



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Changes to the Exemption for Ex Gratia and Compensation Payments

Portfolio **Social Development**

On 12 June 2019, the Cabinet Social Wellbeing Committee:

- 1 **noted** that there is an existing exemption for ex gratia and compensation payments in recognition of harm, or to settle a claim of harm in Schedule 8 of the Social Security Regulations 2018;
- 2 **noted** that the exemption for ex gratia and compensation payments for harm is currently limited to payments made by the Crown, and that any payments from non-Crown entities are not exempt from cash asset and income tests;
- 3 **agreed** to extend the exemption for ex gratia and compensation payments for harm to New Zealand-based non-Crown entities, defined as:
 - 3.1 engaged, funded, licensed, or registered by the Crown to provide services at the time of the circumstances that led to the payment regardless of whether they are engaged, funded, licensed, or registered by the Crown at the time the payment is made;
 - 3.2 faith-based institutions, as defined in the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Order 2018 (as set out in Appendix Two to the submission under SWC-19-SUB-0060);
 - 3.3 charitable trusts registered under the Charitable Trusts Act 1957 and charitable entities registered under the Charities Act 2005;
 - 3.4 boards under the Charitable Trusts Act 1957;
 - 3.5 incorporated societies, as defined in the Incorporated Societies Act 1908;
- 4 **noted** that any payments from non-Crown entities outside of the definition above could be made exempt from cash asset and income tests if Cabinet chooses to do so, on a case-by-case basis;
- 5 **noted** that the exemption for ex gratia and compensation payments is currently limited to 12 months, and any payments are included in income and cash asset tests after this time;
- 6 **agreed** to remove the 12 month time limit from the ex gratia and compensation payments exemption to create a permanent exemption;

- 7 **noted** that the changes to the ex gratia and compensation payments exemption will come into force on 21 June 2019;
- 8 **agreed** that the changes made to this exemption will apply to any ex gratia and/or compensation payments made on or after the implementation date, and will apply to any clients that currently have an ex gratia and compensation payments exemption;
- 9 **agreed** that the exemption will apply to any funds remaining from any ex gratia and/or compensation payments made prior to the implementation date, with effect on or after the implementation date;
- 10 **noted** that the financial impact for the above paragraphs will be minimal, and will be absorbed within the existing demand driven-based forecasts;
- 11 **noted** that the Minister for Social Development intends to amend the Ministerial Direction in relation to Special Benefit to exempt ex gratia and compensation payments made by non-Crown entities in line with the above paragraphs;
- 12 **authorised** the submission to the Executive Council of the:
- 12.1 Social Security (Cash Assets and Income Exemptions – Ex Gratia and Compensation Payments) Amendment Regulations 2019 [PCO 22179/2.0];
- 12.2 Residential Care and Disability Support Services (Exempt Assets – Ex Gratia and Compensation Payments) Amendment Regulations 2019 [PCO 22180/2.0];
- 13 **noted** that a waiver of the 28-day rule is sought on the grounds that the Amendment Regulations confer only benefits for those affected by them;
- 14 **agreed** to a waiver of the 28-day rule so that the Amendment Regulations can come into force on 21 June 2019;
- 15 **noted** that the Minister for Social Development will consider further advice on a full review of cash asset and income exemptions.

Janine Harvey
Committee Secretary

Present:

Hon Kelvin Davis
Hon Grant Robertson
Hon Jenny Salesa
Hon Tracey Martin (Chair)
Hon Willie Jackson
Hon Aupito William Sio
Jan Logie, MP

Officials present from:

Office of the Prime Minister
Officials Committee for SWC

Hard-copy distribution:

Minister for Social Development