



# Cabinet

## Minute of Decision

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### Correcting Entitlements to the Accommodation Supplement

**Portfolio**                      **Social Development**

On 12 September 2016, following reference from the Cabinet Social Policy Committee (SOC), Cabinet:

- 1        **noted** that in 2014, the Ministry of Social Development (MSD) identified a significant error in its assessment and payment system that affected the accuracy of client entitlements to the Accommodation Supplement (AS) that dated as far back as 1993;
- 2        **noted** that in December 2014 when the system error was identified, MSD took immediate action to implement a system fix so that new clients would receive correct AS entitlements;
- 3        **noted** that while the system was enhanced to correct entitlements for new clients, it did not retrospectively correct entitlements for clients receiving inaccurate AS entitlements as a result of the error prior to December 2014;
- 4        **noted** that there are approximately 127,000 clients who receive or have received AS between 1993 and December 2014 who are affected by the error;
- 5        **noted** that the process to correct for the impact of the error on clients receiving the AS prior to December 2014 will occur through four phases:
  - 5.1      phase one: correcting entitlements for current clients who continue to be overpaid AS (278 current clients);
  - 5.2      phase two: correcting historic entitlements for current clients that were underpaid their AS entitlements (~22,000 current clients);
  - 5.3      phase three: correcting historic entitlements for former clients that were underpaid their AS entitlements (~27,000 former clients);
  - 5.4      phase four: debt write-off for historical overpayment of AS entitlements (~29,000 current clients and ~36,000 former clients);
- 6        **noted** that MSD has corrected rates of payment for all 94 current clients affected by the error that were receiving lower AS entitlements than they were entitled to;

- 7 **noted** that MSD will automatically process lump sum back-payments to correct historic underpayment of AS entitlements for current clients;
- 8 **noted** that MSD will provide the 278 current clients receiving an overpayment of AS a tailored transition period of up to 26 weeks (unless their circumstances change in the interim) to allow the individual sufficient time to plan and prepare for any adjustment to their entitlements;
- 9 **noted** that the Minister for Social Development has directed MSD to report to her, before a final decision is made, if any current clients consider that, in their particular circumstances, 26 weeks is an insufficient transition period;
- 10 **noted** that potentially affected former clients, who may have had an underpayment of AS entitlements as a result of the error, will need to engage with MSD in order to have their past entitlements assessed for the purposes of granting any lump sum back-payments that may be owed;
- 11 **noted** that MSD will include in its letters to historic clients who had been receiving an underpayment an invitation to use the corrective lump-sum payment to offset any existing debt to MSD;
- 12 **agreed** to amend the Social Security (Income and Cash Assets Exemptions) Regulations 2011, the Social Security (Temporary Additional Support) Regulations 2005, and the Social Security (Long-Term Residential Care) Regulations 2005 to exempt back-payments for correcting clients' entitlements to the AS and any income derived from them in the 12-month period from cash asset and income tests for assistance under the Social Security Act 1964;
- 13 **noted** that the Minister for Social Development intends to amend the Ministerial Direction on Special Benefit to exempt back-payments for correcting clients' entitlements to the AS and any income derived from them in the 12-month period from cash asset and income tests for assistance under the Social Security Act 1964;

**Financial recommendations**

- 14 **noted** that the transition period for the 278 current clients who continue to be overpaid, will cost approximately \$0.091 million and will be met by the 2016/17 Accommodation Assistance appropriation;
- 15 **noted** that MSD's approach to address the underpayment of AS entitlements will have the following impact on the operating balance:

	\$m - increase/(decrease)				
	2015/16	2016/17	2017/18	2018/19	2019/20 & Outyears
Operating Balance Impact	29.000	-	-	-	-
Debt Impact	-	-	-	-	-
No Impact	-	-	-	-	-
<b>Total</b>	<b>29.000</b>	-	-	-	-

- 16 **noted** that in accordance with generally accepted accounting practice, \$29 million will be expensed in the financial statements of the government for the year ended 30 June 2016;

- 17 **noted** that providing for the costs of the AS underpayment payment error in 2015/16 will result in MSD incurring unappropriated expenditure in Benefits or Related Expenses, Accommodation Assistance appropriation for the year ended 30 June 2016, as a result of expenses in excess of the amount of the appropriation;
- 18 **agreed** that any unappropriated expenses as noted in paragraph 17 above be included in the Appropriation (2015/16 Confirmation and Validation) Bill for validation by Parliament;
- 19 **noted** that MSD will seek validation by Parliament under section 26C approval, to be certified by the Minister for Social Housing, for any expenditure in excess of the appropriation under the Public Finance Act 1989 as a result of the above financial provision;
- 20 **noted** there is no appropriation impact from the AS overpayment error as the fair value of the debt has a nil value under generally accepted accounting practices;
- 21 **noted** that MSD will be absorbing the administrative costs of identifying and paying affected clients who have been underpaid their AS entitlements;

### Process for writing off overpayments

- 22 **noted** that MSD intends to pursue the use of section 86(1A)(d) of the Social Security Act 1964 which allows the Minister of Finance and the Minister for Social Development to jointly authorise the write-off of classes, descriptions, or kinds of debts (for public finance purposes) and that the MSD Chief Executive's duty to recover debt does not apply to debts that are written off through this process;
- 23 **noted** that the Treasury and MSD will provide advice and seek, from the Minister for Social Development and the Minister of Finance, a written authorisation (to be tabled in the House) that specifies that overpayments resulting from the error will be established as a class of debt and written off for public finance purposes under the authority provided in section 86(1A)(d) of the Social Security Act 1964;

### Legislative implications

- 24 **invited** the Minister for Social Development to instruct the Parliamentary Counsel Office to draft regulations to give effect to the decisions in paragraph 12.

Michael Webster  
Secretary of the Cabinet

*Secretary's note: This minute replaces SOC-16-MIN-0116. Cabinet added new paragraphs 8, 9 and 11.*

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#### Hard-copy distribution:

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