



Report

Date: 16 September 2016

Security Level: IN CONFIDENCE

To: Hon Bill English, Minister of Finance

Hon Anne Tolley, Minister for Social Development

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

Writing off debt which has arisen as a consequence of the Accommodation Supplement error

Purpose of the report

- 1 This report:
 - 1.1 provides options to formally write-off debt which has arisen as a consequence of the Accommodation Supplement error;
 - 1.2 seeks your joint agreement to establish a class of debt to be written off for public finance purposes under section 86(1A)(d) of the Social Security Act 1964; and
 - 1.3 recommends that you sign the attached instrument to give effect to 1.2 (above).

Recommended actions

It is recommended that you:

- 1 **note** 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;

YES/NO

YES/NO

- 2 **note** that on 12 September 2016 Cabinet indicated their support for the proposed phased approach to correct entitlements to the AS as set out in the Cabinet paper *Correcting entitlements to the Accommodation Supplement* [CAB-16-Min-0406.01 refers];

YES/NO

YES/NO

- 3 **note** that 65,000 clients were overpaid their AS entitlements as a result of the error, with a nominal value of \$53 million;

YES/NO

YES/NO

A

4 **note** the Minister for Social Development made statements publically that MSD would not seek to recover any overpayment of AS that resulted from the AS error because it was a result of an administrative error that was outside of the control of the recipients, and as a consequence;

YES/NO

YES/NO

5 **note** that, despite the fair value of the debt being zero, the overpayment of AS entitlements still legally constitutes a debt due to the Crown under section 85A(f) of the Social Security Act 1964;

YES/NO

YES/NO

6 **note** that section 86(1) of the Social Security Act 1964 places a duty on the Chief Executive to recover debts referred to in section 85A unless the debt falls within one of the stated exceptions;

YES/NO

YES/NO

7 **agree** to jointly sign the attached instrument which authorises establishment of "any net overpayment of accommodation supplement during the years 1993 to 2017 as a result of a specified processing error" as a class of debt to be written off for public finance purposes generally under section 86(1A)(d) of the Social Security Act 1964;

AGREE/DISAGREE

AGREE/DISAGREE

8 **note** agreement to recommendation 7 (above) will remove the Chief Executive's statutory duty to recover debt falling within that class;

YES/NO

YES/NO

9 **note** that the Minister for Social Development's office will arrange for copies of the attached instrument to be tabled in the House of Representatives for transparency;

YES/NO

YES/NO

10 **note** MSD will identify the class of debt identified in recommendation 7 in MSD's annual report for the year ending 30 June 2016; and

YES/NO

YES/NO

Minister for Social Development

- 11 **agree** to forward a copy of this report to the Associate Minister for Social Development.


AGREE/DISAGREE



16/9/16

Sacha O'Dea
General Manager
Working Age Policy Group

Date



Hon Bill English
Minister of Finance



Hon Anne Tolley
Minister for Social Development

22/9/16

Date

20-9-16.

Date

Background

- 2 The Accommodation Supplement (AS) is a weekly payment to help subsidise housing costs for low-income beneficiary and non-beneficiary households with limited income and assets.
- 3 In 2014, the Ministry of Social Development (MSD) identified a significant error in its assessment and payment system that had been in effect since 1993. The error resulted in the calculation and payment of inaccurate AS entitlements for some clients. The impact of the error meant that some affected clients received less AS than they were entitled to, while others received more.
- 4 The fix to the payment system in late 2014 meant new clients would receive their correct AS entitlement, but it did not retrospectively adjust the entitlements of current clients affected by the error. The error impacts ~127,000 existing and former clients that have received AS since 1993. Of the affected clients, MSD estimates ~65,000 current and former clients were overpaid their AS entitlement.
- 5 On 12 September 2016 Cabinet confirmed their support for the proposed phased approach to correct entitlements to the AS as set out in *Correcting entitlements to the Accommodation Supplement* (the Cabinet paper) [CAB-16-Min-0406.01 refers].
- 6 Phase four of the approach set out in the Cabinet paper related to the debt write-off for historical overpayment of AS entitlements as a result of the AS error. Approximately 65,000 clients (~29,000 current clients and ~36,000 former clients) were overpaid their AS entitlements as a result of the error. The nominal value of the overpayment of AS entitlements is \$53 million.
- 7 The Minister for Social Development has made statements publically that MSD would not seek to recover any overpayment of AS which resulted from the AS error. The Minister for Social Development made these statements on the basis that no current or former client should have their circumstances affected as a result of an administrative error that was outside of their control.
- 8 The public statements by the Minister for Social Development, and that these statements are consistent with the provisions in section 86(9A) of the Act, has resulted in the fair value of the debt associated with the AS error being zero (under generally accepted accounting practices). The nominal value of the debt, that is the total amount by which AS entitlements were overpaid, is \$53 million.

Section 9(2)(h) Legal professional privilege

Financial Implications

- 24 There is no appropriation impact for the AS overpayments as the fair value of the debt is zero.

Next steps

- 25 An instrument providing joint authority to establish any net overpayment of accommodation supplement during the years 1993 to 2017 as a result of a specified processing error (as defined in paragraph 18) as a class of debt to be written off for public finance purposes is attached for your signature.
- 26 The attached instrument will have effect from the time it is approved by both Ministers. Subject to your approval, MSD and the Treasury recommend that the Minister for Social Development's office arranges for a copy of the instrument to be tabled in the House of Representatives. This is not required by law, but is recommended to increase transparency of how the AS issue is being addressed.
- 27 MSD will reflect your decision to establish "any net overpayment of accommodation supplement as a result of a specified processing error" as a class of debt to be written off for public finance purposes in its annual report for the year ending 30 June 2016. MSD will reflect it in the 2015/16 accounts due to the timing of the public statements on how the AS issue will be addressed.

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Section 9(2)(a) Privacy of natural persons

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Section 9(2)(a) Privacy of natural persons

Authority to write off class of debts

Under section 86(1A)(d) of the Social Security Act 1964 (the Act), the Minister for Social Development and the Minister of Finance jointly authorise any net overpayment of accommodation supplement during the years 1993 to 2017 as a result of a specified processing error as a class of debts to be written off for public finance purposes generally.

In this authority—

department has the meaning in section 3(1) of the Act

net overpayment, means an overpayment (within the meaning of section 85A(f) of the Act) of accommodation supplement received in a period after deducting the total amount of accommodation supplement that the recipient was entitled to receive during that period

specified processing error means incorrect data relating to either or both of the type of a person's premises and the person's accommodation costs (within the meaning of section 61E of the Act) being entered—

- (a) into a computer system operated by or on behalf of the department; and
- (b) as a result of a system error; and
- (c) at any time in the years 1993 to 2014 (inclusive).

At Wellington this 22 day of September 2016



Hon Anne Tolley
Minister for Social Development



Hon Bill English
Minister of Finance