



# Report

**Date:** 20 May 2016

**Security Level:** IN CONFIDENCE

**To:** Hon Anne Tolley, Minister for Social Development

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## Alignment Project Update

*This document may contain legal advice and be legally privileged.  
It should not be disclosed on an information request, without further legal advice.*

### Recommended actions

It is recommended that you:

- 1 **note** that we have taken a new approach to accelerate resolution and that by the end of June you will receive:

- an update on the implementation status for all operational issues and existing legislation fixes
- recommendations for resolving those issues that are more complex and where there is likely to be legislative or regulatory changes made
- a management and escalation process to provide assurance we have put adequate preventative steps in place to minimise risks of further alignment issues

**Noted**

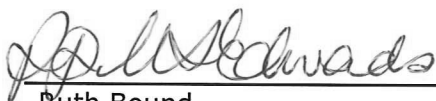
- 2 **note** that we have been assessed and grouped the 36 Alignment issues into four categories:

- 16 are operational issues where we can, and will, make changes to our processes and practices. One of these is completed
- four will be resolved through existing legislative vehicles and we are waiting for legislation to be passed
- ten issues have had options analysis and we will be recommending a legislative vehicle to align legislation to current practice.
- the remaining six issues are more complex and require further analysis

**Noted**

- 3 **confirm** that you would like us to provide you material for a discussion around options for a systematic way to mitigate and manage the risk of future cases, particularly in the context of how to address retrospective claims.

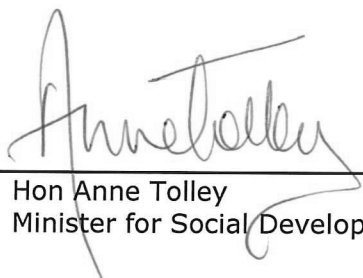
AT ☒ Agree / Disagree



Ruth Bound  
Deputy Chief Executive, Service Delivery

20/5/16

Date



Hon Anne Tolley  
Minister for Social Development

24-5-16.

Date

## **The stocktake and scoping of alignment issues is now complete and has confirmed the majority are operational in nature**

- 1 In December 2015 you were advised about a dedicated programme of work that the Ministry of Social Development (MSD) was undertaking to ensure you were quickly and fully informed about all alignment issues (excluding those being addressed through the Rewrite of the Social Security Act 1964) - and how MSD would respond to these.
- 2 The project intended to meet three objectives by 31 July 2016. That is, to ensure:
  - you were fully informed of all known alignment issues and remedial actions
  - remedial actions were being implemented, as a priority, through business-as-usual work programmes with senior leadership oversight
  - a new systematic process for effective escalation and management of any future alignment issues would be in place by 1 August 2016.
- 3 We understand that the backlog of alignment issues, and the costs involved in remedial actions required to rectify them, has generated a considerable level of concern for you, and for other Ministers.
- 4 We have been thorough in our work to compile a comprehensive stocktake of all the issues, in order to prevent multiple iterations. We have also been cautious and included a number of issues that are technical, operational and/or are being addressed already.
- 5 In order to be comprehensive we engaged widely across the Ministry and in particular our internal escalation points such as our staff helpline, legal and policy teams, operational policy and IT. Most of the issues have come from our internal review
- 6 The remainder have arisen as a result of the Social Security Appeal Authority or High Court providing a different interpretation of the legislation to what we have used in the past.
- 7 Since the commencement date issue arose, we have made changes to the way we identify and escalate these types of issues. This includes introducing a central point of management, and dedicated governance arrangements to oversee our response. We are also preparing an internal communications strategy to ensure that all parts of the business know to escalate these types of issues as soon as possible in future.
- 8 We have compiled a total list of 36 items where there is a potential misalignment between the legislation and our current practice, and assessed them into the following groups:
  - 16 are operational issues where we can, and will, make changes to our processes and practices. Some of these will require IT system changes but we will ensure there are workaround processes in place to prevent further instances in the meantime. We expect these to be fully resolved by the end of October. The Commencement Date issue is included in this list and has been completed.
  - A further four will be resolved through existing legislative vehicles and we are waiting for legislation to be passed. Three of these are part of the Youth Service Extension (the Social Security, Extension of Young Persons Services and Remedial Matters, Amendment Bill). The fourth relates to treatment of overseas pensions and is dependent on a change by the Netherlands parliament. There are workaround processes in place to prevent further instances in the meantime
  - Ten issues have had options analysis completed and we will be recommending a legislative vehicle to align legislation to current practice. Four are changes to Regulations, one is a change to the Welfare Programme, ~~one~~ <sup>two</sup> is a Ministerial Direction and three may require changes to primary legislation.

- The remaining six issues are more complex and/or will have retrospective actions required, or still require further analysis. These are:
    - the Accommodation Supplement payment error
    - the treatment of grand-parented Special Benefit clients vs Temporary Additional Support
    - the timing of Student Allowance changes
    - entitlement to childcare assistance in cases of shared care
    - notification of overseas absence for humanitarian reasons
    - the treatment of lump sum payments made due to past error.
- 9 The Accommodation Supplement error, and in particular the issue of how to address retrospective claims, is particularly complex and we will report back to you by the end of June on the recommended options.
  - 10 We are currently completing the detailed analysis on this and will be taking Crown Law advice on the best course of action. We are taking a new approach as we move from analysis to remedy.

## **A new approach to accelerate resolution of complex issues**

- 11 What is clear is that our initial approach won't be suitable for delivering swift and clear resolution of the more complex issues. The level of complexity and resource involved in working through these issues and developing a further response to the Accommodation Supplement (AS) payment issue has been considerable for MSD.
- 12 To cut through the complexity we are taking a new 'Accelerator' approach that applies lean-agile techniques to rapidly identify and address root cause issues. A small cross-functional team will be dedicated and co-located to work through the issues over the next four weeks.
- 13 We have also streamlined the governance and project management to accelerate decision making and to rapidly free up the capacity and resource as needed.
- 14 Service Delivery will be taking the lead, reinforcing that the focus is now about making the necessary operational changes, with Policy continuing to support the work.

## **Deliverables**

- 15 By the end of June you will receive
  - An update on the implementation status for all the group 1 and 2 issues (operational issues and existing legislation fixes.)
  - Recommendations for resolution of the group 3 and 4 issues (those that are more complex and where there is likely to be legislative or regulatory changes made.)
  - A management and escalation process to provide assurance we have put adequate preventative steps in place to minimise risks of further alignment issues.

## **You have indicated that you would like to talk with Cabinet Strategy Committee about the alignment work**

- 16 At the officials meeting on 18 April, you indicated that you would like to discuss the alignment work with the Cabinet Strategy Committee (STR).
- 17 This would ensure your Ministerial colleagues are aware of and support the work being done on addressing alignment issues in the benefit system.
- 18 It would also provide an opportunity to test the appetite to any potential legislative options that may be available for managing the work (current or future issues) in a more systematic way.

## **Retrospective assessments**

- 19 A theme for discussion could be shaped around a systematic way to mitigate and manage the risk of future cases, and some principles on how to address retrospective claims.
- 20 The benefit commencement date situation and the Accommodation Supplement error have highlighted that we need better clarity on how we will address retrospective assessments. This is the most salient and complex issue we are currently working through.
- 21 The nature of our operating environment and degree of change we manage will mean there is always an ongoing risk of misalignment of our practice. Legislation is regularly changing and can be open to interpretation. Appeal authorities and others will have their own interpretation that could be different to ours.

22 Section 9(2)(h) Legal professional privilege

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1. OPERATIONAL PRACTICE CHANGES  
& ISSUES (16)

- △ Commencement Date (completed)
- △ Period of lapse of benefit applications
- △ 'Nature of Offense' for Warrant to Arrest data match—Ministry of Justice and MSD
- Childcare Assistance - Incorrect reference in legislation to Chief Executive of CYF rather than MSD
- ❖ Reasons for benefit obligation failure not clearly specified in sanctions letters
- △ Correcting Special Needs Grants income test
- Chief Executive power to grant Emergency Benefit
- ❖ Inconsistent treatment of lump sum and on-going overseas pension payments
- △ Re-application of benefit and its effect on sanctions for clients who have failed their obligations
- Overseas travel over Christmas or New Year period
- Warrants to Arrest 10 day notifications (0-£)
- △ Drug testing reimbursement - 'set rate' or 'actual and reasonable' rate to be used
- △ Drug testing - storage of drug samples for future evidential testing
- △ Drug testing - additional evidential testing costs incurred by clients
- △ Information exchange between NZ & UK regarding Special Banking Option overseas pension refunds (0-££)
- ❖ Treatment of ACC weekly child compensation and ACC childcare payment

2. LEGISLATIVE CHANGE WHERE THE  
VEHICLE IS DECIDED (4)

- ❖ Social Security Appeal Authority decision on review or appeal rights
- △ Treatment of holiday pay in the Netherlands Old Age pension
- △ Money on payment card when YP / YPP stops
- ❖ High Court decision on Terminal Benefit and impact on Funeral Grant (0-£)

## 3. LEGISLATIVE CHANGE RECOMMENDED (10)

- △ Amending the Special Needs Grants Welfare Programme to include New Zealand Superannuation and Veteran's Pension as income (0-£)

## MINISTERIAL DIRECTION

- Advance payment of Benefits to include or exclude supplementary assistance
- Debt Recovery

## REGULATIONS

- ❖ Income exemption regulations - proceeds from the sale of the family home
- △ Youth Service - recognition of previous budgeting programmes
- △ Income exemptions regulations to include income from power trusts
- △ Income exemptions regulations to include Funded Family Care payments

## POSSIBLE PRIMARY LEGISLATION OR REGULATIONS

- Non-deductible parts of overseas pension paid into Special Banking Option
- ❖ Treatment of the voluntary components of overseas pensions
- ❖ Overseas pension - notification of exchange rate

## 4. OPTIONS ANALYSIS TO BE COMPLETED (6)

- △ Payment of inaccurate Accommodation Supplement entitlements (0-£££)
- Treatment of Special Benefit clients who are being 'grandparented' vs Temporary Additional Support (0-££)
- Timing of changes to Student Allowance rates (0-£££)
- ❖ Entitlement to Childcare Assistance and Child Disability Allowance in cases of shared childcare
- Overseas absence - Notifying current absence when there are humanitarian reasons
- △ Treatment of lump sum payments made due to past error

## TIMELINE

Implementation by end of June 2016

Implementation by October 2016

Implementation by end of July  
(dependent on date of legislation)Recommendations by end of June 2016  
(implemented as per current legislative programme)

Options analysis by end of June 2016

## REPORTING

Weekly progress updates and/or decision papers (as finalised)

Decision Paper end of June 2016  
Cabinet Strategy discussion document end of June 2016

## KEY

Source of Escalation

❖ Review of Decision / SS Appeal / High Court

△ Staff / Service Delivery / Policy

□ Legal Advice

● Advocate

0- £££ Potential Retrospective Payments or Admin Costs