

REQUEST THAT MSD PAY NZS ARREARS - CLIENT

Dear Chief Executive,

This is a request that MSD pay me the National Superannuation (NZS) it would have paid between the date MSD stopped paying in August 2017 and the date MSD resumed paying in December 2024. This amounts to about \$150,000. I ask for a lump-sum payment with any applicable tax deducted for the year it would have been deducted had MSD paid the unpaid NZS.

My reasons for requesting this payment are as follows. In 2020, I applied to MSD for Job Seeker Support (JSS) and payments started. MSD then required that I apply to MSD for the Australian Age Pension (AAP). I requested exemption. My ground was trauma in the testing country (Australia). MSD declined this request and cancelled my JSS. I appealed to the Social Security Appeal Authority (SSAA) and in its 2023 decision in case 51/21 found that MSD was wrong to cancel JSS. MSD should have allowed trauma as a ground of exemption, accepted that trauma had occurred, granted exemption, and continued to pay JSS. SSAA then ordered MSD to pay the unpaid JSS arrears of about \$52,000.

That 3 November 2023 decision of SSAA in 51/21 applied only to JSS. However, it applies equally to the NZS that MSD cancelled in 2017. The ground regarding NZS was the same – torture in the testing country causing trauma. The torture event cited as a ground regarding JSS was the same torture event cited as a ground regarding NZS. Hence the decision in 51/21 about JSS, that trauma did occur and was sufficient for exemption, applies to NZS. I ask that MSD now pay the NZS it would have paid had it not wrongly cancelled NZS in 2017, that is, about \$150,000.

A possible objection is that, certainly, MSD does now accept that trauma did occur in the testing country, and that in 2017 was a valid ground of exemption. But in 2017, MSD lacked evidence that trauma had occurred. Hence MSD was not in a position to grant exemption at that time.

Against this counterargument: MSD in its 2017 correspondence with me excluded trauma as a ground of exemption. It allowed only proof of present-day possible physical harm (various emails after 30 January). Also, on 26 June 2017, MSD (manager Tania Tandy) said "we don't grant exemptions". However, as revealed to SSAA during its 4 May 2022 hearing of 51/21, MSD admitted that its internal policy did allow exemption. SSAA ordered MSD to provide a copy of the policy, and

it said that trauma is a valid ground of exemption from the requirement to apply for an overseas pension (such as AAP). Further, it said that if a client were to make a claim of trauma, "we should consider their reasons on a case by case basis." This policy directly contradicted MSD correspondence in 2017.

Since 2001, I had independent evidence of the trauma in Australia caused by torture by part of the Australian Government. The independent evidence didn't conclusively prove that military investigators tortured me when investigating a fire-bomb attack that destroyed an Army armoury at the University of New England, NSW. But it did establish that severe trauma had occurred in Australia near the place of, and not long after, the fire-bomb attack on the Army armoury.

MSD policy said "we should consider their reasons [for requesting exemption on the ground of trauma] on a case by case basis." But in 2017, MSD didn't ask me for my reasons. In fact MSD never once used the words "trauma" or "torture" in any correspondence with me in 2017 or later. Also, until asked a direct question by the second chair of 51/21 during the hearing on 3 November 2023, MSD concealed the existence of its policy on trauma in the testing country for five years.

Had MSD in 2017 asked for my reasons for my claim of trauma, and then requested evidence of the torture, I would have provided the independent evidence, the independent evidence SSAA accepted as justifying exemption. But MSD didn't ask.

Also, as noted, in 2017 MSD in various emails after 30 January allowed as evidence for exemption only present-day physical possibilities. This excluded everything historical and everything mental including trauma. I didn't present to MSD in 2017 my independent evidence of trauma because MSD had rejected the ground of trauma. This exclusion was incorrect since MSD policy allowed trauma.

Therefore I ask MSD to now pay what it would have paid had it followed the correct steps and asked me for my independent evidence of trauma in 2017 then followed the further correct steps as indicated in 51/21. This requested payment amount is about \$150,000. Any other income during that 2017-2024 seven-year period would not be a factor in calculating unpaid NZS since NZS is universal. I won't accept payment if it includes any deduction such as related to JSS.

If MSD declines my request to pay the unpaid NZS of about \$150,000, would you give your reasons. Relevant correspondence can be found in the MSD 12K Report of 5 March 2018. Though the most important document in my case, the internal MSD policy guidelines on trauma in the testing country, is missing from the statutory 12K Report. This report is defined in s.12K of the Social Security Act 1964.

Would you acknowledge receipt of this letter.

Sincerely,



Rodney Smith

