

Report



MINISTRY OF SOCIAL
DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

Date: 25 July 2024 **Security Level:** In Confidence
To: Hon Louise Upston, Minister for Social Development and
Employment
File Reference: REP/24/7/684

Further Community Work Experience Design Details

Purpose of the report

- 1 This report seeks your agreement for MSD to discuss Community Work Experience (CWE) with targeted community organisations and to the direction on detailed design components for introducing CWE as a non-financial sanction (NFS), to support for drafting instructions.

Executive summary

- 2 As part of the Cabinet paper, *Changes to welfare settings to support people into employment and off benefit paper 1: Traffic Light System*, you are seeking Cabinet agreement to policy settings for CWE to inform the drafting of necessary legislative changes through the Social Security Legislation Amendment Bill. You are also seeking delegated authority to make decisions on behalf of Cabinet in some areas related to CWE.
- 3 The design of CWE as a NFS is different from Money Management and financial sanctions due to its necessary interactions with community organisations. In considering the settings for CWE, officials have tried to balance consistency in how NFS are applied across the Traffic Light System (TLS) while also delivering a sanction that is operationally feasible, accounts for the functioning of the labour market and delivers on your intentions for CWE. To achieve this, our analysis is guided by a set of design principles which reflect these considerations.
- 4 Officials are seeking your direction on elements of the design of CWE, including on the duration, hours per week, length of search period required,

and for your agreement for officials to talk with a small number of community organisations about these elements to inform design details.

- 5 MSD has identified three options for the length of time a client would be required to search for CWE and recommends one week be given. This ensures the activity of CWE is not pushed too far from the point of their original obligation failure and clients can progress through the sanction quicker.
- 6 You previously agreed to requiring clients to complete their CWE with a community or voluntary sector organisation. MSD is exploring which organisations would be considered in scope within community or voluntary sector organisations. This includes restricting the scope to community organisations with established MSD relationships and other community and voluntary sector organisations (e.g., sports clubs and marae) as this provides a broader variety of available options for clients to find CWE in different regions.
- 7 Officials are also seeking your agreement on how a client moves in and out of CWE. As CWE will be for a set duration and hours per week, MSD recommends that CWE must be completed for the client to re-comply with their benefit obligation (rather than the client needing to remedy their obligation failure in order to re-comply). Though this is different to how other sanctions function, officials believe the distinction is necessary to preserve policy intent and community relationships.
- 8 There may be circumstances where a client takes reasonable steps to find a placement, but through no fault of their own cannot find one within the search period. If this happens, officials propose that MSD instead assign the client an alternative sanction i.e., Money Management (or another non-financial sanction) or a grade one financial sanction (50% reduction).
- 9 If the client has not taken reasonable steps to find a placement during the search period or they fail to complete the required period, we propose that they will be deemed to have failed to re-comply, at which point they would be subject to a non-compliance pathway that is similar to the non-compliance pathway as Money Management and financial sanctions.
- 10 MSD will provide further advice by mid-August on policy design details, informed by insights gained through discussion with community organisations.

Recommended actions

It is recommended that you:

- 1 **indicate your preference** to one of the following options for the search period for CWE:

1.1 Option 1A: up to one week *[recommended]*

PREFERRED / NOT PREFERRED

OR

1.2 Option 1B: up to two weeks

PREFERRED / NOT PREFERRED

OR

1.3 Option 1C: three weeks plus

PREFERRED / NOT PREFERRED

- 2 **indicate your preference** to one of the following options for the required duration for CWE:

2.1 Option 2A: two weeks *[recommended]*

PREFERRED / NOT PREFERRED

OR

2.2 Option 2B: four weeks

PREFERRED / NOT PREFERRED

- 3 **indicate your preference** to one of the following options for required minimum hours for CWE (total hours may vary so long as MSD is satisfied the person will still have time to continue looking for paid work as a requirement of their benefit):

3.1 Option 3A: minimum of five hours over the period *[recommended]*

PREFERRED / NOT PREFERRED

OR

3.2 Option 3B: a minimum of 10 hours over the period

PREFERRED / NOT PREFERRED

- 4 **agree** for MSD to talk with community organisations about CWE through the design phase

AGREE / DISAGREE

5 **note** that in order for clients on CWE to re-comply, they must complete the full duration of CWE (search period and placement) instead of remedying their original obligation failure activity

6 **note** there may be circumstances where a client takes reasonable steps to find a placement, but through no fault of their own they cannot complete the requirement

7 **agree** that in this instance clients will be assigned an alternative sanction i.e., Money Management, a different NFS, or a financial sanction

AGREE / DISAGREE

8 **agree** that in the instance where clients do not take reasonable steps to find a placement within the search period or they fail to complete the required placement period due to their own inaction they will be deemed to have failed to re-comply, at which point they would be subject to a non-compliance pathway that is similar to that of Money Management and financial sanctions

AGREE / DISAGREE

Harriet Miller
Policy Manager, Employment Policy
Ministry of Social Development

Date

Hon Louise Upston
Minister for Social Development and
Employment

Date

Background

- 11 You have previously agreed to the settings for Community Work Experience (CWE) where clients will be required to complete their community work experience with a community or voluntary sector organisation, for a specified duration and number of hours per week. You also agreed that CWE will be targeted to people in active case management and clients with dependent children, consistent with targeting for Money Management [REP/24/7/638 refers].
- 12 You are seeking Cabinet’s agreement to policy decisions that will inform legislative change through the Social Security Legislation Amendment Bill. You are also seeking delegated authority for you to make decisions on behalf of Cabinet in some areas [REP/24/7/638 refers].

We are seeking your direction on some Community Work Experience (CWE) design decisions

- 13 The following sections provide you with advice and outline the key decisions officials seek your direction on for the following components of CWE:
 - 13.1 length of a search period
 - 13.2 duration
 - 13.3 hours per week
 - 13.4 the community organisations in scope
 - 13.5 how clients move through the system, including re-compliance and failure.
- 14 We are seeking direction on your preferences for decisions, and to allow us to continue design work while speaking to a small number of community organisations.

Our advice is guided by design principles

- 18 The following principles have been applied as a framework for the design of CWE. The intent is to deter clients from failing to meet their obligations as well as providing an opportunity to support clients to build their skills, confidence, and community connections to encourage a pathway into employment.

Principle	Explanation
Consistency	Where possible, the processes and requirements for clients required to undertake CWE are consistent with the rest of the TLS.

Minimal labour market distortion	Reducing the risk of labour market distortion over time.
Building connections and skills	Supports clients to build community connections and skills.
Low administrative burden	Limited administrative burden on MSD in assessing and imposing CWE as a sanction, as well as in compliance monitoring.
Simplicity of process	Clients can easily understand the process for CWE in the TLS and understand what is expected of them.
Flexibility	Staff discretion allows CWE to be imposed when and how it is most appropriate based on the individual client's situation. Flexibility allows CWE placements that are beneficial for community organisations and the client.

- 19 These principles are based on what officials know you want to achieve through CWE as a NFS, as well as our experience in operating the welfare system. There are inherent tensions between some principles, for example between consistency and simplicity of process. Our advice focuses on getting the right balance between the principles to enable a successful implementation of CWE.
- 20 The following sections provide you with options assessed against these design principles.

Search period

- 21 The CWE sanction will include a search period where clients will be required to look for a CWE placement with the support of MSD. For CWE to work as a NFS, there will need to be a cap on this search period to encourage compliance.
- 22 As this is a NFS, during this time the person will be receiving their full entitlement, although they will not have access to hardship assistance as you indicated in [REP/24/7/638].
- 23 In considering options for an appropriate search period, officials have balanced ensuring that the work experience itself does not get pushed too far from the obligation failure, with giving enough time that a placement with an organisation could realistically be secured.

- 24 Capping the duration of the search period limits the feasibility for people to find CWE placements. Officials understand that many organisations in the community and voluntary sector require prospective volunteers to undertake a police check. Officials will need to talk with community organisations to explore options for addressing the reasons for this requirement (where it exists) while also meeting the CWE intent of placements commencing soon after obligation failure.
- 25 We have identified the following options:
- 25.1 **Option 1A:** up to one week (recommended)
 - 25.2 **Option 1B:** up to two weeks
 - 25.3 **Option 1C:** up to three weeks plus.

Option 1A: One week

- 26 This option means that the work experience will start sooner following the obligation failure and ensure clients can progress through the sanction pathway quicker. It will also reduce the overall amount of follow up activity required by MSD to check in on clients during the search period, which will ensure that limited staff resource can be prioritised to support activities more closely linked to employment outcomes. A short search period could increase the risk that a client may not have enough time to find and have confirmation from the organisation of their CWE. However, they can progress through to an alternative sanction if this is the case.

Option 1B: Two weeks

- 27 This option gives more time for CWE placements to be found and for organisations to accept clients. However, it will increase the delay between the client's obligation failure and the start of the CWE placement. As you have indicated that moving quickly through the sanctions system is a priority for you, officials do not recommend this option.

Option 1C: Three weeks plus

- 28 This option increases the likelihood of CWE placements being found, and for organisations to accept clients.
- 29 However, it also means that the work experience itself is pushed out from the obligation failure, which creates inconsistencies with the treatment of other sanctions. Therefore, officials do not recommend this option.

Duration and hours per week for clients to complete CWE

- 30 We previously committed to providing you with advice on CWE settings where a client would complete CWE for a specific duration and number of hours per week (REP-24-7-638 refers). This is required because CWE is different from

other sanctions as a minimum period and hours per week is necessary to make CWE worthwhile for both the community organisation and the client.

31 We have identified the following options for duration:

31.1 **Option 2A:** two weeks (recommended)

31.2 **Option 2B:** four weeks.

32 As well as the following options for required minimum hours for CWE (total hours may vary so long as MSD is satisfied the person will still have time to continue looking for paid work as a requirement of their benefit): minimum hours over the duration:

32.1 **Option 3A:** a minimum of five hours over the period (recommended)

32.2 **Option 3B:** a minimum of 10 hours over the period.

33 In assessing options for duration and hours, we have taken the design principles into account, including the following specific considerations:

33.1 MSD sanctions should be proportionate to a person's obligations failure.

33.2 The duration and hours for CWE should create a relative level of friction to other sanctions at the same grade.¹

33.3 As CWE is only for a grade one failure, the duration should be less than that of an approved activity/activities for a grade three sanction.²

33.4 Evidence suggests that longer time in unpaid work can create significant lock-in effects.³

33.5 Allowing flexibility for hours per week may increase community organisations' willingness to take on clients for CWE as it could better reflect the organisations' requirements.

33.6 The time commitment should be appropriate so that a client can continue to search for paid work.

Assessment of options for duration

Option 2A: two weeks (recommended)

¹ For Money Management, the other non-financial sanction, a client must remedy their original obligation failure in order to re-comply within 4 weeks before going down the non-compliance pathway.

² The duration for an approved activity or programme of activities for a 13 week non-entitlement period is six weeks. In this instance, the activities can include work experience.

³ www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/research-archive/can-we-work-for-the-dole-programmes-increase-employment-outcomes.pdf.

- 34 This is a lighter touch option, and although there is less opportunity for clients to build connections and skills, it is more proportionate to the obligation failure, and comparable with other sanctions where a client has the option to re-comply without a minimum period and where this could be a one-off activity that takes only one hour⁴. Combined with a search period, the level of friction would be relative to that created through Money Management where a client has four weeks to remedy their failure before going down a non-compliance pathway.
- 35 Limiting the duration to two weeks may mitigate risks of the lock-in effect.
- 36 We note your manifesto stated a desired duration of between one to three months, however MSD recommends a shorter duration that is more proportionate to a grade one sanction therefore creating consistency with the rest of the TLS.

Option 2B: four weeks

- 37 This option fulfils your manifesto which stated a desired duration of between one to three months and will provide more time for clients to build connections and skills in their CWE placements.
- 38 This option would be more intensive and therefore less proportionate to a person's obligation failure, which could be a one-off activity taking only one hour.
- 39 Having a duration of four weeks, combined with a search period, would mean that a client will be on CWE for longer than the maximum period that a person can be on other grade one sanctions before going down the non-compliance pathway. This does not create consistency in the level of friction between CWE and Money Management or a grade one financial sanction and may lead to less people taking up this sanction.

A further option was considered but discarded

- 40 MSD considered and discarded an option to set the CWE duration at 8 weeks plus. While clients will have more opportunity to build connections and skills through this longer duration, it is disproportionate to a client failing their obligations for the first time and would be a much more severe intervention than either Money Management or a grade one financial sanction (where a client has the opportunity to re-comply more quickly).

⁴ For example, attending a seminar. However, it should also be noted that while a client may be able to re-comply quicker, a financial sanction would have their benefit reduced, somewhat balancing out the proportionality.

- 41 An eight week CWE duration would mean that clients would be required to complete CWE for a period that is longer than the six week duration of an approved re-compliance activity following a grade three sanction. This makes this option disproportionate to CWE as a grade one sanction and creates inconsistency in the welfare system. This option was therefore discarded.

Assessment of options for minimum hours

- 42 For ease of administration, officials recommend having a minimum number of hours within the total period rather than a set number of hours per week. This will provide more flexibility for clients to find a suitable CWE opportunity. Although there will not be a maximum number of hours, MSD must be satisfied that the CWE will not take up so much time that the person would be unable to continue looking for paid work.

Option 3A: minimum of 5 hours (recommended)

- 43 Requiring clients to complete CWE for a minimum of 5 hours per week provides a level of friction to the client, while also providing flexibility so that the hours required can suit the client's circumstances as well as the community organisations providing the CWE placement.
- 44 Officials consider this option could still support the policy intent of CWE while maintaining relativity with other grade one sanctions. Officials therefore recommend this as the preferred option.

Option 3B: minimum of 10 hours

- 46 This option is the most intensive intervention. Although it may increase a client's ability to build connections and skills (as they are spending more time in the placement), it increases the burden placed on community organisations, as they will be responsible for a person for longer hours per week and this may in turn limit the supply of CWE available.
- 47 Officials consider this option would mean CWE is no longer relative with other grade one sanctions.
- 48 A longer time commitment may also limit a client's ability to continue to search for paid work and increase the lock-in effect.
- 49 Therefore, officials do not recommend this option. Officials also do not recommend having a higher minimum number of hours as this could mean more clients' circumstances mean CWE is not a suitable sanction and could limit people's ability to continue job searching.

Community organisations in scope

- 50 There are a range of ways to consider the scope of organisations that could provide CWE. We want to achieve a scope that will:

- 50.1 be broad enough to enable availability of placements across the country (rural, provincial, city locations) in a range of different settings to provide experience options appropriate for client circumstances
 - 50.2 limit the risk that CWE clients will distort the labour market over time and take business away from their core commercial focus
 - 50.3 minimise risk of exploitation of clients.
- 51 Taking these factors into account, officials have considered the following options for the scope of organisations that would be appropriate to offer placements for clients sanctioned with CWE:
- 51.1 **Option 4A:** community organisations with established MSD relationships
 - 51.2 **Option 4B:** community organisations with established MSD relationships and other community and voluntary sector organisations e.g. sports clubs, marae etc. [preferred approach]
 - 51.3 **Option 4C:** community organisations with established MSD relationships, other community and voluntary sector organisations and commercial businesses.
- 52 Our preferred approach is to restrict the scope of community organisations in which a client could seek CWE to community organisations with established MSD relationships and other community and voluntary sector organisations. This is because it ensures the scope is broad enough to allow sufficient availability of placements across the country with a variety of settings to be appropriate for a range of client circumstances.
- 53 Including businesses and the public sector may increase the risk that CWE could distort the labour market over time, and take businesses away from their core commercial focus.
- 54 We also consider that with 4A, the range of organisations with whom MSD has an established relationship may not be broad enough to cater for the range of client circumstances and/or locations.

How clients will move on and off CWE

- 55 CWE will be a sanction that requires the client to take specific action, which is different to the obligation failure i.e. approach a community organisation and seek CWE with them for a set duration. In determining movements on and off CWE, officials have considered the design principles and balanced necessary process differences due to the different nature of CWE as a sanction with the principles of simplicity and consistency.
- 56 Because CWE has a minimum duration and clients will not be able to exit it sooner, as opposed to other sanctions where clients can re-comply without a

minimum period on sanction, there is a risk of low numbers of people being given CWE.

Clients must complete CWE to re-comply with benefit obligations

- 57 MSD recommends that CWE (the search period and community work itself) should be completed as the means to re-comply with a person's benefit obligation rather than remedying their original failure as is the case for other types of sanctions including Money Management. While other approaches were explored and ultimately discarded, MSD believes this is the best approach to implementing CWE within our legislative framework.
- 58 Other approaches to re-compliance that were discarded (e.g., the client being able to re-comply by completing the original obligation failure or the original failure and CWE) were determined to create undue operational complexities.
- 59 We therefore recommend setting CWE as the re-compliance activity for clients sanctioned to CWE. Officials consider that creating this difference in approach to how other sanctions operate is necessary as CWE has a set duration and stopping CWE before the end of this period could undermine the policy intent and community relationships.
- 60 Where a client complies with their CWE requirements by completing their full duration with a community organisation, they would follow the same re-compliance pathway as other sanctions including Money Management and return to Green (while having their obligation failure recorded).

Failure to find a placement during search period or to complete required period of CWE

- 61 There may be circumstances where a client takes reasonable steps to find a placement, but through no fault of their own cannot find one within the search period. For example, it may be that there aren't any placements available for the required timeframe. As the client will not be able to continue with CWE, officials propose that MSD instead assign the client an alternative sanction i.e., Money Management (or another NFS) or a grade one financial sanction (50% reduction). This means the client would then be required to remedy their obligation failure by completing an activity that is the same or similar.
- 62 If the client has not taken reasonable steps to find a placement during this period or if they fail to complete the required period for CWE due to inaction, officials propose that they will be deemed to have failed to re-comply. At this point they would be subject to a non-compliance pathway that is similar to the Money Management and financial sanctions non-compliance pathway, which in the first instance would be 100% suspension of payments. To re-comply, the client would need to complete an activity that is the same or similar to their obligation failure.

63 Note, if a client has not completed the required placement period due to a change in circumstances that means they are no longer subject to the same obligations they failed (for example they move from work to work-preparation obligations), they will not be required re-comply. However, the failure will still be included in their obligation failure count. This is the same process for financial sanctions and for Money Management.

Next steps

64 MSD will provide further advice by mid-August on policy design details, informed by insights gained through discussion with community organisations.

File ref: REP/24/7/684

Responsible manager: Harriet Miller, Manager, Employment Policy